

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

THURSDAY, THE TWENTY EIGHTH DAY OF DECEMBER
TWO THOUSAND AND TWENTY THREE

**:PRESENT:
THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

**IA No. 2 OF 2023
IN
WP NO: 34681 OF 2023**

Between:

Telugu Desam Party, Represented by its General Secretary - Mr. Nara Lokesh, Telugu Desam Party Office, NTR Trust Bhavan, Road No.2, Banjara Hills, Hyderabad - 500034

...Petitioner
(Petitioner in WP. No. 34681 of 2023
on the file of High Court)

AND

1. The Union of India, Rep. by its Secretary, Ministry of Information and Broadcasting, Office at Shastri Bhawan, New Delhi-110001.
2. Central Board of Film Certification, Having its head office at Films Division Complex, Phase-I Building, 9th Floor, Dr. G. Deshmukh Marg, Mumbai - 400 026, Maharashtra, Rep. By its Chairman
3. The Regional Office at Hyderabad, Central Board of Film Certification, Rep. by Ms. Shifali Kumar, Regional Officer, Office at Room No. 206, CGO Towers, Kavadi guda, Secunderabad - 500 080.
4. The Revising Committee, Represented by the Presiding Officer - T S Nagabharna (P.O.) C/o. The Regional Office of Central Board of Film Certification at Hyderabad Office at Room No. 206, CGO Towers, Kavadi guda, Secunderabad - 500 080
5. M/s. Ramadhuta Creations. Producer of the Motion Picture, 'Vyuham' (@Vyooham) Office at # 8-269/5/21, Road No. 2, Sagar Society, Banjara Hills, Hyderabad - 500 034, Represented by its Sole Proprietor - Mr. Dasari Kiran Kumar
6. Mr. Dasari Kiran Kumar, Sole Proprietor of M/s. RAMADUTHA CREATIONS, Producer of the Motion Picture 'Vyuham' (@Vyooham) Aged about 46 years, Occ: Business, R/o. 1-41/2-22-3, Janjalavari, Nazerpet, Tenali, Guntur - 522201, Andhra Pradesh
7. Mr. Ram Gopal Varma., Director of the Motion Picture 'VYUHAM' Office at - RGV Den. Rd. Number 71, Nava Nirman Nagar Colony, Jubilee Hills, Hyderabad, Telangana 500033

...Respondents
(Respondents in-do-)

**Counsel for the Petitioner : SRI UNNAM MURALIDHAR RAO, Senior Counsel
appearing for M/S. UNNAM LAW FIRM**

Counsel for Respondent Nos. 1 to 4: SRI NARASIMHA SARMA,

HON'BLE MRS JUSTICE SUREPALLI NANDA**I.A.No.2 of 2023****in****W.P. No. 34681 of 2023****ORDER:**

Heard learned senior counsel representing the learned counsel on record Mr. Unnam Sravan Kumar appearing on behalf of the petitioner, learned Designated Counsel Mr Narsimha Sharma, Additional Solicitor General of India appearing on behalf of respondent Nos.1 to 4 and learned senior counsel Mr.S.Niranjan Reddy, appearing on behalf of the respondents 5 and 6, and Mr Rajagopallavan Tayi, appearing on behalf of respondent No.7.

PERUSED THE RECORD.

2. The interim relief as sought for by the petitioner is as under:

"Pending disposal of this Writ Petition, this Hon'ble Court may be pleased to suspend the validity of the Certificate No. DIL/1/45/2023-HYD, Dt.13/12/2023 issued by the 3rd Respondent in favour of the 6th Respondent for theatrical release of the film / movie "VYUHAM" and consequentially restraining the releasing of the movie

Vyuham (@Vyoooham) in the theatres by the 5th & 6th Respondents based on the said certificate, in the interest of justice.”

3. Page 9, para 15 of the counter affidavit filed by respondents 1 to 4, reads as under:

“15. In reply to Para Nos.32, 33 & 34, all the references to the Skill Development Scam have been excised by CBFC before issuing certificate, hence the certified film is not prejudicial, not interfering with the fair trial there is No contempt of court. Further the disclaimer in the beginning is changed as - Based on True events with Cinematic liberties thereby presenting the content as fictionalized and Non-Defamatory.

