

**2026 LiveLaw (SC) 193**

**IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION**

***B.V. NAGARATHNA; J., UJJAL BHUYAN; J.***

**WRIT PETITION (C) NO.181 OF 2026; February 19, 2026**

***ATUL MISHRA versus UNION OF INDIA & OTHERS***

**Constitution of India – Article 19(1)(a) – Freedom of Speech and Expression – Article 19(2) – Reasonable Restrictions – Cinematograph Act, 1952 – Film Certification – Judicial Interference – Petition filed seeking to restrain the release of the film "Ghooskhor Pandat," alleging offensive stereotyping against the Brahmin community - The Respondent/Producer filed an affidavit unequivocally withdrawing the title and undertaking that any new title would not be evocative of the earlier one - Supreme Court disposed of the petition, noting that the grievances were suitably addressed by this undertaking.**

**Fraternity and Constitutional Duty – Articles 51A and 51A(e) – Supreme Court noted that fraternity is a guiding philosophy of the Constitution - It is the fundamental duty of every citizen to promote harmony and the spirit of common brotherhood - Vilifying or denigrating any community based on religion, language, caste, or region is constitutionally impermissible. [Para 11-14]**

**Standards for Judging Film Content – "The Ordinary Reasonable Man" – The effect of words or expressions in a movie must be judged by the standards of "reasonable, strong-minded, firm and courageous men," and not by those of weak or hypersensitive minds – Noted that the "man on the top of a Clapham omnibus" standard - Freedom of expression cannot be held to ransom by an intolerant group of people – Noted that if the rights of artists were subjected to popular notions of what is acceptable, the constitutional guarantee would be rendered illusory - Once a competent statutory Board grants a certificate, no individual or group can create disturbances in the exhibition of the film - Courts must be at the forefront to zealously protect the freedom of speech and expression, even if Judges personally dislike the spoken or written words. [Para 19, 22-24, 32-34]**

*For Petitioner(s): Dr. Vinod Kumar Tewari, AOR Mr. Pawan Kumar Shukla, Adv. Mr. Pramod Tiwari, Adv. Mr. Vivek Tiwari, Adv. Mr. Bhoopesh Pandey, Adv. Mr. Vishwa Pati Trivedi, Adv. Ms. Priyanka Dubey, Adv. Mr. Sk Warish Ali, Adv. Mr. Manindra Dubey, Adv. Mr. Ravi Ketan, Adv. Mr. Jitesh Sharma, Adv.*

*For Respondent(s): Mr. Tushar Mehta, SG Mrs. Prerna Dhall, adv. Mr. Madhav Goel, adv. Mr. Bhavan Kapoor, Adv. Mr. Amrish Kumar, AOR Mr. Neeraj Kishan Kaul, Sr. Adv. Mr. Sachin Gupta, AOR Mr. Rohit Pradhan, Adv. Ms. Surekha Srinivasan, Adv.*

*For Impleader(s) Mr. Shivam Singh, Adv. Mr. J. S. Marahatta, adv. Mr. Mukesh Kumar Singh, Adv. Mr. Narendra Kumar Goyal, Adv. Mr. Kadam Hans, Adv.*

**ORDER**

The writ petitioner herein is aggrieved by the upcoming film titled "Ghooskhor Pandat", which according to them equates "Pandat" (a caste within the Hindu society) with "Ghooskhor" (bribe-taker). This, according to the petitioner, creates offensive stereotyping against an identifiable community and violates their right to dignity under Article 21. Therefore, he seeks restraining of the release, screening, or broadcasting of the said film.

2. On 12.02.2026, we had issued notice to the respondents in the Writ Petition. We had also recorded the submission of the learned counsel for the respondents that steps are being taken to change the title of the movie.

3. Learned senior counsel Sri Kaul appearing for respondent No.3/Director-Producer drew our attention to the affidavit that has since been filed by respondent No.3. He pointed out that paragraph 5 of the said affidavit is in the nature of an undertaking and that having regard to the unequivocal withdrawal of the title of the film and a decision taken to change to a new title in terms of the said affidavit, the cause no longer survives. He, therefore, submitted that the affidavit may be taken on record and into consideration, and consequently the writ petition may be disposed of as the grievances advanced by the petitioner herein are suitably addressed by the affidavit filed.

4. In response to this, learned counsel for the petitioner stated that, no doubt, respondent No.3 has decided to withdraw the present title of the film; however, any future name to be given to the film ought not be evocative of the earlier title. He submitted that this Court may pass appropriate order(s) having regard to the affidavit filed by respondent No.3.

5. We have taken note of the submissions made at the Bar by learned senior counsel for respondent No.3 and learned counsel for the petitioner.

6. Paragraph 5 of the affidavit reads as under:

“I respectfully submit that the earlier title, “Ghooskhor Pandit” stands unequivocally withdrawn and shall not be used in any manner whatsoever. While the new title has not yet been finalised, I undertake that any title that may hereafter be identified and adopted shall not be similar to, or evocative of, the earlier title in respect of which objections were raised, and shall accurately reflect the narrative and intent of the film without giving rise to unintended interpretations.”

