

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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CINEMA AND CENSORSHIP LEGISLATIONS: **AN OVERVIEW**

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ABSTRACT

This paper covers highlights the topic of censorship, their vital need and legal frameworks introduced upon to regulate and imbibe it.

The fastest growing medium of communication i.e. Films form an epicenter of entertainment in present era. It acts as a great influence to all age of audiences and holds in it a great weapon to impact the society. Film maker's legal right which is Article 19 of the Indian Constitution - Right of freedom and expression has also been discussed in length.

This paper also gives a brief idea of statutory body- CBFC and their role in regulation, exhibition and circulation of films. The legal body underlying film censorship is Cinematograph act which helps to bring stable rules about certification, screening, exhibition, distribution and also makes divisions according to the primary audience suitable to watch a particular film. This protects children from viewing improper, sensitive and violent content. The membership of the board, inspection of films, advisory councils created are few other important provisions elaborated in this paper. The tethered connection between film censorship which is necessary and freedom of the film maker is being examined. Suggestions is being given to attain balance and extract merits. The evolution of censorship as well film censorship is also briefed in this paper.

Precedents hold high value and helps to understand how law is being applied in legal profession. Some important case studies and recent examples are mentioned in this paper which will show how the application of law is reformed and important guiding principles are established in each case.

Banning of films are getting common and controversy arises for each film in some form. There are violent protests, ripping of posters, strikes which occurs even after the film is being certified. There are cases where it happens even after the release of the films in screens.

Does it impede the basic rights of film industry people or whether it furthers the cause of censorship? is the major question which needs to be answered.

CHAPTER 1

INTRODUCTION

1.1 STATEMENT OF PROBLEM

Problem analyzed here is with regard to the need of censorship and how film censorship plays a much needed vital role in the present scenario.

1.2 RESEARCH QUESTIONS

- i. What is the meaning and history of censorship?
- ii. What is the constitutional framework regarding censorship?
- iii. How is censorship applied in cinema industry?
- iv. What are the legal acts which regularize this issue?
- iv. Different Judicial pronouncements on Film Certification and Censorship

1.3 HYPOTHESIS

The possible hypothesis formulated is to be strike a balance between freedom of speech and expression and reasonable restrictions which makes it necessary for the censorship to ensure both are achieved. Cinematograph Act 1952 which fulfills the purpose by setting up a statutory body – Central Board for Film Certification

1.4 RESEARCH METHODOLOGY

The approach used in this study is of a doctrinal nature and is mainly theoretical, logical and descriptive. The research's use of reference material i.e., papers, bills, legislatures, books, law magazines, publications, and interpretation of judicial decisions are mostly secondary. The analysis is qualitative as it attempts the concepts already set out by legislation to be analyzed and,

where possible, to propose better alternatives.

1.5 RESEARCH PLAN

The research objectives that this paper will deal with are given below:

- To understand the meaning of censorship.
- To be familiar with the meaning of cinema censorship and certification.
- To understand Article 19 i.e. "*Freedom of Expression and its restrictions*
- To learn about cinematograph act, their objectives and application.
- To study various case studies related to censorship and cinema

CHAPTER – II

BRIEF IDEA OF CENSORSHIP

2.1. MEANING:

The term censorship comes from the Latin term "*censere*" which means to give one's opinion or to assess. In ancient Rome, the censors, two Roman magistrates, took the census and regulated the customs and morals of the citizens.

Censorship is declared as a tool imposed by public authority designed to maintain fair control over what enters the public domain and how that information or data satisfies certain generally accepted standards of maintaining harmony, peace and social order. The opinions/ ideas / information which are objectionable, sensitive, controversial, violates public morality, promotes indecency or give rise to negative consequences are prevented. It also controls spread of false information.¹

Censorship is a much-needed reasonable restriction imposed on the general public by the competent authorities to limit freedom of expression. This includes reviewing media that may be considered pornographic, politically offensive or a security threat. It can be applied

¹ Research paper on "MEDIA AND CENSORSHIP WITH REFERENCE TO CINEMATOGRAPH ACT"1952 by Simrandeep singh

to as books, magazines, newspapers, movies, radio, television, speeches, comedies, plays, art, music, dance, literature, photographs, mails, websites, etc.