4. Page 10, para 18 of the counter affidavit filed by respondents 1 to 4, reads as under:

In reply to Para Nos.44 to 47, it is submitted that Rule 24 of Cinematograph Rules 1983 gives power to the Chairman to get the film re-examined by the Revising Committee which is a higher committee consisting of 9 members for a wider consideration. The RC is headed by a Board Member who is appointed by the Central Government and hence better positioned to decide on the matters of certification. This is in no way delegation of the power back to the Regional Officer/sub-delegation since once the film is assigned to the Revising Committee, the Regional Officer works on the directions

of the Presiding Officer (Board Member) in matters of certification, including issuing of show cause notices, verification of cuts and issuing of the certificate. The power given to the Chairman under Rule 24(12) is only to ensure a wider consideration of the subject matter of the film and to phase out any prejudices that may be there at the time of examination by the Examining Committee or first Revising Committee. Further.

5. Page 11, paras 14.10 and 15 of the counter affidavit filed by respondents 1 to 14, read as under:

"14.10. In reply to Para No.48 to 49 as already submitted the representation of the Petitioner was put up to the Revising Committee before certification of the film and the Revising Committee decided unanimously to give U (Universal) certificate duly considering the Cinematograph Act. Guidelines of the Film Certification under section 5B(2) of the Act as well as the Right of Freedom of Expression provided under Article 19(1)(a) of the Constitution and accordingly certificate was given subject to excisions to make the content Fictionalized and Non-Defamatory in nature.

15. In reply to Para Nos. 50 & 51, it is respectfully resubmitted that all the references to the Skill Development Scam have been excised by the CBFC before issuing certificate. Hence the certified film is not prejudicial, not interfering with the fair trail hereby there is no contempt of Court. Further the disclaimer in the

beginning is changed as Based on True events with Cinematic liberties thereby presenting the content as Fictionalized and Non- Defamatory.

6. **Page 12, para 16 of the counter affidavit filed by respondents 1 to 14, reads as under:**

"16. It is respectfully submitted that the CBFC has followed all the Provisions of the Cinematograph Act, procedures under Cinematograph (Certification) Rules, 1983 and Guidelines of the film Certification under section 5(B)(2) of the Act as well as the representation of the petitioner and the Right of Freedom of Expression provided under Article 19(1)(a) of the Constitution and accordingly certificate was given subject to excisions to ensure the content of the film "Vyuham" in Fictionalized and Non- Defamatory in nature."

7. **The case of the petitioner, in brief, as per the averments made by the petitioner in support of the affidavit filed by the petitioner in the present writ petition** is that petitioner is the General Secretary of Telugu Desam Party (for short 'TDP') which is a political party registered under Section 29A of the Representation of People Act, 1951, with the Election Commission of India vide proceedings dated 27.09.1989. The petitioner had been

elected/nominated as the 'Central General Secretary of the Telugu Desam Party' and the same is also notified to the Election Commission of India, the petitioner is entitled to espouse the cause as its Member and also as its General Secretary and therefore petitioner has a locus to file the present writ petition. It is further the case of the petitioner that the President of Telugu Desam Party Mr.Nara Chandra Babu Naidu was falsely implicated as an accused in FIR No.29 of 2021 initiated by CID P.S. A.P. Amaravati, Mangalagiri on the file of learned Special Judge for SPE and ACB Cases-cum-III Additional District Judge at Vijayawada, and that High Court of Andhra Pradesh in Crl.P.No.7951 of 2023 granted bail to Shri Chandra Babu Naidu.

8. It is further the case of the petitioner that 5th and 6th respondents produced a motion picture in the name and style as "VYUHAM" which is directed by the 7th respondent, and the teasers and trailers released by the 6th and 7th respondents calculatedly tarnished their leader Mr.Nara Chandra Babu Naidu and the main objective of movie is to demean, denigrate and malign the petitioner herein and its leaders and further in the name of freedom of speech and expression the

6th and 7th respondents directly are intending to infringe the fundamental Right to life of its leader and also affecting the reputation of petitioner herein and all its members. Aggrieved by the issuance of Certificate No.DIL/1/45/2023-HYD dated 13.12.2023 by the 3rd respondent in favour of the 6th respondent for theatrical release of the said film/movie "VYUHAM" the petitioner filed the present writ petition.

