

F.No. 2/26/2017-FCAT

BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL

8<sup>th</sup> February, 2018

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

**FOR THE APPELLANT: SHRI ANIRBAN DHAR**

IN THE MATTER OF:

**SHRI ANIRBAN DHAR**

.....

**APPELLANT**

**VERSUS**

**CENTRAL BOARD OF FILM  
CERTIFICATION (CBFC), MUMBAI**

.....

**RESPONDENT  
(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 FILM "SHAB".

**ORDER**

This is an appeal under Section 5C of the Cinematograph Act, 1952 (37 of 1952) assailing the Order No.VIL/65/2017-MUM dated 18.09.2017 whereby the Examining Committee of the CBFC has refused 'U/UA' certification to the Hindi film 'Shab'. The reason given for refusal is "The central idea of the film revolves around complex & dark characters, which are sexually exploited offering money the film also glorifies homosexuality & extra marital relationships, the committee was of the opinion, not suitable for granting UA".

MS

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

3. The movie was viewed by the Tribunal on 23.12.2017. At that time, it had been suggested to the Appellant that the film has a complex interplay of relationships i.e. adulterous, homosexual and/or bisexual relationships. The matter was adjourned to enable the Appellant to make further submissions and give a note explaining the story and theme as depicted. The Appellant orally submitted that two of his films in the past having themes such as child abuse, homosexuality and single motherhood in one movie had been granted 'UA' certificate and are presently being shown for satellite and on cable network. He sought time to place their DVDs on record. The matter was directed to be re-notified as soon as the note and DVDs are filed.

4. The Appellant submitted a representation on 10.01.2018 wherein he cited the example of the following films:-

- 1) My Brother Nikhil:- This was the story of a gay man who has suffering from AIDS. The film has won many awards internationally and nationally and is still shown on TV and widely used by NGO and colleges/schools.

MS

2) Bas Ek Pal (2006):- The film showing a relationship outside marriage, also shows rape in prison (between male prisoners). The film ends with despondency where three characters are shot dead certified as UA.

3) I Am (2011):- The film received the national award for best Hindi film and lyrics. It is been shown on Star Gold Select and Tata Sky. The film has four stories:-

- a) The first one portrays the story of a single woman who wants to have a child through sperm donation and succeeds. (Nandita Das enacted the role).
- b) The second story was about a Pandit refugee from Kashmir returning to Kashmir after 15 years and meeting her best friend – a Kashmiri muslim and the story of both their losses. (Juhi Chawla and Manisha Koirala)
- c) The third story portrays the story of Child Sexual Abuse, where the step father of a boy sexually abused him from the age of 6 till 18 and the mother who knew and did nothing.
- d) The fourth story portrays how a gay man is exploited sexually and financially by police by using Article 377. This film was initially given A certificate without cuts and later certified UA after some cuts for TV.

The above films are cited as precedents where contemporary standards and norms prevalent in the society have been noticed and acted upon for the purposes of certification. DVDs of these films have also been submitted.

5. In the present film Appellant has attempted to show various facets and personalities of the characters. The story of the film and the characters as depicted may be summed up as:

- a) Mohan/Azfar who is a young model, comes to Delhi with high aspirations but loses a modelling competition. He gets into a relationship with a socialite who promises to help him achieve his goal and employs him as her trainer. Mohan is in awe and love with her. (She does not say or pay him money for sex... she simply hands it as an advance for his job). In the end she (Sonal) too falls in love with him but it's too late. He falls in love with a waitress Raina when he realizes that Sonal does not really love him, Raina does not reciprocate. In the end, Mohan goes back to Dhanaulti to start his life afresh as a trekking guide.
- b) Raina eloped from Kolkata to Delhi and married Rohit who deserted her when she had a child (She is not an unmarried mother). She decides to bring her daughter up in a boarding school as her sister as this would make it easier to deal with society. She wants to give her daughter a good life and not the life she leads. She works as a waitress during the day and as an escort sometimes at night. There

is a sequence where she is with a customer – a sardar. She falls in love with Mohan but realizes that she wants to tell her daughter the truth and give up the life she leads. In the end, she goes to France with her daughter with French friend Benoit's mother to start a new life.