There are **different forms** of censorship which are - Preventive censorship which is applied before it has gone to public eye. It consists of self- censorship, pre censorship, government licensing and prohibitions that are done in prior. ²

The other type of censorship is punitive which is exercised after it is made public.

Some pros of censorship are it helps to prevent disharmony among people, preserve security of state people and also helps in maintaining morality, decency, spread of accurate information and also provides age restriction which prevent children from viewing disturbing content. An important disadvantage of censorship is that it can act as an barrier to free speech and expression and its subsets like right to broadcast, right to press etc.

2.2 CONSTITUTIONAL FRAMEWORK

Article 19(1)(a) of the Constitution states that “all citizens shall have the right to freedom of speech and expression”. However this freedom is not absolute. They are subject to “reasonable restrictions” for certain purposes which are imposed under Article 19(2) of the Constitution of India.

It reads “Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence” ³

As mentioned before, the few objectives of censorship are to ensure public order and protect the interests of certain circles, etc. Therefore, the relevant authorities can censor the

² Article on “Legality of Censorship in movies” published in Prima Legal

³ Constitution of India

content based on the circumstances of the situation, and they would be protected by reasonable restrictions.

Thus, no form of censorship is against constitutional values. As long as they can be demonstrated with reasonable restrictions, the freedom of speech and expression guaranteed in Article 19(1)(a) is not violated⁴ Censorship means following the rules of law which dictated framework for constitution. The legislation of the rule of law states that every action must be executed in accordance to the procedure established by it.

The Censorship process applies within the provisions contained in the limitations of Article 19(2) in accordance with the principles of the rule of law.

2.3 CENSORSHIP FRAMEWORK IN INDIA

Code of Criminal Procedure (Cr.P.C): Section 95 of the Cr.P.C gives power to the state government to forfeit certain publications and also to punish for any printed material which may cause harm to state. Search warrants can also be issued by the magistrate under this section. (new act amendment)

Press Council of India is a statutory, quasi-judicial body (Press Council Act, 1978.) and self-regulatory body for the press and regularizes what comes to the public eye.

The Cable Television Networks Act infiltrates the content which are broadcasted. The provisions for compulsory registration of cable operators, content regulation, certification of film and banning the cable operator are laid down.⁵

Social Media Platforms and the New IT Rules, 2021: At present, the Information and Technology Act, 2000 regulates social media usage, and Sections 67A, 67B, 67C and 69A, in particular, include the specific regulatory clauses. IT (Intermediary Guidelines & Digital Media Ethics Code) Rules, 2021 came into force after this amendment which include new compliance and grievance redress mechanisms for social media, OTT, digital news and online messaging apps

⁴ Article on "LEGALITY OF CENSORSHIP OF MOVIES IN INDIA – A CLOSER LOOK" published in Prime Legal

⁵ Article on "Censorship regime in india"

CHAPTER –III

FILM CENSORSHIP

3.1. FILM AND CENSORSHIP CORRELATION:

Today, movies have great power to influence society and bring about social change. It is an effective way to communicate different ideas. It also acts a vehicle for depicting societal issues on public display in a broader context. It acts a tool for social transformation and change. It also serves as both an inspiration and a moment for introspection.

With the advent of technology and science, cinema underwent drastic changes that made it wider and as a result reaching the masses. Film is a central form of entertainment and can easily influence an audience. That makes it all the more important that films conform to certain standards to avoid various controversial problems such as sharing wrong information, instigating discord between social communities etc.⁶

It is important to note that the films are a mode of expression and falls under article 19 (Fundamental rights). But these are not absolute rights and therefore have certain restrictions. Censorship helps to achieve this objective of restricting Improper content.

Film censorship is also vital to protect children from exposure to inappropriate content for their age. This is usually done by a certified rating board that classifies films by age. In India, the Censor Board censored films to remove any negative content. The goal is to make the film suitable for the target audience. A certificate is issued to each film, which prescribes the audience for that film.