9. The learned Senior Counsel appearing on behalf of the petitioner mainly puts forth the following submissions:

- (i) The 6th respondent made an application with the 3rd respondent for 'Film Certification' on 19.10.2023 for the film 'Vyuham'.
- (ii) The 3rd respondent had constituted an "Examining Committee on 31.10.2023 in accordance with Rule 22 of the Cinematograph (Certification) Rules 1983, read with Section 4 of the Cinematograph Act 1952.
- (iii) The examining Committee of the 3rd respondent after examining the said movie 'Vyuham' had unanimously refused the issuance of a certificate to the 6th respondent on the ground that the movie is against guidelines 2(xviii).

- (iv) The petitioner submitted complaint/representation to the 3rd respondent and 4th respondent on 30.10.2023 and 04.11.2023.
- (v) Chairman of the 3rd respondent without considering petitioner's representation dated 30.10.2023 and 04.11.2023 baselessly referred the film to 4th Respondent (Revising Committee Under Rule 24).
- (vi) Respondents 5 and 6 approached High Court by filing W.P.No.32374 of 2023 which was disposed off on 28.11.2023 directing the Revising Committee to consider the petitioners application of Certification for Public Exhibition vide Application No.CA071910202300040 dated 20.10.2023 within a period of ten days from the date of receipt of a copy of the order in accordance to law and pass appropriate reasoned order duly communicating the decision to the petitioner thereunder.
- (vii) The petitioner herein in pursuance to the disposal of the Writ Petition No.32374 of 2023 on 28.11.2023, submitted another complaint/representation dated 01.12.2023 to the 3rd respondent.
- (viii) In spite of petitioner's specific request in the said complaint/representation dated 01.12.2023 to

provide an opportunity of hearing to the petitioner while taking a decision on the certification of the movie, the 4th respondent without considering petitioner's request granted a 'U' Certification to the film permitting the viewing of the film "VYUHAM" in theatres to the public.

- (ix) In the present case the due procedure as stipulated under Sub-rule 9 of Rule 24, had not been followed and hence, there had been clear violation of principles of natural justice.
- (x) The Members of the 4th respondent are required to satisfy themselves mandatorily that Sections 5(B)(1) and (2) are not violated which however, did not take place in the present case and based on the recommendations of the 4th respondent and the 3rd respondent without considering the representations of the petitioner proceeded to certify the 6th respondent's film (VYUHAM) as fit for theatrical release.
- (xi) There is gross violation of Section 5B(2) of the 1952 Act and also the Guideline No.2(xviii) of the 1991 Guidelines.
- (xii) It is a case of "criminal contempt" under Section 2(c) (ii) and (iii) of the Contempt of Courts Act, 1971 and the same would impact trial proceedings

before Special Judge for SPE and ACB Cases-cum-III Additional District Judge at Vijayawada.

(xiii) The learned senior counsel appearing on behalf of the petitioner placed reliance on the following judgments in support of his case and contended that the petitioner is entitled for the interim relief as prayed for:

1. Mushtaq Moosa Tarani v Government of India and others (2005 SCC Online Bom 385)
2. Visakha and others v State of Rajasthan and others ((1997) 6 SCC 241)
3. Subramanian Swamy v Union of India ((2016) 7 SCC 221)
4. National Legal Services Authority v UOI ((2014) 5 SCC 438)
5. Maridhas v S.R.S.Umari Shankar reported Manu/TN/0788/2022
6. Kaushal Kishor v State of UP (2023) 5 SCC 1
7. Sonakka Gopalagowda Shanthaveri v U.R.Anantha Murthy 1987 SCC Online Kar 367
8. Hari Shakar v Kailash Narayan 1981 M.P.L.J 589
9. Southern Petrochemical Industries Corporation Ltd. A.S.Mani 2000 SCC Online Mad. 495.
10. Centre for PIL v Union of India (2011) 4 SCC 1
11. Rajesh Awasthi v Nand Lal Jaiswal (2013) 1 SCC 501.
12. Popatrao Vyankatrao Patil v State of Maharastra and others (2020) 19 SCC 241

13. Akhil Bharatiya Soshit Karamchari Sangh (Railway) represented by its Assistant General Secretary on behalf of the Association (1981) 1 SCC 246.

