

**IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE MR.JUSTICE N.NAGARESH
&
THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.**

Tuesday, the 2nd day of May 2023 / 12th Vaisakha, 1945
WP(C) NO. 15036 OF 2023(S)

PETITIONER:

**ADV.ANOOP V.R, AGED 38 YEARS, S/O.V.V. RAVEENDRA NATH,ANURAGAM (H),
NAMBAZHICODE P.O., THRISSUR- 680 602.**

RESPONDENTS:

1. UNION OF INDIA, REPRESENTED BY SECRETARY TO GOVERNMENT,DEPARTMENT OF INFORMATION AND BROADCASTING, CENTRAL SECRETARIAT, NEW DELHI - 110 001.
2. MINISTRY OF INFORMATION AND BROADCASTING, REPRESENTED BY THE SECRETARY TO GOVERNMENT,MINISTRY OF INFORMATION AND BROADCASTING, SHASTRI BHAWAN, NEW DELHI - 110 001.
3. CENTRAL BOARD OF FILM CERTIFICATION (CBFC), REPRESENTED BY CHAIRPERSON,FILMS DIVISION COMPLEX, PHASE I BUILDING, MUMBAI - 400 026.
4. SECRETARY TO GOVERNMENT, HOME DEPARTMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
5. SUDIPTO SEN, DIRECTOR OF THE KERALA STORY, C/O 102, 1ST FLOOR, BHARAT ARK A WING,AZAD NAGAR, VEERA DESAI ROAD, ANDHERI WEST, MUMBAI, MAHARASHTRA - 400 053.
6. VIPUL AMRUTLAL SHAH, PRODUCER OF THE KERALA STORY,C/O 102, 1ST FLOOR, BHARAT ARK A WING, AZAD NAGAR, VEERA DESAI ROAD,ANDHERI WEST, MUMBAI, MAHARASHTRA - 400 053.
7. SUNSHINE PICTURES PVT. LTD., REPRESENTED BY PRODUCER AND DIRECTOR, VIPUL AMRUTLAL SHAH,102, 1ST FLOOR, BHARAT ARK A WING, AZAD NAGAR, VEERA DESAI ROAD,ANDHERI WEST, MUMBAI, MAHARASHTRA - 400 053.

Writ petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to pass an interim order directing the respondents to stay the release of the movie on 05.05.2023 or any other date, subject to the result of the writ petition

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S. KALEESWARAM RAJ, THULASI K. RAJ, APARNA NARAYAN MENON & CHINNU MARIA ANTONY, Advocates for the petitioner, SRI.S. MANU, DEPUTY SOLICITOR GENERAL OF INDIA for R1 to R3, SRI.S. SREEKUMAR, (SENIOR ADVOCATE) for R7, the court passed the following:

N.NAGARESH & MOHAMMED NIAS.C.P. JJ.

WP(C)No.15036 of 2023

Dated this the 2nd day of May, 2023

ORDER

Mohammed Nias.C.P.J

This writ petition has been filed to declare that the 'A' certification issued by the Central Board of Film Certification (CBFC) for the movie 'The Kerala Story' is illegal and liable to be set aside. Interim relief is prayed to direct the respondents to stay the release of the movie on 05.05.2023 subject to the result of the writ petition.

2. Learned counsel for the petitioner Sri. Kaleeswaram Raj argues that the movie's teaser was released on 03.11.2022, showcasing that around 32,000 women were converted and deployed in the terror mission and that the said movie portrays events that do not exist in reality. Further, the statements in the teaser are derogatory, and for the State of Kerala, which is known for its communal harmony and secular outlook, the release of the movie will disrupt and destroy the secular fabric of the State.

3. Learned DSGI, Sri.S.Manu, appearing on behalf of the official

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respondents 1 to 3, submits that a certificate has been granted by the CBFC on 24.04.2023 and that there is no requirement to pass any interim order. Learned DSGI also cited the following decisions in **Viacom Prakash Jha Productions and another v. Union of India and others** [(2011) 8 SCC 372], **Viacom 18 Media Private Limited and others v. Union of India and others** [2018 (1) SCC 761], **Nachiketa Walhekar v. Central Board of Film Certification and another** [2018 (1) SCC 778] as well as the judgment of this Court in WP(C)No.24767 of 2021)

4. Learned counsel appearing for respondents 5 and 6, who is the Director of the movie 'The Kerala Story,' also submits that a certificate has been granted by the CBFC and that the complaints regarding the teaser were made in the month of November 2022 and a challenge as regards the contents of the teaser made now is belated.

5. Learned senior counsel Sri.S.Sreekumar appearing for the 7th respondent, also submitted that a certification has been granted and that the complaints, if any, regarding such certifications are only to be entertained by Board and that the petitioner who has not seen the movie cannot make allegations against it on surmises.

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6. Having heard the learned counsel on either side, we are not inclined to pass any interim order at this stage for the reasons to follow. We note that the teaser of the movie was released as early as 03.11.2022, even going by the contentions in this writ petition.

7. Learned counsel for the petitioner would argue that the teaser did not get the permission of the third respondent Board. If that is his case, the petitioner should have moved this Court much earlier, not when the movie was about to be released on 5.5.2023. It is also to be noted that the allegations made against the third respondent that the certificate was issued without any application of mind cannot be accepted, *prima facie*, as the certificate itself shows that several modifications/insertions/ excisions were carried out before granting the certificate. We also note that at this stage, without viewing the movie, allegations need not be entertained just on the basis of the teaser. In such circumstances, we direct the learned DSGI to file an affidavit/statement on behalf of respondents 1 to 3 before 05.05.2023 dealing with the contentions raised in the writ petition. Post on 5.5.2023 for further consideration.

Sd/- N.NAGARESH,JUDGE

Sd/- MOHAMMED NIAS.C.P.,JUDGE

dlk/03.05.2023