3.2 HISTORY OF FILM CENSORSHIP

In 1917, the Imperial Legislative Council introduced a bill stating that cinema was rapidly growing in popularity and therefore suggested creating a law that would ensure both security and "the protection of the public against indecent or otherwise questionable representations"

⁶ Article on "LAWS GOVERNING CENSORSHIP OF MOVIES IN INDIA" published in Iblogleaders

In the Cinematograph Act of 1918⁷, Censorship was imposed as British rulers wanted to ensure that the movies fulfill their colonial objectives.

In 1920, Regional Censor Boards, which were "theoretically independent, had comprehensive guidelines on 'sensitive subjects', 'relevant' subjects and 'forbidden scenes' in 'foreign films'. In order to apply this, provincial censorship boards were placed under the control of the police commissioners of Bombay, Calcutta, Madras, Rangoon, and Lahore. In 1948, the Bombay and Madras Film Censor Board issued the so-called Production Code, which provided guidelines to filmmakers to feature films. The Code was created ostensibly to ensure that cinema fulfills its role in the development of a healthy culture.

After the Cinematograph (Amendment) Act of 1949⁸, two new censorship certificate classifications were formed: a "A" certification that limited cinema viewing to adults over the age of 18, and a "U" certification that indicated the picture was appropriate for unrestrained public display.

The Cinematography Act of 1918 was repealed and replaced by the Cinematography Act of 1952. Over the next few years, the Central Board of Film Censors (CBFC, renamed the Central Board of Film Certification in 1983) was established which abolished the regional boards. This helped to overcome the regional variations and form a uniform code.

CHAPTER IV

THE CINEMATOGRAPH ACT, 1952

4.1 LEGAL PROVISIONS

The Cinematography Act, 1952 ensures that the films get certified before it is let into the public domain. It fulfills the purpose of censorship. This act gained its validity from the landmark case of K. A. ABBAS V UOI, where it was held that pre censorship is valid. It was also stated that motion pictures stir more deep emotions than any other form of expression.

⁷ Cinematograph Act, 1918

⁸ Cinematograph Amendment act of 1949

OBJECTIVE OF ACT

1. To ensure healthy entertainment, recreation and education
2. To certify film for public exhibition
3. To make certification process transparent and responsible
4. To create awareness among Advisory Penal, Media, Film Makers about guidelines for certification and current trends in film

Section 2 of the Act prescribes various definitions for the purpose of this legislation. In such regard, ‘cinematograph’ is defined as “any apparatus of visual representation in motion or series of pictures”, ‘adult’ has been taken as “any person who has completed eighteen years of age”.

CENTRAL BOARD OF FILM CERTIFICATION

The Central Bureau of Film Certification (CBFC) is a statutory body operational under the Cinematography Act, 1952. The Act of 1952 along with the Cinematographic Rules, 1983 and the Central government guidelines of 1991 set out the manner in which movies are to be exhibited in the country.⁹

Section 3 of the act talks about establishment of board, where the central government is empowered to form a board of film certification consisting of a chairman and other members. This board was formed to view pre-screened films and certify them as suitable for public exhibition.

The central government has the authority to decide the remuneration of the board and members according to the number of participants in the board meetings.

(Section 4) – Inspection of films: of the Act provides for the procedure for inspection of films by the Board before release.

The board consists of maximum of 25 members (appointed by information and broadcasting ministry) along with 60 members who act as an advisory panel. They aid and advise the members. The CEO will be the head of administrative affairs.

⁹ Paper on “A critical Analysis of censorship issues in Indian cinema and its challenges” – International journal of Law Management and Humanities

Once an application has been received the Regional Officer, he shall appoint an Examining Committee which consist of 4 members and an examining officer. Among the members, it is mandatory for two of them to be women.

The board follows a prescribed procedure where every person intending to release a film submits an application for a certificate after the film is viewed for the examination of board. The film will get sanctioned into public exhibition after the entire screening process is over. It also gives sanction to movies according to their target audience which includes viewership restricted based on the content shown in movie. This applies to films intended for adults only.¹⁰

The board has the right to make necessary changes, deletions, modifications, alterations to the film before accepting the film for public exhibition. These cuts need to be communicated to the applicant. It can also directly refuse to exhibit the film in public. Any action may be taken after the filmmaker has been given a reasonable opportunity to explain his views on the matter.