10. Heard learned senior counsel Mr S.Niranjan Reddy on behalf of respondent Nos.5 and 6, who mainly puts forth the following submissions:

- 1) The 2nd respondent has reviewed the film in terms of Section 5(b) of the Act and the relevant rules and regulations and thereafter, certified the film. Once a specialized body has reviewed the film in its entirety by taking into consideration the parameters prescribed under the law it is deemed that the film is in accordance with law.
- 2) Artistic liberty of a maker of a film who is seeking to express views which are critical of prevailing social reality cannot be clamped down merely because such views may not be palatable to certain sections of the society.
- 3) The petitioner approached this Court at the eleventh hour and hence the petitioner is not entitled to any equitable relief at this stage.
- 4) The present writ petition itself is not maintainable since the petition lacks the locus standi to maintain the writ petition.
- 5) Constitutional protection granted under Article 19 (1)(a) is not limited to fictional depiction of artistic

themes, film makers have a right to allude to incidents which have taken place and to present a version of the same.

- 6) Merely because criminal proceedings are pending against President of the petitioner party and the same is Subjudice would not *ipso facto* operate as bar on the public from touching upon such issues.
- 7) The respondents have invested huge amount of time, money and skill while producing the film and stalling the present feature film would cause a severe financial loss to several stakeholders.
- 8) It is an established principle of Law that any delay on the part of a party in seeking legal relief disentitles it from claiming any equitable relief from the Court.
- 9) Petitioner cannot claim that the feature film is defamatory without being aware of the full contents of the feature film.
- 10) In view of the fact that 2nd respondent has certified the subject film for public exhibition, the respondents 5 and 6 are entitled to showcase the said film to general public and there cannot be any kind of obstruction for exhibition of the feature film.
- 11) Learned Senior Counsel Mr.S.Niranjana Reddy, appearing on behalf of respondent Nos.5 and 6 contended that the writ petition needs to be dismissed and placed reliance on the following judgments:
 - a) The judgment dated 01.10.2019 in W.P (PIL) No.137 of 2019.

- b) The judgment dated 01.10.2014 reported in 2014 SCC Online Delhi 1369.
- c) The judgment dated 01.12.2011 reported in 2011 SCC Online AP 749.
- d) The judgment dated 16.02.2018 reported in 2018(17) SCC 516.
- e) The judgment dated 07.10.1994 reported in 1994 (6) SCC 632.
- f) The judgment dated 03.07.2006 reported in 2006 (90) (DRJ) 714.
- g) The judgment dated 28.06.2017 reported in 2017 SCC on line Chh 1628.

11. Learned counsel appearing on behalf of respondent No.7 placed reliance on the judgment of the Apex dated 24.02.2022 passed in Special Leave Petition (Civil) No.15711 of 2021 and contended that the film certificate issued by the 2nd respondent itself *Prima facie* shows that the film is not defamatory and the subject movie has an artistic expression with in the parameters of law and therefore the writ petition has to be dismissed.

12. Learned senior designated counsel Mr Narsimha Sarma, Additional Solicitor General of India appearing

on behalf of respondents 1, 2, 3 and 4 mainly put forth submissions as follows:

- a) All the references to the skill development scheme had been excised by CBFC before issuing certificate and hence, the subject move is not pre-judicial and not interfering with the fair trial and hence, there is no contempt of Court.
- b) The disclaimer in the beginning is changed based on true events with cinematic liberties thereby, presenting the content as fictionalized and non-defamatory.
- c) Guidelines of the film certification under Section 5B(2) of the Act as well as the right of freedom of expression provided under Article 19(1)(a) of the Constitution was duly considered.
- d) Once the film has been duly certified by CBFC it is not open to any authority to prevent the producer from having the film screened.
- e) A bare perusal of the certificate dated 13.12.2023 itself indicates that all the modifications and excisions imposed by the Board as already been carried out as on 13.12.2023 itself.
The writ petition warrants no interference and therefore, needs to be dismissed.

