

Vital Media

v.

State of Punjab & Others

(Supreme Court Of India)

HON'BLE CHIEF JUSTICE MR. ALTAMAS KABIR HON'BLE MR. JUSTICE ANIL R. DAVE  
HON'BLE MR. JUSTICE VIKRAMAJIT SEN

Writ Petition (Civil) No. 205 Of 2013 | 26-04-2013

1. This writ petition has been filed by an organisation known as 'Vital Media' challenging a Notification dated 4th April, 2013, published by the Government of Punjab, regarding the screening of a film titled "SADA HAQ", indicating that a Committee set up by the Punjab Government consisting of the Chief Secretary and other high officials, which had viewed the film, was of the view that the screening of the film was likely to cause a breach of the peace. The said Notification was followed by another Notification dated 5th April, 2013, issued by the Government of National Capital Territory of Delhi, New Delhi, which for the same reasons suspended the exhibition of the aforesaid film in the territory of the National Capital of Delhi, with immediate effect on the sole ground that the public screening of the film was likely to hurt religious sentiments and cause a breach of the peace within the National Capital Territory of Delhi.

2. A third Notification/Order was issued on 5th April, 2013, by the Office of the District Magistrate, UT, Chandigarh, also prohibiting the exhibition of the said film under the provisions of the Punjab Cinema Regulation Act/Rules, framed thereunder, in public interest.

3. One of the reasons which appears to have also influenced the view of the said three Governments, is the use of a song, which is said to have been used as a promotional engine for the purpose of promoting the film in question.

4. On 25th April, 2013, when this matter was taken up, learned senior counsel for the petitioner, Mr. Colin Gonsalves, submitted that the ban should be lifted on account of the fact that the contents of the film had nothing to do with the promotional song and that, on the other hand, the contents of the film had been viewed by members belonging to the Sikh community, Hindu community and even the members of the S.G.P.C. and they have all unanimously indicated that the film, in fact, should be exhibited.

5. In order to satisfy ourselves as to the contents of the film, we had requested a group of four learned senior advocates practising in this Court and the Delhi High Court, to view the film and to submit a report to us to enable us to pass appropriate orders.

6. Upon viewing the film, the said learned counsel submitted their views in writing, from which it will appear that certification of the film as a film for "unrestricted" view was possibly inappropriate and that the certification should have been given for "adult" viewing. The views also indicate that there

are certain portions of the film where the frames were marked as "Censor Copy" or as "Pre-View Copy". These legends will have to be removed from the final copy of the film which is to be exhibited.

7. Apart from the above, it has also been suggested that the changes to be effected must be completed before the film is allowed to be shown.

8. On behalf of his clients, Mr. Gonsalves, agrees unconditionally to accept all the suggestions made by the group of four senior counsel, led by Mr. Fali S.Nariman.

9. In such circumstances, we direct the Central Board of Film Certification, Government of India, to once again review the certification granted to the film and to reconsider as to whether the same should have been granted a 'U' Certificate instead of a 'A' Certificate. In the event of a possible law and order situation, if the said Body is convinced, the certification may be altered for Adult viewing.

10. The writ petitioner-organisation shall also see that a complete and correct version of the film is produced before the Censor Board for the aforesaid purpose.

11. As far as the use of the song 'BAGGI' as a promotional vehicle is concerned, it is undertaken by the makers, producers and distributors of the film, that they shall not in any way associate the song with the film and shall not use the same either for promotional purposes or as a background to the film. The said song shall not in any way be identified with the film "SADA HAQ".

12. Since the film has already open exhibited in cinema halls in other parts of the country, the Censor Board shall take immediate steps regarding the re-certification of the film.

13. We also have to advert to the objections which had been raised on behalf of the State of Punjab, U.T. of Chandigarh and the NCT of Delhi, regarding the exhibition of the film. We have considered the said objections, but having regard to the reports submitted to us by the four senior counsel, who had acted as Amicus Curiae in this matter, we are unable to sustain such objections and we direct that the petitioner would be at liberty to exhibit the film in the three aforesaid territories once the certification is reconsidered.

14. Since the film has already been exhibited in other parts of the country, the Censor Board may take a decision in the matter, if possible, by Monday (29th April, 2013), considering the objections, as also the report submitted by the Committee appointed by the Chief Secretary, the Principal Secretary(Home) and the Principal Secretary to C.M. and other officials of the State of Punjab.

15. In addition to the above, the makers, producers and distributors of the film, shall publish a Disclaimer regarding the use of the promotional song, as far as the film is concerned, in two daily newspapers having wide circulation in all the three States referred to above.

16. We have passed this Order in exercise of our powers under Article 142 of the Constitution, having regard to the nature of the facts involved.

17. We express our sense of gratitude to the learned Amicus Curiaes, for having taking the trouble to assist the Court in this matter.

18. The Writ Petition is disposed of in the aforesaid terms.