The censor board shall take maximum of 68 days from date of application to issue the certification for the film submitted after the required cuts are made.

Presently, this process has been made more accessible and transparent. If the applicant is still dissatisfied with the certification issued, they can approach the Revising Committee. Further, appeals are made to the appellate tribunal and the court.

Section 5 of the Act authorizes the central government to form advisory councils in relation to regional centers to assist the board in the performance of its duties. Membership is decided by the board, and each member is qualified to judge the effectiveness of each film presented to the public.

4.2 FILM CERTIFICATION

WHY IS IT NECESSARY? While the media in our country are free, it is absolutely mandatory that in the general interest to examine the material when it comes under the ambit of public use. There is a need to have certification for films as the effect that the audio-visual medium can have

¹⁰ Article on “law made for the censorship of movies in India” – Jus Corpus Law Journal

on the general public are considered to be far stronger than the influence generated from the published material.

“Film certification is thus the end product of the process of previewing of film and it includes a decision either not to allow a particular film or public viewing or to allow it for public viewing with certain deletions and / or modifications or at least proper categorization of the films” Furthermore, it is to assure that the kids do not get exposure towards any improper or damaging content.

The Supreme Court in a judgment in 1989 said that *“the films has as much potential for evil as it has for good and has an equal potential to instill or cultivate violent or good behavior. It cannot be equated with other modes of communication. Certification by prior restraint is, therefore, not only desirable but also necessary”*.

OBJECTIVES:

the underlying context and the mode of the film is sensitive to the values of the society and conform to the standards, the freedom to the artists not to be restricted, social changes are a factor to be considered in regards to certification and the film must have an aesthetic sense to it.

Section 5A - Procedure for certification of the films after thorough screening in the manner prescribed. There are numerous certifications given to a movie by the Central Board in regard to the contents of the film being suitable for a specific target audience.

The categories in which the CBFC divides movies for display are:

- The film is suitable for unrestricted public exhibitions (fit for ‘U’ certificate.). The theme of the film may contain universal content like education, family, morals etc.
- The film is suitable for unrestricted public exhibition subject to parental guidance for children below 12 years. (Fit for ‘UA’ certificate). They may have mild adult content and vulgar scenes.
- The film is suitable for public exhibition which is restricted to adults, (fit for ‘A’ certificate) and might contain violent, abusive language and sexual acts which is improper for younger audience.
- The film is suitable for public exhibition restricted to members of any profession or any class of persons having regard to the nature, content and theme of the film, (fit for ‘S’ certificate) like

doctors, lawyers etc. ¹¹

The board also examines the film from the perspective of public order, morality, decency and defamation.

In addition, they also consider laws relating to the showcase of cigarettes and tobacco, the usage of drugs and substances, the prevention of cruelty to animals, the use of national emblems, names and other important matters of nation.

Section 5B – Guidance in certification of films

the powers of the Board or any other authority to not issue the certificate for public exhibition if it is of the opinion that the film vitiates the national interest of the country with regard to the sovereignty and integrity of India, or effects/ affects the friendly relations with other states, public order, morality, decency or/defamation / contempt of court / any incitement to the commission of an offence.¹²

The government can also issue directions that guide the principles which shall guide the authority competent to grant the certificate.

BOARD MUST ENSURE THAT – Anti social activities not glorified, modus operandi of criminals which incite a person to commit offence are not depicted, scenes which involve children as witness to violence

Scenes that – glorify drinking, drug addiction and tobacco consumption, horror scenes that dehumanize people, depict child and animal abuse, ridicule handicapped people, degenerate women, involve sexual violence are not to be shown.

Visuals / words that are promote communal, anti-nationalist attitudes and instigate conflicts of racial, religious group to be avoided.

OTHER DECISION GUIDING PRINCIPLES –

The board must judge film's overall impact and view entirely, examine in the standards and the period depicted by the film.

While certifying certificate – if U certificate, make sure it is suitable for family audience and small children, caution if needed to parents regarding allowing children below 12 years, can be restricted to be viewed only by a class of people, scrutinize the title of the film. ¹³

¹¹ Article on "Film censorship in India vis-a-vis CBFC: A Detailed analysis" posted on Legal Insight.