7. We find that respondent No.3 has positively responded to the grievances ventilated by the petitioner before this Court and has by a quick response realised that no purpose may be achieved by a prolonged standoff with the petitioner.

8. We find that the stand taken by respondent No.3 is appropriate having regard to the facts and circumstances of this case. Therefore, we take into consideration paragraph 5 of the affidavit and note that respondent No.3 has decided to change the title of the film from “*Ghooskhor Pandat*” to any other suitable title.

9. In view of the same, we find that the writ petition would not call for any further consideration and the same stands disposed.

10. We also observe that having regard to the positive and conciliatory response of respondent No.3 to this writ petition, it is expected that there should be a quietus given to this controversy in all respects whether in the form of civil or criminal proceedings or in any other form.

11. In view of the disposal of the writ petition, all pending application(s) including the application for intervention/impleadment stand disposed.

**UJJAL BHUYAN, J.**

Though in the ordinary course, a separate opinion would not have been warranted in this case in view of the fact that the third respondent has stated on oath that the title of the movie has been withdrawn on the basis of which the writ petition has been closed, however having regard to the larger issue involved, I am of the considered opinion that it would be appropriate to record my views on ink and paper.

2. There are two questions involved here and both are fundamental. One is of fraternity and the other is of free speech.

3. For proper appreciation, the relevant facts may be adverted to.

4. This writ petition has been filed in the form of a public interest litigation by one Shri Atul Mishra, claiming to be the National Organisation Secretary of Brahman Samaj of India which is stated to be a registered organization. The prayers made in the writ petition are as under:

- a) Issue a writ of mandamus or any other appropriate writ, order or direction restraining the release, screening or broadcast of the movie titled 'Ghooskhor Pandat';
- b) Direct the respondent No. 2 (CBFC) to re-examine the content of the said movie in accordance with constitutional principles and statutory guidelines;
- c) Stay the release and public exhibition of the movie titled 'Ghooskhor Pandat'.

5. As would be evident, petitioner is aggrieved by a movie called 'Ghooskhor Pandat' saying that the movie portrays a particular community i.e. the Brahmin community in a negative and defamatory manner which in turn may provoke disharmony between various groups of people leading to law and order problem.

6. During the preliminary hearing on 12.02.2026, the Bench had expressed serious concern at the attempt to show any particular community in a negative manner. The Bench observed that there should not be targeting of any community; the constitutional objective of fraternity is paramount, it is the fundamental duty of every citizen of India to foster brotherhood and fraternal feelings; freedom of speech and expression is not absolute and that it is subject to reasonable restrictions.

6.1. Learned counsel for respondent No. 3 had submitted in the said hearing that one writ petition was filed before the Delhi High Court ('High Court') being W.P. (C) No. 1865/2026 (*Mahender Chaturvedi Vs. Union of India*) ventilating similar grievance. A statement was made before the High Court on behalf of respondent No. 3 that he has taken a conscious decision to change the title of the film from 'Ghooskhor Pandat' to an alternate one in the light of the concerns that have arisen in the recent past. The aforesaid statement was taken on record and the writ petition has been disposed of by the High Court *vide* the order dated 10.02.2026.

6.2. However, this Court *vide* the order dated 12.02.2026 had issued notice on the writ petition as well as on the interim prayer.

7. Responding to the notice issued by this Court on 12.02.2026, respondent No. 3 has filed a4davit wherein it is stated that neither he nor the production house has any deliberate or malicious intention of outraging the religious feelings of any class of citizens of India. It is stated that the movie 'Ghooskhor Pandat' does not insult or attempt to insult any religious community or the religious beliefs of any class of citizens of India.

7.1. In view of the concerns received from members of the public, respondent No. 3 has withdrawn the promotional materials on 06.02.2026.

7.2. While stating that the film is a fictional police drama that revolves around a criminal investigation, it does not portray any caste, religion or community as corrupt. Respondent No. 3 has made a categorical statement that the earlier title of the film 'Ghooskhor Pandat' stands unequivocally withdrawn and would not be used in any manner whatsoever.

8. Before the Delhi High Court (High Court), Respondent No.3 had made a categorical statement that the producer has taken a conscious decision to change the title of the film from 'Ghooskhor Pandat' to an alternate one in the light of the concerns expressed. This has been taken on record by the High Court. Relevant extract of the High Court's order dated 10.02.2026 is as under:

2. Mr. Nayar, on instructions, places on record the stand of respondent No. 2 that the producer has taken a conscious decision to change the title of the film from “*Ghooskhor Pandat*” to an alternate title, in light of the concerns that have arisen in last few days. It is submitted that the new title shall be decided to more accurately reflect the film’s narrative and intent. It is also submitted that the film is a reformative, fictional police drama and the earlier title had led to unintended interpretations which do not align with the content of the film. It is also submitted that the principal photography of the film has been completed and the film, at present, is at the editing stage.