- c) Neil is the owner of a cafeteria and is a gay man looking for a relationship. He is lonely, is a very close friend to Raina and her daughter, and helps Raina take her decision to give up everything, tell her daughter the truth and find an honest life. Raina introduces him to her neighbour, a lonely French Expat who falls in love with Neil.
- d) Simon – French Expat working in Delhi as a French teacher and doubling up as a waiter at a pub. He is Raina's neighbour and become a very close friend of the mother and daughter. He is escaping from a scandal back home and trying to deal with the conflict with his mother. In the end he finds solace in Neil and also his mother comes to India as a sign of forgiveness and love.
- e) Sonal – A rich socialite, who is lonely in her marriage, is attracted to a young model and seeks his company by promising him a future. However her loneliness does not let her actually let him grow as she fears to lose him. He starts moving away from her when he realizes that there was no love. In the end her double life crumbles and she loses him.

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6. Following changes in the composition of the Tribunal, with term of two Members having expired. The movie was screened again on 01.02.2018. Having viewed the film again and considered the note and submissions made by the Appellant and in the light of contemporary standards and the precedents cited of films having similar or bolder themes, we are of the view that the movie deserved to be granted 'UA' certification with parental caution with the following cuts:-

- a. The kissing scene after 00.23.00 onwards in the song be deleted.
- b. The intimate scene in the restaurant appearing at 01.20.07 to 01.20.18 be deleted. However, Azfar approaching Raina and Raina pushing him may be retained without the kissing scene.

6. These cuts are in addition to the voluntary cuts as per Annexure I attached as offered by the Appellant. Appellant has agreed to include a voiceover which spells out the message as to how the different characters who come to metropolitan city with their dreams either on account of the circumstances or otherwise choose the wrong means and route. Finally, having gone through the travails of life they all realise to apply corrections to their lives to become better human beings.

The Appellant has agreed to include the following voiceover:-

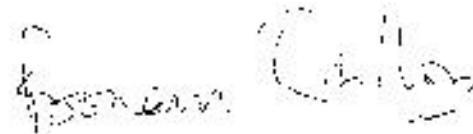
"Aakhir mein Mohan ko ehsaas hota hai ki jo raasta ussne chuna tha, woh sahi nahi tha... Mohan wapas Dhanaulti ja kar ek Trekking Guide ban gaya.



Raina apni guzri hui zindagi ko chhod ke, ek nayi zindagi ki talaash mein apni beti ke saath Beirut ke paas France chali jaati hai.

Sonal ko apni harqaton ke liye saza मिली नही aur use apni Galati ka ehsaas होता है।

7. The appeal is allowed with the aforesaid directions. 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)

### CUTS DETAIL

Cut/Insertion - 1	: Cut
Location/TCR - 1	: 1
Cuts Type - 1	: Sound
Description - 1	: MUTED THE DIALOGUE "CHUTIYA" AT T.C.R. 00:27:03
Duration deleted - 1	: 000.00
Duration replaced - 1	: 000.00

*attached here  
copy*

*[Signature]*  
 20/02/24  
 सचिव (फिलिम प्रमाणन बोर्ड) of  
 Secretary (FCAT)  
 सुचना विभाग, फिल्म प्रमाणन  
 Min of Information & Propaganda  
 भारत सरकार, नई दिल्ली  
 Govt of India, New Delhi



~~THANK~~

Duration of Insertion - 1	: 000.00
Cut/Insertion - 2	: Cut
Location/TCR - 2	: 2
Cuts Type - 2	: Visual
Description - 2	: DELETED THE SHOT OF NEIL & HIS FRIEND COMING CLOSER TO EACH OTHER. AT T.C.R. 01:17:12
Duration deleted - 2	: 000.25
Duration replaced - 2	: 000.00
Duration of Insertion - 2	: 000.00
Cut/Insertion - 3	: Cut
Location/TCR - 3	: 3
Cuts Type - 3	: Visual
Description - 3	: DELETED THE KISSING SCENE OF HERO & A GIRL. AT T.C.R. 01:20:19
Duration deleted - 3	: 000.34
Duration replaced - 3	: 000.00
Duration of Insertion - 3	: 000.00
Cut/Insertion - 4	: Cut
Location/TCR - 4	: 4
Cuts Type - 4	: Visual
Description - 4	: DELETED THE SCENE OF BEDROOM- BETWEEN SARDAR AND A WOMAN AT T.C.R. 01:31:33
Duration deleted - 4	: 002.00