¹² Paper on "Censorship in Indian cinema- A critical overview" by Roma Gill

¹³ Central board of film certification, government of India

Section 5C - APPEAL: any person applying for a certificate for a film and get aggrieved by the order of court can prefer an appeal to the tribunal within 30 days of that order. Statement of reasons must be attached.

Section 5D – Film Certificate Appellate Tribunal

It is a quasi-judicial body which hears appeals against any order of the CBFC. This Tribunal is based in New Delhi. It is headed by chairman who is a retired High Court judge or a person who is qualified to be judge of a High Court. 4 other members are appointed by the Central Government for a period of three years. They include bureaucrats, politicians and lawyers. The FCAT is thus a quasi-judicial body

Section 5E – SUSPENSION AND REVOCATION OF CERTIFICATE: Central government can suspend or revoke the certificate granted to any film for a fixed period and also revoke it after being showed in the form for which it was certified. ¹⁴

Section 5F – REVIEW OF CENTRAL GOVERNMENT ORDER: the order of central government can be asked for review by an applicant aggrieved by the order who files the application within 60 days from the date of publication in the official gazette.

COMMITTEE AND THEIR FINDINGS:

A) MUDGAL COMMITTEE (2013)

The committee noted that "the current procedure for appointing advisory board members, their qualification criteria and general quality of work is far from satisfactory. In some places, the members of such an advisory board do not grasp the context of the submitted film at all and only focus on their work as censor board and do the cuts. Therefore, the Committee first recommended that such a panel should be renamed from "advisory panel" to "screening panel"

It then recommended that "the government set up a nine-member committee to ensure linguistic diversity with at least two female members.

The Committee also suggested a move towards internationally prevalent practice of "age-based classifications and certifications". It came forward with a revised form of classification.

¹⁴ Cinematograph act 1952

B) SHYAM BENEGAL REPORT (2016)

On 1st January 2016, “a committee was set up under the Chairmanship of Shri Shyam Benegal to lay down norms for film certification which gives opportunity for creative expression and lay down regulations to follow and recommend more improved services.

Children and adults are prevented from watching potentially harmful / unsuitable content and the audiences are given the ability to make informed decisions.

“Artistic expression and creative freedom are not unduly curbed in the process of classification of films; the process of certification by CBFC is responsive, at all times, to social change”.

They also recommend a more efficient staffing service with adequate qualifications.

4.3 OBSCENITY

The concept of obscene basically means “anything which inhibits a primary appeal to lustful or voyeuristic tendencies. Or any work; literary, artistic or otherwise, that offensively/indecent in a obvious way shows or outlines sexual conduct. It can also be defined as an indecent expression which could be displayed through words, actions or gestures”¹⁵

The word obscene came from a Latin term *Obscenus* which means ‘offensive’ especially modesty. The Oxford dictionary defines obscene as “offensive or disgusting by accepted standards of morality and decency”,

It can be stated that censorship of a movie can be done if it is found to be obscene in nature and therefore the public display needs to be restricted. Most of the films which contain scenes which may be conflicted as obscene are given A certificate by the board making it proper only for adult viewership.

TESTS TO DETERMINE OBSCENITY

HICKLIN TEST: Regina v. Hicklin (1868): The bench held to observe “Whether the tendency of the matter is to deprave and corrupt those whose minds are open to such immoral influences and into whose hands a publication of this sort may fall”.

In the landmark judgment of *Ranjit Udeshi v., the State of Maharashtra (1964)* the Supreme Court applied the Hicklin test to assess whether a book seller was liable to sell obscene books.

¹⁵ Article on “Obscenity or absurdity – the unclear laws of India” in Haryana Police Journal.

LIKELY AUDIENCE TEST: Output / reaction of the likely audience to the obscene material is considered and the impact it causes must be taken into account for determination.

LITERARY MERIT AND PROPENDERATING SOCIAL MERIT TEST: the question as to whether the material solves any social purpose or contains any literary merit to be noted.