9. In the present proceedings also, respondent No. 3 has stated on oath that neither he nor his production house has any deliberate or malicious intention of outraging the religious feelings or sentiments of any class of citizens of India. However, deferring to the concerns expressed by members of the public, respondent No. 3 has withdrawn the promotional materials relating to the film on 06.02.2026. It has been clarified that the film is a fictional police drama that revolves around a criminal investigation. The film does not portray any caste, religion, community or sect as corrupt. There was no intention to demean any religion, caste or community. Thereafter, respondent No. 3 has made the following statement:

5. I respectfully submit that the earlier title, ‘*Ghooskhor Pandat*’, stands unequivocally withdrawn and shall not be used in any manner whatsoever. While the new title has not yet been finalised, I undertake that any title that may hereafter be identified and adopted shall not be similar to, or evocative of, the earlier title in respect of which objections were raised, and shall accurately reflect the narrative and intent of the film without giving rise to unintended interpretations.

10. In view of the clear stand taken by respondent No. 3, a *quietus* has been given to the controversy by this Court *vide* the order dated 19.02.2026.

### Fraternity

11. One of the solemn objectives of our Constitution which finds mention in the Preamble is to promote amongst all the citizens of India fraternity, assuring the dignity of the individual and the unity and integrity of the nation. This is the guiding philosophy of our Constitution. Article 51A reminds every citizen of India that it shall be their duty to abide by the Constitution and respect its ideals and institutions. More specifically, Article 51A(e) says that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities.

12. Dr. Ambedkar highlighted the concept of fraternity and bracketed it with liberty and equality. According to him, these three fundamental concepts together form the bedrock of democracy. It is essentially an attitude of respect and reverence towards fellow human beings. Thus, cultivating a sense of brotherhood and respecting fellow citizens irrespective of caste, religion or language is a constitutional *dharma* each one of us must follow.

13. Recently, a Constitution Bench of this Court in *Citizenship Act, 1955, Section 6A in RE*<sup>1</sup> was examining the challenge to the constitutional validity of Section 6A of the Citizenship Act, 1955 incorporated in 1985 as part of the Assam Accord. As per this provision, it conferred deemed citizenship to illegal immigrants who had entered Assam from the specified territory i.e. erstwhile East Pakistan and now Bangladesh prior to 01.01.1966 and secondly, the process of registration of such immigrants who had entered Assam from the specified territory between the period from 01.01.1966 to 25.03.1971. This provision was put to challenge on various grounds including on the ground of discrimination i.e. this provision not being applicable in the rest of the country but made

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<sup>1</sup> (2024) 16 SCC 105

specifically applicable only to the State of Assam, thus treating the State of Assam differently. It was also argued by the petitioners that influx of illegal migrants from the specified territory into the State of Assam had jeopardized the very ideal of fraternity in India in as much as the constitutional mandate in the Preamble pertains to fraternity amongst citizens and that this notion of fraternity might be destroyed when a legislative enactment like Section 6A threatens to destroy the cultural demography of that citizenry. It was in that context that the Constitution Bench speaking through Justice Surya Kant (as the Hon'ble Chief Justice of India then was) analyzed the meaning of the expression 'fraternity' to determine as to whether Section 6A violates or reinforces the idea of fraternity.

13.1. This Court observed that the term 'fraternity', as articulated in the Preamble, embodies a sense of collective brotherhood amongst all Indians. Adverting to the *Constituent Assembly Debates*, this Court opined that fraternity assumes paramount significance in reinforcing the ideals of equality and liberty, both of which are integral facets of the Preamble. Fraternity serves as a critical element for national unity and social cohesion.

13.2. Delving into the *Constituent Assembly Debates* and the views expressed by Dr. B.R. Ambedkar, it has been highlighted that the significance of adding the term 'fraternity' in the Preamble is to instill a sense of shared brotherhood amongst all Indians, highlighting that it was imperative for national unity and social solidarity.

13.3. In paragraph 103, this Court referred to Dr. Ambedkar's vision of democracy which was to foster a societal framework characterized by shared interests and interconnectedness amongst all Indians. The Bench held as under:

103.....

Notably, neither the deliberations within the Constituent Assembly nor Dr. Ambedkar's conceptualisation of fraternity suggests any inherent restriction of this principle to a specific community or segment of citizens. Instead, it was conceived as a concept intended to cultivate a sense of brotherhood amongst all individuals within society

13.4. The idea of fraternity was, therefore, envisioned as a deep sense of well-being for others and understood as essential to counterbalance individualism, thereby preventing anarchy and sustaining moral order in society. Dr. Ambedkar's introduction of the term 'fraternity' into the constitutional Preamble reflects his persistent efforts towards eradicating caste discrimination, his advocacy for unity and brotherhood which mirrors his commitment to inclusivity. Unlike the West, in India, fraternity is distinctly perceived as a vital instrument for realising equality and harmonizing the diverse segments of society. It serves as a conduit for transcending societal disparities and working towards collective well-being. Therefore, in the Indian constitutional context, fraternity assumes a dynamic and inclusive role, aligning with the broader goals of social justice, equality and upliftment.