*deleted loop*

*copy*

*Signature*  
08/07/16

*File Name: ...*  
*...*  
*...*

Duration replaced - 4 : 000.00

Duration of Insertion - 4 : 000.00

Long / Short : Long

Type of the film : 2-D

Whether the film is silent or talkie : Talkie

Colour of the film : Color

## PRODUCER DETAIL

CBFC ID of Producer - 1 : PMUM2017002924

Name of Producer - 1 : Anirban Dhar

Address of Producer - 1 : D-107, Karan Apartmentsoff Yaari Raod  
Versova, Anhderi West

Country - 1 : India

State - 1 : MAHARASHTRA

City - 1 : MUMBAI (SUBURBAN) \*

Pin Code - 1 : 400061

Name of the Director : Onir

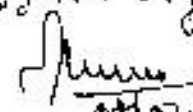
State Whether the Film is made for  
Doordarshan (DD) : Yes

State whether the film is a newsreel/  
documentary/ scientific/ educational/  
feature/ advertisement film : Feature

Specify the Certificate requested : UA

Number of Positive prints of the film  
produced : 0

addressed four copy



08/02/18

सचिव (फिल्म प्रमाणन विभाग)  
Secretary (FCAT)  
महाराष्ट्र शासन  
Min. of Information & Broadcasting  
राज्य शासन, नई दिल्ली  
Govt. of India, New Delhi

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Number of Negative prints of the film produced : 0

Number of Positive prints of the film in possession of the Applicant : 0

Number of Negative prints of the film in possession of the Applicant : 0

Name of the processing laboratory / company where the copies were made : AFTER

Address of processing laboratory : SANTA CRUZ WEST

City : MUMBAI (SUBURBAN) \*

Whether the film for which the application has been made is a replica/exact copy of a cinematograph film on celluloid in respect of which a certificate has already been granted by the Central Board of Film Certification? : Yes

Whether the certificate was issued on eCinePramaan? : Yes

Certificate Number of Original Film : DIL/3/21/2017-MUM

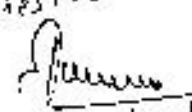
Certificate Date : 10/07/2017

Original language : Hindi

Film Title : SHAB

If Any Additional Details :

Whether any animal has been used in the shooting of the film? If so whether declaration specified in clause (bb) of subrule(3)of rule (21) has been filed? (Enclose "NOC" from Animal Welfare Board of India, Chennai). : No

Adjusted tone copy  
  
 08/02/18

सचिव (फिल्म प्रमाणन विभाग, नई दिल्ली)  
 Secretary (FCAR)  
 मंत्रालय (सूचना प्रसारण एवं प्रसारण)  
 Min of Information & Broadcasting  
 शासक, नई दिल्ली  
 Govt of India, New Delhi

Details of animals used :  
 Whether any precensorship advice was obtained and if so the details thereof :  
 Whether permission for any shooting abroad was obtained and, if so, the details thereof :  
 Whether the film contains any dialogue/ commentary/ Sub Titles in any language other than the language of the film : No  
 Has any previous application been made to certify this film suitable for public exhibition in India? : Yes  
 Where and to whom was it made? : Mumbai  
 What was the result of the application? : A with Cuts  
 Whether the certificate was issued on eCinePramaan? : Yes  
 Certificate Number : DIL/3/21/2017-MUM  
 Certificate Date : 10/07/2017  
 Whether Application Made on eCinePramaan? :  
 File Number :  
 Acknowledgement No. :  
 Acknowledgement Date. :  
**CUTS DETAIL**  
 Cuts - 1 :  
 Cut/Insertion - 1 : Insertion  
 Duration of time elapsed - 1 : 000.47