DISCUSSION

13. The extract from the "Refusal" by the Examining Committee of the 3rd respondent in respect of the subject film is extracted hereunder:

VYUHAM (TELUGU)

Reasons for "Refusal of certificate

The film is a biography of the present Chief Minister of Andhra Pradesh. Shri Y.S. Jagan Mohan Reddy and the film makers are claiming it to be based on true events. The political timelines portrayed in the film are from the death of Shri Y.S. Rajashekhara Reddy up to the election of present CM and also the sub-judice matter of Skill Development scam in which Ex-CM Sri Chandrababu Naidu had been arrested.

Against this backdrop. the makers have used the actual person's names, political parties, party symbols. montages. Voiceovers etc. **Another prime issue of concerns is the uncanny and striking resemblance of characters in the film with actual public and political figures/celebrities.** Many of the above persons including Sonia Gandhi. Manmohan Singh. Chandrababu Naidu. Pawan Kalyan. Chiranjeevi. Konijeti Rosaiah etc are shown in negative light. Few of the above are conspiring against Jagan Mohan Reddy to avoid him coming into power by implicating him in CBIED cases. **As such the film is derogatory towards these persons and their political parties which is against guidelines 2(xviii).**

Also the film by its decisive stand that Chandrababu Naidu has received kick-backs in Skill Development scam. may lead to contempt of Court.

Further the model code of conduct is in place in Telangana and the film in its present form has the potential to diminish as well as advance the electoral prospects of separate political parties, which is against the Election Commission order.

Due to all the above reasons, the examination committee has unanimously decided to "Refuse" certificate to the film.

14. The particulars of excisions and modifications dated 13.12.2023 is extracted hereunder:

"PART-II
Particulars of excisions and modifications, dated 13.12.2023 is extracted below:

Film No: CA071910202300040

Film Name : VYUHAM (TELUGU WITH ENGLISH SUBTITLE) (Color) (2-D)

Applied Running time : 128.00 MM.SS

U (Unrestricted Public Exhibition) Cert NO. DIL/1/45/2023-HYD

Dated 13/12/2023

Insertions / Excisions/ Modifications carried out by the applicant to comply with the law in force Duration (MM.SS)

Cut No.	Description	Deleted	Replaced	
1	Delete the visuals of Directors disclaimer and insert "Based on true events with Cinematic liberties"	01.38	00.10	
2	Excise the name "Skill Development Scam" wherever it appears	00.00	00.00	
3	Excise the original footage of Godavari Pushkaralu and original	00.23	00.00	

	visuals/voiceovers of original Jagan Mohan Reddy wherever they occur.			
4	Excise the liquor brands wherever it appears	00.00	00.00	
5	Excise the word NTR wherever applicable	00.00	00.00	
6	Excise the word "Muguru ammailtho"	00.00	00.00	

Sd/-

Total Deletions at the time of Examination

02.01 MM.SS

(SHIFALI KUMAR)

Total Replacements at the time of Examination 00.10 MM.SS

Regional Officer
CBFC, HYDERABAD

Actual Duration of the film after the aforesaid deletions and replacement

126.09 MM.SS in 0 Cassette(s)

15. This Court opines that a bare perusal of the extract from the refusal by the Examining Committee of the 3rd respondent (referred to and extracted above) clearly indicates the observations that the subject film is derogatory towards few persons and their political parties which is against guidelines issued by the Government of India, Ministry of Information and Broadcasting, New Delhi, dated 06.12.1991, 2(xviii) which is extracted hereunder:

2. In pursuance of the above objectives, the Board of Film Certification shall ensure that-

xviii) visuals or words involving defamation of an individual or a body of individuals, or contempt of court are not presented;

EXPLANATION : Scenes that tend to create scorn, disgrace or disregard of rules or undermine the dignity of court will come under the term "contempt of Court" and

16. A bare perusal of the particulars of excisions and modifications dated 13.12.2023 (referred to and extracted above) indicates the total deletions at the time of examination as 02.01 MM.SS and the total replacements at the time of examination as 00.10 MM.SS and factual duration of the film after the aforesaid deletions and replacement as 126.09 MM.SS and further the deletions include as under:

"Delete the visuals of Directors disclaimer and insert "Based on true events with Cinematic liberties"

Excise the name "Skill Development Scam" wherever it appears

Excise the original footage of Godavari Pushkaralu and original visuals/voiceovers of original Jagan Mohan Reddy wherever they occur.