**14.** It is therefore constitutionally impermissible for anybody, be it the State or non-state actors, through any medium, such as, speeches, memes, cartoons, visual arts etc. to vilify and denigrate any community. It will be violative of the Constitution to target any particular community on the basis of religion, language, caste or region by whosoever he or she may be. This is particularly true for public figures occupying high constitutional office who have taken the solemn oath to uphold the Constitution.

**15.** Thus, having regard to the above, the concerns expressed by the Bench during the preliminary hearing are well founded and valid.

## Free Speech

**16.** Having said that, let me now deal with the other facet, which is, freedom of a movie maker to make a movie expressing his thought process either to send a message across the society at large or for pure entertainment. Such a freedom is based on the touchstone of free speech which in India is traceable to Article 19(1)(a) of the Constitution.

**17.** Article 19 grants several freedoms to the citizens of India. As per Article 19(1)(a), all citizens shall have the right to freedom of speech and expression.

**18.** However, Article 19(1)(a) is subject to certain restrictions provided for in Clause (2) of Article 19. It says that nothing in Article 19(1)(a) shall affect the operation of any existing law or prevent the State from making any law from imposing reasonable restrictions on the freedom of speech and expression. However, such reasonable restrictions can be imposed only when it concerns 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.

**19.** In *S. Rangarajan Vs. P. Jagjivan Ram*<sup>2</sup>, a three-Judge Bench of this Court declared in no uncertain terms that freedom of expression which is legitimate and constitutionally protected cannot be held to ransom by an intolerant group of people. The fundamental freedom under Article 19(1)(a) can be reasonably restricted only for the purposes mentioned in Article 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency. Sounding a note of caution, the Bench observed that freedom of expression cannot be suppressed on account of threats of demonstration and processions or violence. That would amount to negation of the rule of law and a surrender to blackmail and intimidation. The Bench said: *We must practice tolerance to the views of others. Intolerance is as much dangerous to democracy as to the person himself.*

**20.** This Court in *Shreya Singhal Vs. Union of India*<sup>3</sup>, while referring to Articles 19(1)(a) and 19(2) as well as the Preamble to the Constitution of India in the context of examining the *vires* of Section 66A of the Information Technology Act, 2000 which provided for punishment for sending offensive messages through communication service etc, observed that when it comes to democracy, liberty of thought and expression is a cardinal value that is of paramount significance under our constitutional scheme. It is one of the most basic human rights.

**21.** A two-Judge Bench of this Court (of which I was also a member) in *Imran Pratapgadhi Vs. State of Gujarat*<sup>4</sup> declared that one of the most important fundamental rights conferred on the citizens of India is under Article 19(1)(a) of the Constitution. It is the fundamental right to freedom of speech and expression. The Bench highlighted the importance of freedom of expression in the following manner:

48. Free expression of thoughts and views by individuals or groups of individuals is an integral part of a healthy, civilised society. Without freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed by Article 21 of the Constitution. In a healthy democracy, the views, opinions or thoughts expressed by an individual or group of individuals must be countered by expressing another point of view. Even if a large number of persons dislike the views expressed by another, the right of the person to express the views must be respected

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<sup>2</sup> (1989) 2 SCC 574

<sup>3</sup> (2015) 5 SCC 1

<sup>4</sup> (2026) 1 SCC 721

and protected. Literature including poetry, dramas, films, stage shows, satire and art, make the life of human beings more meaningful.

**22.** Long back, Nagpur High Court in the case of *Bhagwati Charan Shukla Vs. Provincial Government*<sup>5</sup> laid down the standard of judging the effect of the words or expressions used in a movie in the following words:

.....That the effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. This in our opinion, is the correct approach in judging the effect of exhibition of a film or of reading a book. It is the standard of ordinary reasonable man or as they say in English Law, "the man on the top of a Clampham omnibus".

**23.** This exposition of standard was quoted with approval by this Court in *Ramesh Vs. Union of India*<sup>6</sup>, popularly known as the 'Tamas Case'. In *S. Rangarajan* also, a three Judge Bench of this Court affirmed and reiterated this principle holding that the standard to be applied by the Censor Board or by the courts for judging a film should be that of an ordinary man of common sense and prudence and not that of an out of the ordinary or hypersensitive man.

**24.** This principle has been quoted with approval again by this Court in *Manzar Sayeed Khan Vs. State of Maharashtra*<sup>7</sup>. In *Imran Pratapgadhi* also, this Court reiterated the aforesaid principle. This Court held that the effect of the spoken or written words will have to be considered based on standards of reasonable, strong minded, firm and courageous individuals and not based on the standards of people with weak and oscillating minds. The effect of the spoken or written words cannot be judged on the basis of the standards of people who always have a sense of insecurity or of those who always perceive criticism as a threat to their power or position.

