



FAO No.4033 of 2026 (O&M)

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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FAO No.4033 of 2026 (O&M)
Date of Decision: 07.09.2006

GURKARAN SINGH DHALIWAL

...Appellant

Vs

CENTRAL BOARD OF FILM CERTIFICATION AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. R.S. Rai, Senior Advocate with
Ms. Sukriti Rai, Advocate
Mr. Farhad Kohli, Advocate
Mr. Harlove Singh Rajput, Advocate
Mr. Gursher Singh Dhillon, Advocate
for the appellant.

Mr. Dheeraj Jain, Sr. Advocate with
Ms. Shereyansi Verma, Central Govt. Counsel
for respondent Nos.1& 2/CBFC.

Mr. Satya Pal Jain, Additional Solicitor General of India with
Mr. Harmanjot Singh Gill, Senior Panel Counsel, UOI
for respondent No.3.

HARKESH MANUJA, J.(ORAL)

1. By way of the present appeal, challenge has been laid to the orders dated 26.05.2026 and 14.07.2026, passed by respondent-Central Board of Film Certification, whereby the application made on behalf of the appellant for grant of certificate with respect to the Punjabi film titled "Chardikala" before the respondent-Central Board of Film Certification in terms of Section 4 of the Cinematograph Act, 1952 (hereinafter referred to as "***the 1952 Act***"), was declined.

2. Before advertng to the facts of the case, it would be apposite to refer to the relevant provisions of the 1952 Act:



SECTION 4

“4. Examination of films.—*(1) Any person desiring to exhibit any film shall make an application to the Board for a certificate in such form and manner as may be prescribed.*

(2) The Board may, after examining the film in such manner as may be prescribed,—

(i) sanction the film for unrestricted public exhibition:

Provided that, having regard to any material in the film, if the Board is of the opinion that viewing of such film by any child between seven to eighteen years of age is subject to guidance of parents or lawful guardian, then the Board may sanction the film for unrestricted public exhibition with an endorsement to that effect containing UA marker.

Explanation.—For the removal of doubts, it is hereby clarified that—

(a) the expression "seven" denotes completion of seven years of age and the expression "eighteen" denotes before attaining the age of eighteen years;

(b) an endorsement by the Board shall enable the parents and lawful guardian of the child to consider whether such child should view such a film, and shall not be enforced by any person other than the parents or lawful guardian of the child;

(ii) sanction the film for public exhibition restricted to adults;

(iii) sanction the film 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;

(iv) direct the applicant to carry out such excisions or modifications in the film as it may deem necessary before sanctioning the film for public exhibition under clauses (i), (ii) and (iii); or

(v) refuse to sanction the film for public exhibition:

Provided that no action under this section shall be taken by the Board, unless the applicant has been given an opportunity of being heard in the matter.”

SECTION 7B

“7B. Delegation of powers by Board.—*(1) The Central Government may, by general or special order, direct that any power, authority or jurisdiction exercisable by the Board under this Act shall, in relation to the certification of the films under this Part and subject to such condition, if any, as may be specified in the order, be exercisable also by the Chairman or any other member of the Board, and anything done or action taken by the Chairman or other member specified in the order shall be deemed to be a thing done or action taken by the Board.*



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(2) The Central Government may, by order and subject to such conditions and restrictions as may be prescribed, authorise the regional officer to issue provisional certificates.”

2.1. The plain language of Section 4 of the 1952 Act makes it clear that upon an application being made, it is the Board which is to pass the order and that no such action can be taken by the Board unless the applicant has been given an opportunity of being heard in the matter. Further, Section 7B of 1952 Act enables the Central Government, by general or special order, to direct that any power, authority or jurisdiction exercisable by the Board under the Act shall, in relation to the certification of films under Part II, be exercisable also by the Chairman or any other member of the Board and anything so done shall be deemed to be a thing done or action taken by the Board. Sub-section (2) thereof separately empowers the Central Government to authorise a regional officer, but only for the limited purpose of issuing provisional certificates.

3. In the present case, the impugned orders passed by the Regional Officer, Central Board of Film Certification, dated 26.05.2026 and 14.07.2026 are reproduced hereunder:-

ORDER DATED 26.05.2026

*“With reference to your application to the Central Board of Film Certification dated **12/05/2026** for certification under the Cinematograph Act, 1952 to exhibit the film titled "**CHARDIKALA**" (**PUNJABI**), I am directed by the Board to inform you that the film has been viewed by the **Examining Committee** and the Board has come to the conclusion that a certificate cannot be issued for its exhibition for the reasons stated in the Annexure.*

The above decision has been taken after

Considering the submissions made by you representative before the Committee during the personal hearing, the opportunity for which was given to you.