COMMUNITY STANDARD TEST/ MILLER TEST:

Based on the US Supreme Court's decision in Miller v. California (1973), this test is applicable in the US. As per this test, a work can be considered as obscene if it satisfies the following conditions:

- The average person, applying contemporary community standards, would find that the work, taken as a whole, appeals to the prurient interest.
- The work depicts, in a patently offensive way, sexual conduct specifically defined by the applicable state law;
- The work, taken as a whole, lacks serious literary, artistic, political or scientific value.

In case of Aweek Sarkar vs. State of West Bengal: the Supreme Court abandoned the age old 'Hicklin test' and adopted the 'Community Standard test' to determine obscenity of a material containing nude / seminude woman.

In many landmark cases like Bobby art international case, K.A Abbas case, Raj kapur and others case which contains the concept of movie censorship, these tests of obscenity are being applied by the court to give proper and justified judgments. These case Judgments will be further elaborated in the next chapter of this paper.

CHAPTER V

CASE STUDIES

1) K.A abbas v Union of India

This is the first case where the question of film censorship arises. The Supreme Court regarded the pre-censorship of films as a crucial issue in connection with the fundamental right to freedom of speech and expression that is protected by 19 (1) (a) of the Constitution.

The petitioner challenged the Film Censor Board's decision to refuse him and a U certificate from the movie, "The Story of Four Towns people. While the case was pending in the SC, the central government issued U certificate if certain cuts were made to the film.

Hidayatullah, C.J. made it clear that censorship of films including pre-censorship was constitutionally valid in India as it was a reasonable restriction within the ambit of Article 19(2).

The apex court also held that a motion picture is “able to stir up emotions more deeply than any other product of art.” The bench also stated that films must be dealt with differently from other forms of art and expression in accordance with Article 19(2) of the Constitution. This restriction must be “in the interests of society”. If the power is abused, then the same must be questioned.¹⁶

2) Bobby Art International v. Om Pal Singh Hoon, 1996

This case is better known as the Bandit Queen case. In this case, The SC upheld the freedom of speech and expression under Article 19(1). The petitioner claimed that the portrayal of the film shall be restricted for its nature of depiction of the life story of a bandit, Phoolan Devi in the film, depiction of rape scenes, image of Gujjar community etc. .¹⁷

The SC observed that “a film cannot be restricted simply because the content is obscene, indecent or immoral. The abusive language or nudity in the movie was to further the case in regards to real life of Phoolan Devi”. The movie was issued ‘A’ certification under Section 5(B) with restricted viewership for adults only.

3) Rangarajan v. P. Jagjivan Ram

The Madras HC revoked the ‘U-Certificate’ issued to a Tamil film called ‘Ore Oru Gramathile’ in this film, The reservation policy in employment was being criticized as it was unfair to Brahmins and was caste basis. It stated that the criteria to be financial deprivation rather than caste.¹⁸ The SC upheld the freedom of speech and expression. It stated that “democracy is a government by the people via open discussion. The democratic form of government itself demands its citizens an active and intelligent participation in the affairs of the community.”

4) Sree Raghavendra Films v. Government of Andhra Pradesh,¹⁹

In this case, the exhibition of the film 'Bombay' in its Telugu (the official language in the State of Andhra Pradesh) version was suspended in exercise of the powers u/Sec.8(1) of the A.P. Cinemas Regulation Act, 1955, despite being given certification by the Censor Board for unrestricted exhibition (U/A). This suspension was imposed to further the cause that it may

¹⁶ AIR 1971 SC 481

¹⁷ (1996) 4 SCC 1

¹⁸ 1989 (2) SCC 574

¹⁹ Article on “Censorship of films – constitutionality” By Utkal University. (1995) 2 ANDH LT 43

lead to hurting sentiments of some communities. The Court found that the authorities who passed the order for suspension did not watch the movie. Hence, the Court quashed the order as being arbitrary and not based on proper proof.

5) **Life Insurance Corporation of India v. Prof. Manubhai D. Shah**²⁰

In this case, Doordarshan refused to telecast a documentary film on the Bhopal Gas Disaster titled 'Beyond Genocide', in spite of the fact that the film won Golden Lotus award, being the best non-feature film of 1987 and was granted 'U' certificate by the Censor Board. The matter came before the Supreme court where court held that "Merely because it is critical of the State Government is no reason to deny selection and publication of the film. So also, pendency of claims for compensation does not render the topic sub-judice so as to shut out the entire film from the community."