**25.** The case in *S. Rangarajan* is quite instructive. It is about a Tamil movie with the title *Ore Oru Gramathile*. The movie is about a Brahmin widower who has a talented daughter Gayatri. Apprehending that his daughter would not get admission into a college as because she belonged to the Brahmin community, he takes advice from his close friend, who happened to be a Tahsildar. On the Tahsildar's advice and help, he procures a false certificate for his daughter showing her as belonging to a backward community and as an orphan. On the basis of such a false certificate, the daughter gets admitted into a college and later on enters into the Indian Administrative Service (IAS). However, her fake certificate is discovered and the Government suspends her. Thereafter she is prosecuted. The villagers are resentful of the actions taken against Gayatri, who turned out to be a good officer; demonstrating before the court and also petitioning the Government. Gayatri admits in the court of having obtained a false caste certificate but attributed it to circumstances resulting from the Government's reservation policy on caste basis. She declared that she was prepared to undergo any punishment, saying that the reservation policy based on caste consideration was detrimental to the nation and national integration and that there should be no caste based reservation. Just before the judgment could be pronounced, the court was informed by the Government that in the light of the petitions received from the public, the case against Gayatri was withdrawn. The end shows Gayatri going back to her government job with jubilant people all around.

25.1. This then is the storyline of the movie *Ore Oru Gramathile*.

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<sup>5</sup> AIR 1947 Nagpur 1

<sup>6</sup> (1988) 1 SCC 668

<sup>7</sup> (2007) 5 SCC 1

25.2. The movie received 'U' certificate from the Censor Board.

25.3. Several persons including journalists moved the Madras High Court against the release of the movie. The grievance expressed was that in the name of criticizing the reservation policy, those communities who are the beneficiaries of reservation were being targeted. The reservation policy was being condemned and the backward communities were depicted in a biased manner. The movie was virulently anti-reservation. Further allegation was that there was vilification of Dr. Ambedkar. Reaction to the film was bound to be volatile leading to law and order problem.

25.4. The High Court accepted the contention of the petitioners and cancelled the certification, further restraining the Union Government from giving any award to the film.

25.5. This Court was highly critical of the view taken by the Madras High Court and held that the reasoning of the High Court ran afoul of the democratic principles. In a democracy, it is not necessary that everyone should sing the same song; freedom of expression is the rule. Everyone has the fundamental right to form his own opinion on any issue of general concern. Freedom of expression cannot be suppressed on account of threats of demonstration and violence. That would tantamount to negation of the rule of law and a surrender to blackmail and intimidation. Regarding the content of the movie *vis a vis* caste based reservation, the Court had this to say:

52. ....

The producer or as a matter of fact any other person has a right to draw attention of the government and people that the existing method of reservation in educational institutions overlooks merits. He has a right to state that reservation could be made on the basis of economic backwardness to the benefit of all sections of community. Whether this view is right or wrong is another matter altogether and at any rate we are not concerned with its correctness or usefulness to the people. We are only concerned whether such a view could be advocated in a film. To say that one should not be permitted to advocate that view goes against the first principle of our democracy.

**26.** *Bobby Art International Vs. Om Pal Singh Hoon*<sup>8</sup> is a case relating to challenge to the certificate of exhibition awarded by the Censor Board to the film *Bandit Queen* and to restrain its exhibition. Om Pal Singh who filed the writ petition before the Delhi High Court for quashing the certificate granted to the film and to restrain its exhibition in India stated that he was a Hindu and a Gujjar by caste. He was the President of the Gujjar Gaurav Sansthan. He had seen the film and felt aggrieved by the way the film depicted the character of Phoolan Devi which according to him was abhorrent and unconscionable besides being a slur on the womanhood of India. The Gujjar community was depicted in a most depraved manner particularly in the scene of rape of Phoolan Devi by Babu Gujjar which scene was suggestive of the moral depravity of the Gujjar community. It was alleged that the film depicted the Gujjar community as rapists and the use of the name 'Babu Gujjar' for the principal villain lowered the reputation of the Gujjar community. The scene of rape was obscene and horrendous and cast a slur on the face of the Gujjar community. He expressed the view that he felt discriminated against and that his fundamental rights under Articles 14, 19 and 21 of the Constitution had been violated.

26.1. A learned Single Judge of the Delhi High Court allowed the writ petition and quashed the certificate granted to the film. He directed the Censor Board to consider the grant of an 'A' certificate to it after excisions and modifications in accordance with his order. Till a

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<sup>8</sup> (1996) 4 SCC 1

fresh certificate was granted, the screening of the film was enjoined. The decision of the learned Single Judge was upheld by the Division Bench of the High Court in a Letters Patent Appeal whereafter the matter reached this Court.

