

F.No. 2/13/2017-FCAT

BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNALThursday, 12th October, 2017

Present: CHIEF JUSTICE(RETD.) MANMOHAN SARIN,
CHAIRPERSON, FCAT
MS. BINA GUPTA, MEMBER, FCAT
SHRI SHEKHAR IYER, MEMBER, FCAT
MS. SHAZIA ILMI, MEMBER, FCAT
MS. POONAM DHILLON, MEMBER, FCAT

FOR THE APPELLANT: MR. SURESH KUMAR JHA,
APPELLANT
MR. PRASHANT JHA

IN THE MATTER OF:

SHRI SURESH KUMAR JHA APPELLANT

VERSUS

CENTRAL BOARD OF FILM RESPONDENT
CERTIFICATION(CBFC), MUMBAI (NEMO)

APPEAL UNDER SECTION 5C OF THE CINEMATOGRAPH ACT, 1952 (37 OF 1952) AGAINST THE DECISION OF CENTRAL BOARD OF FILM CERTIFICATION (CBFC) IN RESPECT OF HINDI FEATURE FILM "**MODI KA GAON**"

This is an appeal under Section 5C of the Cinematograph Act, 1952 (37 of 1952) seeking to challenge the Order No.DIL/33/2017-MUM dated 08.02.2017 whereby the Examining Committee of the CBFC has recommended grant of 'UA' certificate for exhibition of the film titled "Modi Ka Gaon" (Hindi) subject to the following cuts:-
"Theme, treatment and presentation require parental guidance."

S.No.	Location	Cut Description	Guidelines
1		Submit NOC from PMO regarding Hon'ble PM's portrayal/references through a character in the film resembles Hon'ble PM	

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		(The film portrays development plans, references to Pakistan's Uri attack, Hon'ble PM's speeches and news' related to Hon'ble PM)	
2		NOC from Election Commission (As elections are going on in the various parts of the country and the film can be treated as promotional material for political campaigns)	
3	General	Name of 'Pappu' to be deleted/replaced wherever appear in the film, including song.	2(xviii)

Aggrieved by the aforesaid order of the Examining Committee CBFC, the appellant has filed the present appeal.

2. The film was screened and the Appellant was heard on 27th July, 2017. In the order dated 27th July, 2017, it was noted that we are prima facie of the view that requirement of NOC from either the PMO or the Election Commission cannot be insisted upon. This requirement has neither any statutory basis nor is justifiable otherwise. The statutory responsibility for certification of films is cast upon the CBFC Board under the Cinematograph Act. The said responsibility cannot be delegated to different statutory authorities, departments or individuals. Accordingly, the requirement to obtain No Objection Certificate from the Prime Minister's Office since either references are made to the Prime Minister or a character is portrayed as the Prime Minister have no legal basis or foundation. We, accordingly, hold that the said requirement is *non est* and cannot be insisted upon.

3. As regards the movie, it was brought to the notice of the Appellant that though the disclaimer states "All the characters events depicted in this film are entirely fictitious. Any similarity to actual events or persons living or dead is purely co-incident", the picturization of the film completely belies the disclaimer made in as much as lookalike of the Prime Minister, the name

and identity in the context of certain speeches and real life incidents and recent schemes of the PM, Swachh Bharat and contemporary incidents such as the Uri Attack and the Surgical Strike and also Demonetisation etc. are shown. There is no doubt that reference is to the current PM. Besides, the reference to the Bihar MLA and his henchmen as 'Pappu' and the 'Gathbandan Sarkar' are suggestive as to whom they are meant for. The film ends up trivialising high offices and the bureaucratic system. The Tribunal's above concerns were brought to the notice of the Appellant. Orders were reserved. At this stage, the Appellant requested that the orders may not be pronounced for a period of ten days to enable them to revert with instructions to address these concerns.

4. The Appellant vide Affidavit dated 14th August, 2017 has offered to revise the Disclaimer.

5. With reference to the name 'Pappu', the affidavit states that "Pappu is a baby name in certain parts of the country wherein parents and others call the child by this name. Later on this baby name supersedes the certificate name of the person and i.e. in the society the person is called or recognized by his or her Baby / nick name only even if they attain adulthood. It also refers to the use of the word 'Pappu' in the song 'Pappu Can't Dance Saala' in the movie 'Jaane Tu Ya Jaane Na' and in the Cadbury Dairy Milk Advertisement 'Pappu pass ho gaya'.

6. Regarding the apparent reference to the current Prime Minister, it is the Appellants's case that even though that the movie has been inspired by the zeal and development plans and strategies of the Prime Minister, the instances taken up are not reproduction of any actual events and the events picturised are imaginary and not based on actual events. Further Appellant has not made any direct or indirect reference to any public representative / functionary of Bihar or any other State of the country either by using any name or any other indirect reference or similarity with any actor in any scene of the movie.