Excise the liquor brands wherever it appears

Excise the word NTR wherever applicable

Excise the word "Muguru ammailtho"

17. Examining Committee in its initial report having held that the film is derogatory towards few persons and their political parties which is against guidelines 2(xviii), however, permitted the Screening of the film

with certain deletions and the deletions indicated the duration at the time of examination as 02.01 MM.SS.

18. It is specifically averred by the petitioner at paragraph 27 of the affidavit filed by the petitioner in support of the present writ petition, as under:

"27. further humbly submit that, after the re-examination of the film, under sub-rule 9 of Rule 24, each member of the Revising Committee (4th Respondent) shall record their recommendations in-writing in Form VIII set out in Second Schedule, spelling out in clear terms the reasons for either issuing or refusing the certificate. Despite having my complaint / representation on file, the 3rd Respondent or 4th Respondent did not furnish the copies of the said reasoned recommendations of the members of the Revising Committee which led to the issuance of a certification to the 5th Respondent. This is yet another violation of principles of natural justice.

19. A bare perusal of the counter affidavit filed by the respondents 1 to 4 does not answer the specific averments made by the petitioner at paragraph 27 of the affidavit filed in support of the present writ petition except stating that the representations of the petitioner dated 30.10.2023 and 04.11.2023 were kept before the

Revising Committee and Revising Committee has taken due cognizance of the representations as well as report of the screening committee before granting the Certificate.

20. A bare perusal of Sub Rule 9, 10, 11 and 12 of Rule 24 of the Cinematograph (Certification) Rules, 1983, reads as under:

"24. Revising Committee:

Sub-Rule 9) Immediately after examination of the film, each member of the Revising Committee shall before leaving the preview theatre record his recommendations in writing in Form VIII set out in the Second Schedule spelling out in clear terms the reasons thereof and stating whether he or she considers-

(a) that the film is suitable for unrestricted public exhibition, i.e. fit for 'U' certificate; or

(b) that the film is suitable for unrestricted public exhibition but with an endorsement of caution that the question as to whether any child below the age of twelve years may be allowed to see the film should be considered by the parents or guardian of such child, i.e. fit for 'UA' certificate; or

(c) that the film is suitable for public exhibition restricted to adults, i.e. fit for 'A' certificate; or

(d) that 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, ie fit for 'S' certificates or

(e) that the film is suitable for grant of 'U' or 'UA' or 'A' or 's' certificate, as the case may be, if a specified portion or portions be excised or modified there from: or

(f) that the film is not suitable for unrestricted or restricted public exhibition, ie that the film be refused a certificate:

and if the Chairman is away from the regional centre where the film is examined the form aforesaid shall be prepared in duplicate

Sub-Rule (10) The Presiding Officer of the Revising Committee shall, within three days, send the recommendations of all the members of the Revising Committee to the Chairman and where the Chairman is away from the center where the film is examined. by registered post.

Sub Rule (11) The quorum of the Revising Committee shall be five members of whom at least two persons shall be women; provided that the member of women members shall not be less than one-half of the total members of a Committee constituted under sub rule(2). (as per notification dated 16.11.94).

Sub Rule (12) The decision of a Revising Committee shall be that of the majority of the members attending the examination of the film and, in the event of an equality of votes, the presiding officer shall have a second or casting vote:

Provided that where the Chairman disagrees with the decision of the majority of the Committee the Board shall itself examine the film or cause the film to be examined again by another Revising Committee and that the decision of the Board or the second Revising Committee, as the case may be, shall be final.