26.2. A three-Judge Bench of this Court examined the contours of the fundamental freedoms guaranteed under Article 19(1)(a) with the caveat that the only restrictions which could be imposed on the rights of an individual under Article 19(1)(a) were those which clause (2) of Article 19 permitted and no other. This Court observed that the authorities concerned with film certification are required to ensure that artistic expression and creative freedom are not unduly curbed. The film must be judged in its entirety from the point of view of the overall impact. After referring to the storyline of the film, the Bench concluded that the film that illustrates consequences of a social evil necessarily must show that social evil. The film that carries the message that the social evil is evil cannot be made impermissible on the ground that it depicts the social evil. At the same time, the depiction must be just sufficient for the purpose of the film. The drawing of the line is best left to the sensibilities of the authorities.

26.3. In the facts of that case, the Bench opined that the Tribunal had viewed the film in its true perspective and had in compliance with the requirements of the guidelines granted to the film an 'A' certificate subject to the conditions mentioned. The High Court ought not to have entertained the first respondent's writ petition impugning the grant of the certificate based as it was principally upon the slurs allegedly cast by the film on the Gujjar community. While setting aside the judgments of the High Court and dismissing the writ petition thus restoring the certification of the film *Bandit Queen*, this Court held as under:

33. We are of the opinion that the Tribunal had viewed the film in its true perspective and had, in compliance with the requirements of the guidelines, granted to the film an 'A' certificate subject to the conditions it stated. We think that the High Court ought not to have entertained the first respondent's writ petition impugning the grant of the certificate based as it was principally upon the slurs allegedly cast by the film on the Gujjar community. We find that the judgment under appeal does not take due note of the theme of the film and the fact that it condemns rape and the degradation of and violence upon women by showing their effect upon a village child, transforming her to a cruel dacoit obsessed with wreaking vengeance upon a society that has caused her so much psychological and physical hurt, and that the scenes of nudity and rape and the use of expletives, so far as the Tribunal had permitted them, were in aid of the theme and intended not to arouse prurient or lascivious thoughts but revulsion against the perpetrators and pity for the victim.

**27.** At this stage, we may mention that the Cinematograph Act, 1952 lists out the processes to be followed for certification of a film by the Board of Film Certification ('Censor Board' or 'Board', for short). In addition thereto, there are the Cinematograph (Certification) Rules, 1983, now replaced by the Cinematograph (Certification) Rules, 2024 and the guidelines issued by the Central Government. The Board is a statutory body constituted by the Central Government under Section 3 of the Cinematograph Act for the purpose of determining certification of films and for matters ancillary to the exercise of this function. In cases where certification is refused or not granted in the manner sought for, the aggrieved person may approach the Appellate Tribunal for reconsideration under Section 5C.

27.1. Under Section 5E(1) of the Cinematograph Act, 1952, the Central Government may suspend a certificate granted for such period as it may think fit or may revoke such certificate if it is satisfied that the conditions mentioned thereunder are attracted. However, sub-section (3) mandates that before such an action is taken, an opportunity of hearing should be granted to the person concerned.

27.2. Revisional powers have been conferred upon the Central Government under sub-section (2) of Section 6. This power of revision may be exercised *suo motu* or against a decision of the Board or of the Appellate Tribunal. As per sub-section (3), no action shall be taken by the Central Government, except after giving the affected person an opportunity for representing his views in the matter.

**28.** In *Prakash Jha Productions Vs. Union of India*<sup>9</sup>, this Court was examining amongst others the challenge to the decisions taken on behalf of certain States in India suspending the screening of the film *Aarakshan*, which meant reservation. The movie presented a critical analysis of the caste based reservation policy in India. It was in that context, a two-Judge Bench of this Court referred to the decision in *S. Rangarajan* and opined that reservation is one of the social issues and in a vibrant democracy like ours, public discussions and debates on social issues are required. When there is public discussion including some dissent, then an informed and better decision can be taken which helps the society to grow.

28.1. Once the expert body has considered the impact of the film on the public and has cleared the film, it is no excuse to say that there may be a law and order situation due to screening of the movie. In a democratic society, there are bound to be divergent views. It is for the State to maintain law and order. Once the Board has cleared the film for public viewing, screening of the same cannot be prohibited in the manner in which it was sought to be done.

**29.** *Nachiketa Walhekar Vs. Central Board of Film Certification*<sup>10</sup> was an Article 32 petition filed before this Court where the petitioner sought for stay of the nation-wide release of a film *An Insignificant Man* as it allegedly contained a video clip pertaining to the petitioner who also sought for quashing of the certificate granted by the Board. This Court posed the question as to whether the writ petition should be entertained and an order of injunction should be passed directing the Board to delete the clip and further not to get the movie released in the theatres?