*In case you are aggrieved by the decision of the Board based on the recommendation of the **Examining Committee** you may, if you so desire, prefer an*



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appeal to the Revising Committee. The appeal to the Revising Committee be made within 14 days. If no reply is received from you within the said period the Board will proceed to take action as indicated above.

*Yours faithfully,
Arvind Kumar Jain
Regional Officer*

Reasons for grant of 'Refusal' of Certificate to the film are given below:

Highly social- political sensitive theme, threaten to law and order and glorification of assassin may lead to breaking of societal-norms. EC finds it not-suitable for public exhibition as per certification rule.

*Arvind Kumar Jain
Regional Officer”*

ORDER DATED 14.07.2026

*“With reference to your application to the Central Board of Film Certification dated 12/05/2026 for certification under the Cinematograph Act, 1952 to exhibit the film titled "CHARDIKALA" (PUNJABI), I am directed by the Board to inform you that the film has been viewed by the **Revising Committee** and the Board has come to the conclusion that a certificate cannot be issued for its exhibition for the reasons stated in the Annexure.*

The above decision has been taken after

Considering the submissions made by your representative before the Committee during the personal hearing, the opportunity for which was given to you.

*In case you are aggrieved by the decision of the Board based on the recommendation of the **Revising Committee**, you may. If no reply is received from you within the said period the Board will proceed to take action as indicated above.*

Yours faithfully,

*Arvind Kumar Jain
Regional Officer*

Reasons for grant of 'Refusal' of Certificate to the film are given below:

Violates the article of 2 (xiii), 2(xiv), 2(xv), 2(xvii) of guidelines of certification made under section 5B(2) of the Cinematograph Act. Hence, refused.

*Arvind Kumar Jain
Regional Officer”*



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3.1. Since the orders were not passed by the Board as contemplated under Section 4 of the 1952 Act, this Court vide order dated 25.08.2026 called upon the respondents to disclose whether any order had been passed by the Central Government delegating the power/authority or jurisdiction exercisable by the Board under Section 4 of the 1952 Act upon its Chairman. The relevant part of the order dated 25.08.2026 passed by this Court is extracted hereunder:-

“...Let an affidavit be filed by respondents to the aforesaid extent. Further, taking into account the controversy involved in the case in hand, the Union of India through its Secretary, Ministry of Information and Broadcasting, Government of India, having office at 3rd Floor, Kartavya Bhawan 2, New Delhi-110 001 is ordered to be impleaded as respondent No.3 and an affidavit be filed explaining about any power been exercised by the Government of India in terms of Section 7-B of the 1952 Act....”

4. Pursuant thereto, the following order dated 29.08.2026 passed by the Government of India, Ministry of Information and Broadcasting, was placed on record before this Court, which is reproduced hereunder:-

“No.M-11020/2/2026-DO(FC)

GOVERNMENT OF INDIA

MINISTRY OF INFORMATION AND BROADCASTING

Kartavya Bhavan 2, New Delhi-110001

Dated: 29.08.2026

ORDER

In exercise of the powers conferred by Section 7B of the Cinematograph Act, 1952 (37 of 1952) (hereinafter referred to as "the said Act"), the Central Government hereby directs that any power, authority or jurisdiction exercisable by the Board of Film Certification (hereinafter referred to as "the Board") in relation to the certification of films under Part II of the said Act, including the powers under Section 4, sub-sections (3) and (4) of Section 5, Section 5A, Section 5B and Section 7C thereof, shall also be exercisable by the Chairperson, Central Board of Film Certification, in respect of applications for certification received at all



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*Regional Offices of the Board, with immediate effect and until further orders,
subject to extant rules and guidelines.*

*[sd/-]
29/08/26
(Santosh Kumar Maurya)
Under Secretary to the Govt. of India”*

4.1. A perusal thereof clearly shows that it is only w.e.f. 29.08.2026 that the Central Government, in exercise of its powers under Section 7B of the 1952 Act, has directed that the powers, authority and jurisdiction exercisable by the Board in relation to certification of films under Part II, including the power under Section 4, shall be exercisable by the Chairperson, Central Board of Film Certification. Consequently, before 29.08.2026 there was no order of delegation in favour of the Chairperson, Central Board of Film Certification, much less in favour of the Regional Officer to exercise power under Section 4 of the 1952 Act. However, yet the orders dated 26.05.2026 and 14.07.2026 were passed by the Regional Officer, Central Board of Film Certification. It is thus evident that on the dates on which the impugned orders came to be passed, neither had the Central Government issued any direction under Section 7B(1) of the 1952 Act enabling the exercise of the Board's powers by any other authority, nor does Section 7B(2) thereof avail the respondents, inasmuch as the said provision permits the Central Government to authorise a regional officer for the limited purpose of issuing provisional certificates alone and not for refusing to sanction a film for public exhibition under Section 4(2)(v) of the 1952 Act. The impugned orders, therefore, came to be passed by an authority lacking the competence to do so.

