

BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL

05.08.2019

Appeal No.16/2019

**Present: CHIEF JUSTICE (RETD.) MANMOHAN SARIN,
CHAIRPERSON, FCAT
MS. MADHU JAIN, MEMBER, FCAT
MR. SHEKHAR IYER, MEMBER, FCAT
MR. SAIBAL CHATTERJEE, MEMBER, FCAT**

IN THE MATTER OF:

LEENA MANIMEKALAI APPELLANT

VERSUS

**CENTRAL BOARD OF FILM RESPONDENT
CERTIFICATION(CBFC),CHENNAI**

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 TAMIL FILM "MAADATHY-AN UNFAIRY TALE"

**FOR THE APPELLANT: Leena Manimekalai (Film Maker)
Indira Unninayar (Advocate)**

**FOR THE RESPONDENT: A. Muthukrishnan (ARO, CBFC
Chennai)**

Corrigendum

The Appellant's Appeal No. 16/2019 was decided vide order dated 24.07.2019. An email has been received from the Learned Counsel of the Appellant pointing out administrative and clerical errors which crept into the order. The errors pointed out and resultant rectifications and the clarifications desired have been incorporated in Paras 8 and 9 of the Order dated 24.7.2019. Revised order is reproduced hereinafter: -

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REVISED ORDER

Chief Justice (Retd.) Manmohan Sarin

This Appeal is preferred against the impugned order dated 26.04.2019 passed by the Examining Committee of Central Board of Film Certification, granting U/A Certification, subject to the six excisions/modifications/insertions for the film '**Maadathy-An Unfairy Tale**' (Tamil) as directed in the impugned order.

2. The movie was screened and viewed by the Members of the Tribunal; we have heard Ms. Indira Unninayar, Advocate for the Appellant along with Ms. Leena Manimekalai (Filmmaker) in opposition to the excisions and modifications directed.

3. For facility of reference, the relevant portions of the impugned order are being reproduced below.

"Reasons for grant of "UA" Certificate to the film subject to the following excisions/modifications":

The film is evaluated in its overall aspects. As the content of the film is based on how the lower caste people were treated by upper caste people in a village and visual presentation of showing rape merits the film for UA Certification.

Sr. No.	Insertions/Excisions/Modifications	Location	Description of Excisions/Modification	Guidelines
1.	Insertion	General	Disclaimer for smoking to be kept as per norms	2(vi-a)

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2.	Modification	Reel 1	Reframe the title message card 'Behind each deity there is a tale of injustice'. (Religious)	2(xii)
3.	Excisions	General	Mute the words 'fuck', Mother fucker, Nodithaayoli, Naaramunda, Bitch, Saamaan, Cunt, Koothi, Pundamavaney, Sunniyaandi, Ommakoothi, Saami abhishegam, Thevadiya, Parukundikkaari, Dick', wherever it is uttered in the film and also remove it in the subtitle, (Public decency, Double meaning, Ridicule, Degrading women, Religious)	2(iii-b), 2(vii), 2(vii), 2(ix), 2(xii)
4.	Excisions	Reel 2	Remove/Replace the visual of boy Paneer swimming in nude under water in Shot No. 37. (Reel 2) (vulgarity)	2(vii)
5.	Excisions	Reel 3	Remove the visuals of showing shaking of legs when a man is raping Vani in shot No. 49. (Reel 3) (vulgarity/sexual violence against women)	2(vii), 2(x)
6.	Excisions	General	Remove/Replace the unapproved animal shots shown in the film. (cruelty to animals)	2(iii-c)

4. The story of the film depicts the life of a clan called 'Puthara Vannaar', living in the southern Tamil Nadu. The members of the clan are stated to be among the lowest in the Indian caste-system. Their occupation and livelihood is washing the dirty clothes of dead, as well as stained clothes of menstruating women of upper-castes. 'Puthara Vannaars' belong to the lowest echelons within the Dalits. By the nature of their work; they are kept as 'untouchables' and 'un-seeables'. They are allowed to wander only before sunrise and after sunset. A chance encounter with them is considered to pollute the upper caste persons.