Attested true  
 copy  
 Signature  
 08/02/18

सचिव (फिल्म प्रामाणिकता आयोग)  
 Secretary (FCAI)  
 कक्षा 400, 1/20 मंत्रालय  
 Min of Information & Public Relations  
 भारत सरकार, नई दिल्ली  
 Govt. of India, New Delhi

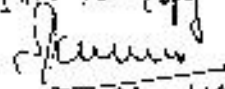
Cuts Type - 1	: Visual
Description - 1	: Delete the blank space used for other partners.
Location/TCR - 1	: 1
Start Time of the Cut - 1	: 000.00
Duration of the part deleted - 1	: 000.47
Start Time from where part is replaced - 1	: 000.00
Duration of the part replaced - 1	: 000.00
Cuts - 2	:
Cut/Insertion - 2	: Cut
Duration of time elapsed - 2	: 000.00
Cuts Type - 2	: Sound
Description - 2	: Delete or Replace "Fair and Lovely".
Location/TCR - 2	: 1
Start Time of the Cut - 2	: 000.00
Duration of the part deleted - 2	: 000.00
Start Time from where part is replaced - 2	: 000.00
Duration of the part replaced - 2	: 000.00
Cuts - 3	:
Cut/Insertion - 3	: Cut
Duration of time elapsed - 3	: 000.00
Cuts Type - 3	: Sound
Description - 3	: Delete or mute the word "Bitch"
Location/TCR - 3	: 1

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प्रस्तुत दस्तावेज  
 का प्रमाणित  
 प्रमाणित  
 08/02/10

सचिव (फिल, सॉफ्टवेयर एवं संचारण)  
 SECRETARY (FCAT)  
 मंत्रालय, सूचना एवं संचारण  
 Ministry of Information & Public Relations  
 Government of India, New Delhi

Start Time of the Cut - 3	: 000.00	
Duration of the part deleted - 3	: 000.00	
Start Time from where part is replaced - 3	: 000.00	
Duration of the part replaced - 3	: 000.00	
Cuts - 4	:	
Cut/Insertion - 4	: Cut	
Duration of time elapsed - 4	: 000.00	
Cuts Type - 4	: Sound	
Description - 4	: Delete or mute the word "Randi".	
Location/TCR - 4	: 1	
Start Time of the Cut - 4	: 000.00	
Duration of the part deleted - 4	: 000.00	
Start Time from where part is replaced - 4	: 000.00	
Duration of the part replaced - 4	: 000.00	
Cuts - 5	:	
Cut/Insertion - 5	: Cut	
Duration of time elapsed - 5	: 000.00	
Cuts Type - 5	: Sound	
Description - 5	: Blur the poster of Congress Campaign Ad.	
Location/TCR - 5	: 1	
Start Time of the Cut - 5	: 000.00	
Duration of the part deleted - 5	: 000.00	
Start Time from where part is replaced - 5	: 000.00	

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 08/02/18

Duration of the part replaced - 5	: 000.00	<i>[Handwritten mark]</i>
Cuts - 6	:	
Cut/Insertion - 6	Cut	
Duration of time elapsed - 6	: 000.00	
Cuts Type - 6	: Sound	
Description - 6	: Delete or mute the word "Fuck you"	
Location/TCR - 6	: 1	
Start Time of the Cut - 6	: 000.00	
Duration of the part deleted - 6	: 000.00	
Start Time from where part is replaced - 6	: 000.00	
Duration of the part replaced - 6	: 000.00	
Cuts - 7	:	
Cut/Insertion - 7	Cut	
Duration of time elapsed - 7	: 000.00	
Cuts Type - 7	: Sound	
Description - 7	: Delete or mute the word "Fucker". Where ever it occurs	
Location/TCR - 7	: 1	
Start Time of the Cut - 7	: 000.00	
Duration of the part deleted - 7	: 000.00	
Start Time from where part is replaced - 7	: 000.00	
Duration of the part replaced - 7	: 000.00	

*Approved Group*  
*[Signature]*  
*08/10/16*

Chief (Punishment & Discipline) (Punishment)  
 Security (PCAT)  
 Punishment & Discipline  
 Min. of Interior & Broadcasting  
 1000, 1000, 1000  
 Government of New Delhi