5. Today, it has come to the notice of this Court that in view of the absence of any order of delegation under Section 7B of the 1952 Act as on the dates on which the impugned orders came to be passed, the said orders have been



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withdrawn by the Regional Officer, Central Board of Film Certification, on 06.09.2026. It has been further decided that the matter shall be considered afresh by the competent authority after affording the appellant adequate opportunity of hearing. The said order dated 06.09.2026 is reproduced hereunder:-

ORDER

In compliance with the directions of the competent authority, the Examining Committee (EC) Order dated 26.05.2026 and the Revising Committee (RC) Order dated 14.07.2026, issued in respect of the Punjabi film “Chardikala”, are hereby withdrawn.

The matter shall be considered afresh by the competent authority after affording the applicant a reasonable opportunity of being heard.

This issues with the approval of the competent authority.”

*Sd/-
Regional Officer”*

6. A perusal of the scheme of the 1952 Act, as also of the Cinematograph (Certification) Rules, 2024, (hereinafter referred to as ‘2024 Rules’) would show that neither the Examining Committee nor the Revising Committee is an authority competent to pass a final order upon an application for certification. The said Committees being recommendatory bodies, their function is to examine a film and record their opinion thereon. The decision upon that opinion is to be taken by the Board or by the authority upon whom the powers of the Board stand validly delegated. The impugned orders dated 26.05.2026 and 14.07.2026 proceed on the recommendations of these Committees and stand issued and signed by the Regional Officer, without disclosing any decision having been taken by the Board or by any competent delegate thereof. Therefore, the orders dated 26.05.2026 and 14.07.2026 were passed in clear contravention of Section 4 of the 1952 Act.



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7. It is unfortunate that this position has come to light only after repeated queries were raised by this Court and upon the respondents being called upon by order dated 25.08.2026 to place on record the requisite order of delegation. Had the appellant not been driven to this Court, an order suffering from a fundamental want of jurisdiction would have continued to operate against him. The delay so occasioned is also at variance with the scheme of the 1952 Act and the 2024 Rules, which prescribe strict timelines at each stage of certification. The appellant, having applied on 12.05.2026 under the priority scheme upon payment of enhanced fee, has been left without a decision by a competent authority for close to four months, with the commercial prejudice that such delay in the release of a film inevitably causes. Such delay is to be deprecated.

8. Be that as it may, vide order dated 29.08.2026 passed by the Government of India, Ministry of Information and Broadcasting in exercise of powers under Section 7B of the 1952 Act, the powers, authority and jurisdiction exercisable by the Board in relation to certification of films under Part II of the said Act, including the power under Section 4, now stand delegated to the Chairperson, Central Board of Film Certification. The Chairperson is therefore now the competent authority to decide the appellant's application.

9. Accordingly, it is made clear that before passing of any order on the application submitted by the appellant, opportunity of hearing be afforded by the competent authority in terms of the proviso to Section 4(2) of the 1952 Act, read with the order dated 29.08.2026 passed under Section 7B of the said Act by the Government of India, Ministry of Information and Broadcasting. Before affording opportunity of hearing to the appellant, the report and the relevant records before the Examining Committee or Revising Committee (as the case may be) be supplied

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to the appellant, save for the names of the members of the Committee, disclosure whereof stands protected under sub-rule (6) of Rule 23 of the 2024 Rules, so that he may represent before the authorities in an appropriate manner.

10. The learned Additional Solicitor General of India appearing on behalf of respondent No.3-Union of India, also assures that the constitution of the Examining Committee for the purpose of examining the Punjabi film “Chardikala” shall be done latest by 10.09.2026 and the rest of the process/consideration towards certification of film shall be carried out in terms of Rule 37 read with Rule 33(2) of the 2024 Rules.

11. Accordingly, in view of the withdrawal of the impugned orders dated 26.05.2026 and 14.07.2026, the appeal is disposed of in the above terms.

12. Pending misc. application(s), if any, shall also stand disposed of.

September 07, 2026
Atik

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No