

BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL27th April, 2018**Appeal No. 4/2018****Present: CHIEF JUSTICE(RETD.) MANMOHAN SARIN, CHAIRPERSON,
FCAT****MS. POONAM DHILLON, MEMBER, FCAT
MS. SHAZIA ILMI, MEMBER, FCAT****FOR THE APPELLANT: Mr. Rajamani Ranganathan Aiyer
Mr. Nogen Boruah
Mr. Pankaj Sehgal
(Authorized Representative and
Co- Director)
Mr. Tribhuvan Kori****FOR THE RESPONDENT: Mr. Mahesh Kumar, RO CBFC, Delhi
(Representing CBFC Mumbai)****IN THE MATTER OF:**

RAJAMANI AIYER	RANGANATHAN	APPELLANT
		VERSUS	
CENTRAL BOARD OF FILM CERTIFICATION(CBFC), MUMBAI		RESPONDENT

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 "**GANDHI EK SAAZISH**".

ORDER

The appellant preferred this appeal under Section 5C Cinematograph Act assailing the order of the Revising Committee dated 27.02.2018 in respect of the film titled "Gandhi Ek Saazish" (Hindi). The CBFC based on the recommendations made by the Revising Committee directed grant of 'UA'

certificate to the film subject to the following eight excisions and modifications:-

Sr. No.	Insertions/Excisions /Modification	Location	Description of Excisions/Modification	Guidelines
1.	Excisions	00	Delete the entire item song No.2.	2(viii), 2(x)
2.	Excisions	00	Delete the word 'Baburao Sanas.'	2(xix)
3.	Excisions	00	Change/replace the present title of the film.	6
4.	Excisions	00	Delete the close shots of the dead man's burnt face with the worms.	2(iv)
5.	Excisions	00	Reduce 50 % the visuals of Madan's torture	2(iv)
6.	Excisions	00	Reduce 50 %the visuals of beating of people in riots.	2(iv)
7.	Excisions	00	Submit NOC from AWBI	2(iii-c)
8.	Excisions	00	Insert smoking static message wherever the smoking scene is appeared.	2(vii)

2. The appellants are aggrieved by the cuts directed, which are considered by them as unfair and harsh, especially when the film is based on historical facts, painstakingly researched by the Producer. In particular, the Appellant questions the direction to delete the item song. This deletion has been directed on the ground that the song violates Guideline Nos. 2(viii) and 2(x). The said guidelines are reproduced for facility of reference:-

(viii) Such dual meaning words obviously cater to baser instincts are not allowed.

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(x) Scenes involving sexual violence against women like attempt to rape, rape or any form of molestation, or scenes of a similar nature are avoided, and if any such incident is germane to the theme, they shall be reduced to the minimum and no details are shown.

3. Before we consider the specific submissions made by the Appellant, it may be noted that the Appellants along with the prescribed form in which the appeal was submitted, set out in their letter of 8th March, 2018, the detailed explanation for retaining the various excisions and put forward their justification. Additionally, the Appellant submitted a write up titled "Authors note", which reflect the authors view point and perspective of the factual controversies that had arisen in respect of issues projected and forming part of the film.

The Appellant tendered for the perusal of the Tribunal the full report of the Commission of enquiry into the conspiracy of "Murder of Mahatma Gandhi" by Justice J.L. Kapoor retired Judge of the Supreme Court of India. Reliance has been placed by the Appellant on certain portions of Justice J.L. Kapoor's report to substantiate portions and dialogues of the film and the veracity of the events portrayed.

It is not necessary for us to get into the merits and demerits of the factual controversies and/or the version has portrayed in the film. Sufficient to notice that the Appellant *bona fide* and legitimately believed in the correctness of the version and placed reliance on the research done, documents and the reports referred to for the inferences drawn.

4. Appellant itself recognizes and accepts that the various scenes, which have been objected to project the actions, thoughts and views which were primarily meant for mature adult audience. The same also holds good for underlying currents, issues and perspectives which are sought to be highlighted touching the lives of the different communities and the nation. The

Appellant made a submission that the excisions and the deletions as directed by the Board may not be implemented and for that purpose the Appellant was willing to accept 'A' Certification being granted to the film. We have considered the above submission. Considering the theme, its story and presentation and portrayal of various sensitive issues involved, considering the communities and nation, the perspectives which are sought to be projected, it is desirable that the only an adult audience should view the film. This would also avoid adolescent minds being exposed to different perspectives without being fully matured. At the same time, it provides appellant the opportunity to freely express its views and creativity in making a doco film.