21. It is specifically contended by the learned Senior Counsel appearing on behalf of the petitioner that the procedure under Sub Rule 9 of Rule 24 had not been followed in the present case and in spite of petitioner's specific request the 3rd or 4th respondent did not furnish the copies of the reasoned recommendations of the members of the Revising Committee which led to the issuance of the certification to the 5th respondent.

22. This Court opines that Reputation is an integral and important part of the dignity of the individual. In

fact, right to privacy and dignity as guaranteed under Article 21 of the Constitution is a Fundamental Right. Right to Freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India is subject to reasonable restrictions enumerated under Article 19(2) of the Constitution of India. Article 19(2) of the Constitution of India, reads thus:

“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. This Court opines that the Right to Freedom of Speech and Expression is not absolute right and the same is subject to reasonable restrictions.

23. The Apex Court in its judgment dated 13.05.2016 reported in 2016 (7) SCC 221 in *Subramanian Swamy v Union of India* held that the reputation of an individual is a basic element under Article 21 of the Constitution

of India and balancing of fundamental rights is a constitutional necessity. Right to free speech does not give a right to an individual to defame others. The citizens have a correlative duty of not interfering with the liberty of other individuals since every body has a right to reputation and right to live with dignity.

24. This Court opines the plea of the learned senior counsel Sri S.Niranjan Reddy appearing on behalf of respondent Nos.5 and 6 that the petitioner sought to file the present writ petition only on 22.12.2023 merely seven days before the release of the film challenging the certification granted in favour of the subject feature film with a malafide intentions to prevent the release of the feature film and the delay on the part of a party in seeking legal relief disentitles it from claiming any equitable relief from the Court is untenable and the same is rejected duly taking into consideration the observations of the Division Bench of the Apex Court dealing with the issue of delay in its judgment dated 21.02.2022 in Writ Petition (Civil) No.1052 of 2021 in Sunil Kumar Rai v The State of Bihar reported in 2022

SCC online 232, observed at para 7 and 9 of the said judgment as under:

7. Article 32 of the Constitution provides for a Fundamental Right to approach the Supreme Court for enforcement of the Fundamental Rights. The founding fathers contemplated that the very right to approach this Court when there is a violation of Fundamental Rights, should be declared as beyond the reach of Parliament and, therefore, it is as a part of judicial review that the right under Article 32 has been put in place and invoked from time to time. That in a given case, the Court may refuse to entertain a petition under Article 32 of the Constitution is solely a part of self-restraint which is exercised by the Court having regard to various considerations which are germane to the interest of justice as also the appropriateness of the Court to interfere in a particular case. The right under Article 32 of the Constitution remains a Fundamental Right and it is always open to a person complaining of violation of Fundamental Rights to approach this Court. This is, no doubt, subject to the power of the Court to relegate the party to other proceedings.

"9. But even assuming for a moment, that the petitioners have come with some delay we find reassurance from the opinion of this Court in the

judgment reported in *Assam Sanmilita Mahasangh and others v Union of India* reported in 2015 (3) SCC 1, wherein this Court has inter alia held as follows:

32. ".....Further, in *Olga Tellis v. Bombay Municipal Corpn.*, it has now been conclusively held that all fundamental rights cannot be waived. Given these important developments in the law, the time has come for this Court to say that at least when it comes to violations of the fundamental right to life and personal liberty, delay or laches by itself without more would not be sufficient to shut the doors of the court on any petitioner." Therefore, we do not think we should be detained by the objection. We would think that delay by itself cannot be used as a weapon to Veto an action under Article 32 when violation of Fundamental Rights is clearly at stake.

25. This Court opines that the aforesaid observations of the Apex Court apply in principle to proceedings initiated under Article 226 as well. This Court duly considering the contents of the extract from the 'refusal' by the Examining Committee of the 3rd respondent which clearly observed that the subject film is derogatory towards few persons and their political

parties and the same is against guidelines 2(xviii) of the S.O.No.836-(E), dated 06.12.1991, notified by the 1st respondent under Section 5B(2) of the 1952 Act, and duly considering the fact as borne on record in the statement of particulars of excisions and modifications dated 13.12.2023, that the duration of total deletions at the time of examination as 02.01 MMSS opines that the issue needs detailed examination on the point whether the procedure as laid down under Sub-Rule 9, 10, 11, and 12 of Rule 24 of the Cinematograph (Certification) Rules, 1983 has been followed in the present case or not.

