

F.No. 2/29/2017-FCAT

**BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL**

17, January, 2018

Present: **CHIEF JUSTICE(RETD.) MANMOHAN SARIN,**  
**CHAIRPERSON, FCAT**  
**MS. SHAZIA ILMI, MEMBER, FCAT**  
**MS. POONAM DHILLON, MEMBER, FCAT**

**FOR THE APPELLANT: SHRI RAJESH KUMAR SINGH**

IN THE MATTER OF:

<b>SHRI RAJESH KUMAR SINGH</b>	.....	<b>APPELLANT</b>
<b>VERSUS</b>		
<b>CENTRAL BOARD OF FILM CERTIFICATION(CBFC), MUMBAI</b>	.....	<b>RESPONDENT (NEMO)</b>

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 FILM "**VARDIWALA GUNDA**".

**ORDER**

1. This is an appeal under Section 5C of the Cinematograph Act, 1952 (37 of 1952), assailing Order No.VIL/103/2017-MUM dated 08.11.2017, whereby the Examining Committee of the CBFC has refused 'UA' certificate to the film for the following reason:-

"The central idea of the film revolves around complex and dark characters, which are sexually exploited by offering money, the film glorifies homosexuality & extra marital relationships, the committee was of the opinion, not suitable for granting UA."

*MS*

2. The film was screened for the Tribunal on 10<sup>th</sup> January, 2018. We have heard the Appellant, who also happens to be the Producer of the film. Case records and comments of CBFC were called for and received. The impugned order dated 08.11.2017, passed by the Regional Officer, CBFC, comments of individual members of the Examining Committee were perused. The reasons recorded for refusal in the Impugned order have been noted in Para 1 above.

3. We have heard the Appellant, who apart from the appeal submitted a letter dated 11.12.2017, claiming that the plot of the film revolves around corrupt politicians and mafia associated with police department to harass common villagers. A young and honest person manages to get the job of a police inspector. He works to destroy the nexus of the corrupt politician and land mafia. The Appellant denies the alleged glorification of homosexuality and extra marital relationships. It is urged that possibly CBFC Mumbai, due to mistaken identity has made the said observations.

4. We have viewed the film as well as heard the dialogues. The findings and observations of the impugned order are not bone out from the script and the movie as seen by us. There is no reference to homosexuality or extra marital relationships. While, it is true that the exploitation and harassment of citizens by nexus of corrupt Politicians, Gangsters and Crime mafia in collusion with the Police is shown. The film also brings in an honest Police Inspector for reforms and corrections so that corruption is weeded out and the nexus is broken.

5. To elaborate the grievance of the Appellant in fact is that the reason for refusal as recorded by the CBFC does not appear to be pertaining to the film in question but it may have been a case of mistaken identity of the film being adjudged. Considering that there are no references to homosexuality and extra marital relationships, the impugned order is liable to be set aside on the simple ground of non application of mind. We also find that comments of individual Members referred to double meanings and Innuendos being shown in the film but that is not the grounds on which UA certification has been refused

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as per the impugned order. Moreover, we do not find any such references, which could be regarded by applying contemporary standards as objectionable.

6. We have had the occasion in the past also to observe and recommend to CBFC that while they are not expected to write detailed judgements recording their reasons in detail. However, the minimum i.e. required is that their thought process and the reasons for reaching the conclusion are indicated broadly. For instance, in the present case, when the ground for refusal of certification is "glorifying homosexuality and extra marital relationships by dark complex characters" then the film shots portraying the same should be mentioned with their location and the violation of the particular guidelines. In the absence of the above, the Appellant is left groping in the dark as to why the movie has been refused certification. The absence of this indication also deprives this Tribunal of the benefit of their thought process. We hope and expect the CBFC to take care of this aspect.

7. The Appellant has filed in the paper book a list of cuts filed before the CBFC, while seeking UA certification. Even though, the Appellant in this case had expressed his apprehension that the impugned order has been passed on the basis of a mistaken identity of the film in view of the non-existence factually of scenes glorifying homosexuality and extra marital relationships. The Appellant also stated he would have no objection, if the impugned order was set aside and the matter remanded to the CBFC for reconsideration and passing of fresh orders.

8. Having viewed the film and examined the case comprehensively, we are of the view that no useful purpose would be served by remanding the matter to CBFC for reconsideration and passing of fresh orders. This would be putting an onerous burden on the Appellant and further delay the matter. Besides, it would delay justice to the Appellant.

9.p As we have not found any sustainable ground or objection of substance to the grant of UA' certification, we set aside the impugned order and direct

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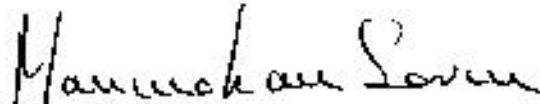
issuance of 'JA' certification with parental caution with the voluntary cuts already given. Copy of the order be furnished to both the parties forthwith.



(POONAM DHILLON)  
MEMBER, FCAT



(SHAZIA ILMI)  
MEMBER, FCAT



(CHIEF JUSTICE (RETD.) MANMOHAN SARIN)  
(CHAIRPERSON, FCAT)