6) **Other cases:**

In the movie Kerala story, it has been said to purport false information regarding the women count that went through the conversion to Islam. The SC rejected the plea to ban the film but allowed the High Courts to take a decision on the same.

The Tamil drama film "*Kuttrapathirikai*" (2007), was not allowed to be released until 2007 as it exhibited the killing of Former Prime Minister Rajiv Gandhi as a backdrop.²¹

the Tamil movie "*Vishwaroopam*" also faced criticism, the title of the movie was criticized and despite having a valid certificate, the some of the higher officials of State of Tamil Nadu ordered theatre owners not to screen the movie due to demands of the group of Muslims.²²

In 2006 Aamir Khan's movie "*Fanaa*" faced violent protest and an unofficial ban in the State of Gujarat for lending his support to Narmada Bachao Andolan²³

Uda Punjab" was met with strong criticism from the CBFC since it dealt with the Punjab government's incapacity to control the drug mafia. The picture had to make huge amount of 89 cuts in order to get certified. After the HC heard the case and suggested only one cut, a leaked copy of the film circulated online with a "censor" marking, causing even more controversy.

The film "The Girl with the Dragon Tattoo" was banned in India due to its obscene content.²⁴

²⁰ AIR 1981 GUJARAT 15

²¹ High Court judges to see 'Kuttrapathirikai'<http://www.thehindu.com/todays-paper/tp-national/tptamilnadu/article3050604.ece>

²² Vishwaroopam: Madras HC upholds ban, Kamal Haasan to move SC, The Times of India, <http://timesofindia.indiatimes.com/india/Vishwaroopam-Madras-HC-upholds-ban-Kamal-Haasan-to-moveSC/articleshow/18255485.cms?referral=PM>

²³ Paper on "Law Relating To Censorship in India A Critical Study With Special Reference To Films" by Singh, Rachi, Amity university Haryana.

²⁴ Fincher, David, "The Girl with the Dragon Tattoo cancelled in India". Guardian News and Media Limited

The film “Oh My God” was criticized as it attacked certain rituals of religion and commercialized it. This led to the burning the posters of movie and theatres which exhibited the film were vandalized. Criminal Case was filed. Due to threats of physical violence, several cinema halls decided not to screen the film.

Like this there are several instances, where court has to balance the right of film maker and also protect the general public. Many films faced ban and struggle in order to be released and therefore strict regimes need to be made to strike harmony between the rights.

CHAPTER VI

6.1. CONCLUSION

It is important to find a healthy balance between freedom of expression and the duty to maintain social harmony. The Certification Board should keep the same in mind. Movies, the central medium of ideas and expression, should not be hindered by any limitations. However, it is necessary to check how these concepts are spread. The process of expressing opinions must not endanger the peace and security of the community, which is of the greatest importance.

Movies are one of the popular forms of entertainment and can influence people easily. Therefore, restrictions under Article 19(2) are vital and censorship process of the board is of great importance. Cinematograph act fulfills the objective and norms behind this purpose.

6.2 SUGGESTIONS

The CBFC should be guided by the following principles:

- The mode of the cinema must remain responsible and sensitive to the ethics and standards of society.
- Artistic expression and creative freedom should not unduly be curbed and certification should be responsive to social change.
- The film should be examined in regard to the period , theme , content shown in the film and should know the impact it will cause in society.²⁵

Shyam Benegal committee was setup by the Government of India in January 2016 norms

- “Certification Board should restrict its domain only to certification of films
- The Committee also suggested that the role of the Chairman of the Certification Board should be curtailed to be of advisory nature only. The Committee also suggested minimizing the size of the Board keeping in mind its limited functions.”

²⁵ Article on “Censorship of films” by Bench and brothers

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AIR – All India Report

CBFC – Central Board of Film Certification

CJ – Chief Justice

HC- High Court

SC- Supreme Court

SCC – Supreme Court Cases

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