29.1. It is in the above context that this Court restated that freedom of speech and expression is sacrosanct and that the said right should not be ordinarily interfered with. Once the Board has granted the certificate, Supreme Court should restrain itself in not entertaining the writ petition or granting injunction. A three-Judge Bench of this Court observed as under:

5. Be it noted, a film or a drama or a novel or a book is a creation of art. An artist has his own freedom to express himself in a manner which is not prohibited in law and such prohibitions are not read by implication to crucify the rights of the expressive mind. The human history records that there are many authors who express their thoughts according to the choice of their words, phrases, expressions and also create characters who may look absolutely different than an ordinary man would conceive of. A thought-provoking film should never mean that it has to be didactic or in any way puritanical. It can be expressive and provoking the conscious or the subconscious thoughts of the viewer. If there has to be any limitation, that has to be as per the prescription in law. 29.2. Thereafter, this Court reiterated the proposition that the Courts should be extremely slow to pass any kind of restraint order in such a situation and should allow the respect that a creative man enjoys in writing a dram, a play, a book or any kind of thought that is expressed on the celluloid or theatre etc.

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<sup>9</sup> (2011) 8 SCC 372

<sup>10</sup> (2018) 1 SCC 778

**30.** Again, a three-Judge Bench of this Court in *Viacom 18 Media Private Limited and Others Vs. Union of India*<sup>11</sup> was dealing with a writ petition filed under Article 32 of the Constitution of India assailing orders passed by two States i.e. State of Gujarat and State of Rajasthan prohibiting exhibition of the film *Padmaavat*. It was contended on behalf of the petitioners that the Board had issued a certificate under the Cinematograph Act, 1952 after constituting an expert committee which had seen the movie, critically examined it and suggested a few excisions which had been carried out. That apart, it was argued that the Board had directed the producer to file two disclaimers which he had filed. It was in that context, this Court observed that the creative content is an inseparable aspect of Article 19(1) of the Constitution. It was emphasized that this right is not absolute and that there can be regulatory measures. Such regulatory measures are reflectible from the language employed under Section 5B of the Cinematograph Act, 1952 and the guidelines issued by the Central Government. This Court asserted that once the parliamentary legislation confers the responsibility and the power on a statutory Board and the Board grants certification, non-exhibition of the film by the States would be contrary to the statutory provisions and infringe the fundamental right of the petitioners. This Court further observed that there is a Censor Board under the Cinematograph Act which allows grant of certificate for screening of movies. Once certificate has been issued, there is a *prima facie* presumption that the authority concerned has taken into account all the guidelines including public order. This Court sounded a note of caution that it should always be remembered that if intellectual prowess and natural or cultivated power of creation is interfered with, without the permissible facet of law, the concept of creativity paves the path of extinction and when creativity dies, values of civilization corrode.

**31.** In *Adarsh Cooperative Housing Society Limited Vs. Union of India*<sup>12</sup>, again a writ petition under Article 32 of the Constitution of India, a direction for prohibiting release/screening of the feature film *Aiyaary* which is about a building in Mumbai for housing defence personnel but constructed in violation of building norms was sought for. The Bench noted that the film had already been granted the requisite certificate by the Board which had taken the suggestions from the competent authorities of the Army as a measure of caution. While dismissing the writ petition, this Court declared that the moment the right to freedom of speech and expression is atrophied, not only the right but also the person having the right gets into a semi-coma. Though the said right is not absolute, any restriction imposed thereon has to be extremely narrow and within reasonable parameters.

**32.** This position has been reiterated by a three-Judge Bench of this Court in *Harinder Singh Sikka Vs. Union of India*<sup>13</sup>, which pertains to release of a movie called *Nanak Shak Fakir* in movie halls. After noting that the writ petition presented yet another picture of many a private body endeavouring to curtail the freedom of expression of the idea of an author scripted in celluloid language because they have a perception that there will be some kind of law and order situation if the film in question is released in movie halls, this Court declared as under:

3. It is well settled that the CBFC sometimes grants certificates subject to certain excisions and modifications. Once the same are carried out, there cannot be any kind of obstruction for exhibition of a film. That having been done, we do not see how any body, group, association or individual can create any kind of disturbance in exhibition of the film. It is becoming a law unto

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<sup>11</sup> (2018) 1 SCC 761

<sup>12</sup> (2018) 17 SCC 516

<sup>13</sup> 2018 SCC OnLine SC 4002

themselves and not respecting the law that governs the land. Once the film is granted certificate by the competent statutory Board unless the said certificate is nullified or modified by any superior authority, the producer or distributor of the film has every right to get it exhibited in a movie hall. If such activities are encouraged, the same has the potentiality to bring in anarchy and cripple the right of freedom of speech and expression. In any case, such bodies, groups or individuals cannot assume the position as if they are the authorities to grant certificate or unless they feel that the movie is to be released, it should not see the light of the day. The thought, the least said, is unacceptable.

32.1. Thus, this Court was clear in enunciating the principle that once the film is granted certificate by the competent statutory Board, unless the said certificate is nullified or modified by any superior authority, the producer or distributor of the film has every right to get it exhibited in a movie hall. Deprecating the activities of any body, group, association or individual seeking to prevent exhibition of a film, this Court was of the opinion that if such activities are encouraged, it would bring in anarchy and cripple the right to freedom of speech and expression.