26. Taking into consideration the aforesaid facts and circumstances of the case and duly considering the averments made in the counter affidavit filed on behalf of the respondents 1 to 4 and in the light of the discussion arrived at as above and duly taking into consideration the specific averments made at para 27 of the affidavit filed by the petitioner in support of the present writ petition which has not been answered in the counter affidavit filed by the official respondents 1,

2 3 and 4 herein, this Court finds that a *prima facie* case is made out and balance of convenience at this stage lies in favour of the petitioner and therefore, the validity of the certificate No.DIL/1/45/2023-HYD, DATED 13.12.2023 issued by the 3rd respondent in favour of the 6th respondent for theatrical release of the film/movie 'VYUHAM' is suspended for a period of three weeks from today and the respondents 5 and 6 are accordingly restrained from releasing the movie 'VYUHAM' based on the said certificate.

27. The learned senior counsel appearing on behalf of respondents 1 to 4 is directed to place the original records pertaining to 3rd and 4th respondents in respect of Certificate No. DIL/1/45/2023-HYD, DATED 13.12.2023 in Application No.CA071910202300040 submitted by the 6th respondent for theatrical release of film "VYUHAM" before this Court by next date of hearing i.e. on 11.01.2024. I.A.No.2 of 2023 is accordingly ordered

List on 11.01.2024.

//TRUE COPY//

SD/-N.CHANDRASHEKAR
ASSISTANT REGISTRAR


SECTION OFFICER

To,

1. The Secretary, Ministry of Information and Broadcasting, Union of India, Office at Shastri Bhawan, New Delhi-110001.
2. The Chairman, Central Board of Film Certification, Having its head office at Films Division Complex, Phase-I Building, 9th Floor, Dr. G. Deshmukh Marg, Mumbai - 400 026, Maharashtra.
3. Ms. Shifali Kumar, Regional Office at Hyderabad, Central Board of Film Certification, Regional Officer, Office at Room No. 206, CGO Towers, Kavadiguda, Secunderabad - 500 080.
4. T S Nagabharna, Presiding Officer, Revising Committee, C/o. The Regional Office of Central Board of Film Certification at Hyderabad Office at Room No. 206, CGO Towers, Kavadiguda, Secunderabad - 500 080
5. Mr. Dasari Kiran Kumar, Sole Proprietor, M/s. Ramadhuta Creations, Producer of the Motion Picture, 'Vyuham' (@Vyooham) Office at # 8-269/5/21, Road No. 2, Sagar Society, Banjara Hills, Hyderabad - 500 034.
6. Mr. Dasari Kiran Kumar, Sole Proprietor of M/s. RAMADUTHA CREATIONS, Producer of the Motion Picture 'Vyuham' (@Vyooham) Aged about 46 years, Occ: Business, R/o. 1-41/2-22-3, Janjalavari, Nazerpet, Tenali. Guntur - 522201, Andhra Pradesh
7. Mr. Ram Gopal Varma,, Director of the Motion Picture 'VYUHAM' Office at - RGV Den, Rd. Number 71, Nava Nirman Nagar Colony, Jubilee Hills, Hyderabad, Telangana 500033 (Addressees 1 to 7 BY RPAD)
8. Two CCs to Addl. Solicitor General, High Court for the State of Telangana, at Hyderabad (OUT)
9. One CC to M/s. Unnam Law Firm, Advocate (OPUC)
10. One CC to Sri Pasham Mohith, Advocate (OPUC)
11. One CC to Sri Rajagopallavan Tayi, Advocate (OPUC)
12. One Spare Copy

HIGH COURT

SN,J

DATE: 28-12-2023

NOTE: POST ON 11-01-2024

ORDER

I.A. NO. 2 OF 2023
IN
WP. NO. 34681 OF 2023

SUSPENSION