5. Let us now consider the individual cuts and excisions

Excisions No. 1:- The item song has a bearing to the story and theme of the film inasmuch as it is Madan Lal, who has shown to be having an affair with a prostitute, who is shown in the item song.

Madan Lal is the character who is stated to have made the first attempt on the life of Mahatma Gandhi. The song as picturized also seeks to bring out the difference in the Western and Indian culture get together. In these circumstances, it cannot be said that the item song is irrelevant to the story and has not place in the film.

Besides the producer's freedom of expression and creativity may result at times, in introduction of songs, scenes or dialogues, which may found to be unnecessary and avoidable but then it is the producer and director of the film, who have the choice to retain it. Their freedom has to be preserved. It is they who run the risk of producing something which is unpalatable to discerning audience. In the instant case, the item song cannot be said to be wholly misplaced or irrelevant. Accordingly, the excision is set aside in the absence of any offensive words, dialogues or other objectionable scenes, especially for an adult audience are allowed.

Excision No. 2:- Delete the words / name "Baburao Sanas". The Appellant's contention in this regard is that the statement of the witness Mrs. Barve the wife of the District Magistrate mentions the name of Baburao Sanas, which was also noticed in the Justice J.L. Kapoor's report. Accordingly, the Appellant is pleading justification for the same. Hence, there is no ground to direct deletion of the words "Baburao Sanas" since the Appellant consciously has used them and is ready to face the consequences thereof. The deletion is accordingly set aside.

Excision No. 3:- The Board has directed to the Appellant to change the name of the title of the film. We are also of the view that the film's title is misleading and incomplete, the Appellant producer has accepted to change the same to "**Gandhi Hatya Ek Saazish**" in its communication of 22nd March, 2018 which is taken note of.

Excision No. 4:- **Delete the close shot of the dead man burnt face with worms.**

The Appellant seeks to justify the same by urging that there have been far stronger portrayal of atrocities during the partition of the country, which are in public domain. Appellant claims to have toned down the scenes of atrocities by not showing dead bodies or children, raped women, broken body parts and trains full of dead bodies. The portrayal of the dead man in the film is in the symbolic manner and represents the worst that humanity can fall.

The scene portrayed is a close shot of dead man on a chair with his face being eaten by maggots and worms. The scene showing live maggots feeding on the dead man's face brings out a feeling of revulsion and nausea. The same in our view is unnecessary as the impact of the cruelty can be effectively portrayed with a long shot of burnt face of the dead man, without showing movement of maggots. Accordingly, we direct that the close shot showing the movement of maggots be deleted.

Excision No. 5 and 6:- As far as these are concerned requiring reduction of 50 % of visual Madan Lal's torture and 50 % of the visuals of beating of people in riots. The scenes are allowed to retained in view of Adult Certification being granted. The excisions as directed are set aside.

Excision No. 7:- The requirement of NOC from AWBI would continue irrespective of U/A or A Certification.

Excision No. 8:- The direction with regard to statutory warning being prominently displayed whenever a smoking scene appears, is retained.

6. We are also of the view that it would be appropriate to direct the Appellant to insert a Disclaimer in the film to the following effect "The divergent views expressed and projected in the film represent the views of various sections of the society. These do not necessarily express the opinion of the producers. The producer of the film after diligent research of the historical facts available material and interactions with knowledgeable persons have blended the result of such research with fiction as appropriate to provide requisite dramatic and cinematic effect in the film. The film deals with the facts and issues which have exercised the minds of persons of different communities and religions, public at large over the decades and even today. We have earnestly attempted to project the perspectives and view points of different sections and communities of the society on the issues and subjects which have touched the life of the nation and its masses."

6. We allow the appeal and direct the grant of "A" Certification to the film. As directed in para 5, excision no. 1 and 2 are set aside. The Appellant has accepted to change the name of the film to " Gandhi Hatya Ek Saazish" as noted for excision no. 3. The direction as given for excision no. 4 of deleting the close shot showing movement of the maggots on the dead man's face be deleted. Excision no. 5 and 6 are set aside in view of A certification being

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granted. As regards, excision no. 7, the requirement of NOC from AWBI would continue irrespective of UA or A certification. The Appellant shall also display prominently the statutory warning whenever a smoking scene appears. The disclaimer as directed in para 6 above to be shown at the beginning of the film for a minimum duration of one minute each prominently in Hindi and English both.

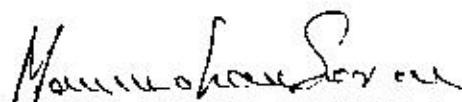
The appeal stand allowed in the above terms.



(POONAM DHILLON)
MEMBER, FCAT



(SHAZIA ILMI)
MEMBER, FCAT



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