**33.** After analyzing the statutory framework under Cinematograph Act, 1952 and the rules framed thereunder, this Court in *Indibly Creative Private Limited Vs. Government of West Bengal*<sup>14</sup> expressed concern at the growing intolerance in recent times which is unaccepting of the right of others to freely espouse their views, be it portrayed in print, in theatre or in the celluloid media. Observing that organized groups and interests pose a serious danger to the existence of the right to free speech and expression, this Court held as follows:

46. Contemporary events reveal that there is a growing intolerance : intolerance which is unaccepting of the rights of others in society to freely espouse their views and to portray them in print, in the theatre or in the celluloid media. Organised groups and interests pose a serious danger to the existence of the right to free speech and expression. If the right of the playwright, artist, musician or actor were to be subjected to popular notions of what is or is not acceptable, the right itself and its guarantee under the Constitution would be rendered illusory. The true purpose of art, as manifest in its myriad forms, is to question and provoke. Art in an elemental sense reflects a human urge to question the assumptions on which societal values may be founded. In questioning prevailing social values and popular cultures, every art form seeks to espouse a vision. Underlying the vision of the artist is a desire to find a new meaning for existence. The artist, in an effort to do so, is entitled to the fullest liberty and freedom to critique and criticise. Satire and irony are willing allies of the quest to entertain while at the same time to lead to selfreflection. We find in the foibles of others an image of our own lives. Our experiences provide meaning to our existence. Art is as much for the mainstream as it is for the margins. The Constitution protects the ability of every individual citizen to believe as much as to communicate, to conceptualise as much as to share.

33.1. This Court further observed that the freedoms which the Constitution recognizes are inseparable from our existence as human beings. The views of the writer of a play, the metre of a poet or the sketches of a cartoonist may not be palatable to those who are criticized. Those who disagree have a simple expedient; of not watching a film, not turning the pages of the book or not hearing what is not music to their ears. The ability to communicate 'ideas' is a legitimate area of human endeavour and is not controlled by the acceptability of the views to those to whom they are addressed.

33.2. It has been highlighted that the freedoms which are guaranteed by Article 19 are universal. If organized groups threatening such freedom are not restrained, there is a real

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<sup>14</sup> (2020) 12 SCC 436

danger that art and literature would become victims of intolerance. This cannot be countenanced in a free society.

**34.** Finally, let me revert back to what this Court had said in *Imran Pratapgadhi*. This Court had said that liberty of thought and expression is one of the ideals of our Constitution. Article 19(1)(a) confers such a fundamental right on all citizens. Clause (2) of Article 19 of the Constitution carves out an exception to the fundamental right guaranteed under sub-clause (a) of Clause (1) of Article 19. Thus, Article 19(2) is an exception to the freedoms guaranteed under Article 19(1)(a). The reasonable restriction provided for in Article 19(2) must remain reasonable and not fanciful and oppressive. Article 19(2) cannot be allowed to overshadow the substantive rights under Article 19(1) including the right to freedom of speech and expression.

34.1. Turning to the courts, the Bench declared that courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But still it is the duty of the Judges of the constitutional courts to uphold the fundamental rights under Article 19(1)(a). Constitutional courts must be at the forefront to zealously protect the fundamental rights of the citizens, including the freedom of speech and expression which is one of the most cherished rights a citizen can have in a liberal constitutional democracy. The Bench cautioned that courts must not be seen to regulate or stifle the freedom of speech and expression. The Bench held as under:

49. The Courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But, still, it is our duty to uphold the fundamental right under Article 19(1)(a). We Judges are also under an obligation to uphold the Constitution and respect its ideals. If the police or executive fail to honour and protect the fundamental rights guaranteed under Article 19(1)(a) of the Constitution, it is the duty of the Courts to step in and protect the fundamental rights. There is no other institution which can uphold the fundamental rights of the citizens.

50. Courts, particularly the Constitutional Courts, must be at the forefront to zealously protect the fundamental rights of the citizens. It is the bounden duty of the Courts to ensure that the Constitution and the ideals of the Constitution are not trampled upon. Endeavour of the courts should always be to protect and promote the fundamental rights, including the freedom of speech and expression, which is one of the most cherished rights a citizen can have in a liberal constitutional democracy. The Courts must not be seen to regulate or stifle the freedom of speech and expression. As a matter of fact, the Courts must remain ever vigilant to thwart any attempt to undermine the Constitution and the constitutional values, including the freedom of speech and expression.

34.2. In the said case, this Court while closing also observed as under:

53.9. 75 years into our republic, we cannot be seen to be so shaky on our fundamentals that mere recital of a poem or for that matter, any form of art or entertainment, such as, stand-up comedy, can be alleged to lead to animosity or hatred amongst different communities. Subscribing to such a view would stifle all legitimate expressions of view in the public domain which is so fundamental to a free society.

34.3. This would equally apply to the title of a movie as well. I say this and no more.

**35.** Though no adjudication was called for in this case, I felt it necessary to restate the first principles, lest there remain any lingering misconception.