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The theme is thus about oppression in the caste system as well as by Dalits of those considered lowly within the Dalits.

5. The film is a powerful heart rending story of sub-human and degraded existence. It revolves around a 15-year-old girl, Yosana prohibited from schooling, phasing her adolescent growth playing and living only in the thicket. The girl helps her parents in their chores; she develops a crush on a shepherd boy, who visits the pond in the forest to wash his donkeys. She is spotted by one among the upper-caste young men, who were drinking alcohol and enjoying on the eve of temple festival. She is gang-raped which leads to her death. Her parents with her dead body seek justice but are exiled by the upper-castes. Nature takes its revenge on the village. The statue of Goddess Mother of that village temple turns into the statue of 'Yosana'. The little girl, who dies of caste oppression, becomes the clan goddess of 'Putara Vannars', and people look up-on her as goddess 'Maadathy'.

6. It is in this background that the Learned Counsel for the Appellant argued that to uphold artistic creativity and freedom of expression, the scenes which have been directed to be excised or muted were central and essential to the theme and story and were required to effectively project and portray the story and theme.

7. Learned Counsel placed reliance on ***Bobby Art International v. Om Pal Singh Hoon, (1996) 4 SCC 1***, ***Indibily Creative Pvt. Ltd vs Govt of West Bengal Writ Petition(C) 306/2019*** and ***S.Rangarajan vs P Jagjivan Ram (1989) 2 SCC 574*** as well as the Judgment of ***Udta***

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Punjab case Phantom Films Pvt. Ltd. And Anr vs The Central Board of Certification for retention of the words and phrases considered objectionable and directed to be muted/excised as given in Serial No. 3 of the insertions/excisions/modifications as given in the impugned order.


8. Learned counsel for the Appellant submitted on instructions that the Appellant would accept 'A' certification, but without the mutings/excisions as directed in Serial No. 3. We find merit in the submission that the words/scenes as directed to be muted/excised in Serial No. 3 to 5 are essential and central for effective portrayal of the story and theme. These would be acceptable within the prevalent standards and norms for film with 'A' Certifications. Moreover, we find that the excisions at Serial No. 4, showing the visuals of the boy, 'Paneer' swimming in nude is almost a fleeting moment and there is hardly any exposure from a close range. Similarly, the rape scene at Serial No. 5, is symbolic with the shaking of the legs, these scenes can be retained in an 'A' Certification. We accordingly hold that the words/scenes directed to be muted/excised at Serial No. 3-5 can be retained with 'A' Certification and order accordingly.

9. As regards the compliance with the requirements regarding disclaimers, the Appellant has no objection to the smoking disclaimer being as per norms. As regards modification at Serial No. 2, i.e. the title message, Appellant has agreed to change the same to "*The Indian subcontinent is a land of millions subaltern deities. Behind many of these deities there is a tale of Injustice*". Further, the Appellant agreed to tender requisite "No Objection" from AWBI (Animal Welfare Board of

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India) for all the animal scenes showing animal shots. In exercise of our powers, under Sub-section 11 of Sub-Section 5C of Cinematographic Act, 1952 this order is passed allowing the appeal with direction to grant 'A' Certification but with retention of the words and scenes in Serial No. 3, 4 and 5. As regards, the directions issued with regard to the disclaimers on smoking, direction in relation to 'modification' and the objection from the Animal Welfare Board of India (AWBI) the same are to be retained as directed above.

10. The Appeal stands disposed of in the above terms.


MADHU JAIN
MEMBER, FCAT


SHEKHAR IYER
MEMBER, FCAT


SAIBAL CHATTERJE
MEMBER, FCAT


CHIEF JUSTICE (RETD.) MANMOHAN SARIN
CHAIRPERSON, FCAT