7. Regarding trivialising high office and the bureaucratic system, it states that due to paucity of time and other constraints, the Appellant has

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refrained from showing the detailed bureaucratic process and showed the final meeting of the DM with the decision maker.

Regarding the DM moving alone in the village, it states that the DM spent his childhood in that village and was actually taking a trip down the memory lane.

8. The Appellant has also offered to carry out the following cuts in the movie voluntarily:-

S.No	TCR of film	Content offered to be removed	Content offered to be replaced by
1.	00:13:59	PM Nagendra Ji has won the election	Nagendra Ji has won the election.
2.	00:14:26	Jiske liye humare Pradhanmantri ne ek sehar se dusre Sehar ko jodne ke liye highway ka nirman karya kiya jayega	Jiske liye ek sehar se dusre sehar ko jodne ke liye highway ka nirman karya kiya jayega
3.	1:24:43	Surgikal strike: Modi ji ke iss faisle ka log dil se samman krrhe hai	Surgical strike : Iss faisle ka log dil se samaan krrhe hai (Modi word removed)
4.	1:47:09 to 1:51:32	Song: Jai ho sherawali maa song, Full song earlier.	Song Edited: Jai ho sherawali Maa (Last stanza from 'Ambe Jagdambe Bhavani ... to...Chhod ke tu jaana nahi tu ma' removed)
5.	1:52:10	Stage scene: Dialogue: Iss Award ka haqdaar mein nhi hu Ladoo kaka hai.	Dialogue: Iss Award ka haqdaar mein nhi hu Modi kaka hai. (Ladoo kaka removed & Modi kaka added)
6.	1:52:15	Dialogue: Pradhanmantri ji se agrah krta hu ki Ladoo kaka ko	Dialogue: Pradhanmantri ji se agrah krta hu ki Modi kaka ko iss

		iss award se sammanit kre.	award se sammanit kre (Laddo word removed & Modi added)
7.	1:55:19	VO Pradhanmantri Modi ke Thos faislo ka nateeza hai.	VO Pradhanmantri ke Thos faislo ka nateeza hai. (Modi word removed)

9. In addition to the above voluntary cuts offered by the Appellant, we direct that in the scene mentioned at S.No. 3 of Para 8 above regarding the surgical strike, the words "Uri" & "LOC ke paar" be muted. Further, the Appellant has accepted that the appropriate title for the film would be 'Modi Kaka Ka Gaon'.

10. The Appellant is being directed to give a disclaimer as under for the purposes of grant of certification. The disclaimer shall be exhibited at the beginning for a minimum of sixty seconds and shall also be read in the voice over.

DISCLAIMER

The story, film and theme of the movie 'Modi Kaka Ka Gaon' is purely a work of fiction. The script, dialogues and incidents are based on the producer's visualisation and perception of the initiatives and developments believed by him to have been ushered by the PM. The Producer states that the events depicted, incidents portrayed are fictitious and dramatised for the purposes for cinematic presentation. There is no similarity with any real life characters. The film producer or the director do not make any representation regarding any of the scenes picturised to be true. Any resemblance to persons living or dead is purely co-incidental and unintentional. Reference to the character 'Pappu Bihari' is not intended to reflect on any living or dead politician.

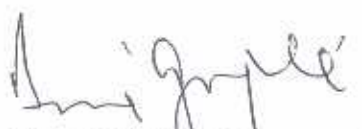
11. The use of the name 'Pappu' for the character 'Pappu Bihari' in the film is allowed in view of the explanation given by the Appellant as quoted in Para 5 of the order.


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12. The narrative and content of the film is far removed from reality and bordering on the ludicrous. However, it is not the function of the Tribunal to revise the content and presentation, which is best left to the Producer and for the audience to judge.

13. We do not find anything in the script or in the scenes of the movie which can be labelled as catering to advancement of political ends of a party. Hence, there can be no objection on this ground or requirement for obtaining consent of the Election Commission, apart from the requirement having been found to be unwarranted as held in para 2 of the order hereinbefore.

14. The appeal is allowed and we direct issuance of 'UA' certification subject to the cuts/modifications mentioned in Para 8, 9 & insertion of the disclaimer mentioned in Para 10. Copy of the order be furnished to both the parties forthwith.


(BINA GUPTA)
MEMBER, FCAT


(SHEKHAR IYER)
MEMBER, FCAT


(SHAZIA ILMI)
MEMBER, FCAT


(POONAM DHILLON)
MEMBER, FCAT


(JUSTICE MANMOHAN SARIN)
CHAIRPERSON, FCAT