

## SYNOPSIS

Petitioners are moving this writ petition under Article 32 of The Indian Constitution seeking the urgent intervention of this Hon'ble Court for directions to the State of West Bengal (R1), the Department of Home (R2) and the Kolkata Police (R3) to cease their utterly unlawful obstruction of the public exhibition of their Bengali feature film 'Bhobishyoter Bhoot' (Future Ghosts) initially released in Kolkata prior to its national launch. For, despite the certificate for public exhibition duly issued by the Central Board of Film Certification (CBFC) which is the competent authority for the entire country, R1, through R2 and R3, in gross violation of Supreme Court rulings, is obstructing the film from being exhibited in the Cinema Halls of Kolkata in a highly back-handed and arbitrary manner. The State of West Bengal is misusing police power and acting as a 'super-censor' sitting atop the CBFC and is violating the Petitioners' fundamental rights guaranteed under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Indian Constitution through the Kolkata Police which is under the Department of Home.

In light of their proposed national launch, Petitioners are invoking the jurisdiction of this Hon'ble Court in order to be able to effectuate their right to exhibit the film not only in the State of West Bengal but also in other States throughout the country by preferring this Writ Petition under Article 32 of the Constitution of

India with a view to avoid multiplicity of proceedings by requiring to seek reliefs in different states.

Petitioners accordingly, seek a writ of mandamus or any other writ, order or direction from this Hon'ble Court under Article 32 of the Constitution of India directing R1, R2 and R3 to stop obstructing and causing any obstruction in any manner whatsoever to the exhibition of the film 'Bhobishyoter Bhoot' (Future Ghosts), to provide protection and uphold the law and order whenever and wherever the film is exhibited and to prevent any untoward incident with regard to exhibition and viewing of Bhobishyoter Bhoot, and to provide police protection to the persons who are involved in the film / in the exhibition of the film Bhobishyoter Bhoot and the audience watching the film, whenever sought for or necessary. Petitioners seek that R1, R2 and R3 be directed to uphold the Rule of law, and law and order, with regard to the unhindered public exhibition of the film 'Bhobishyoter Bhoot' (Future Ghosts).

Petitioners have been promoting meaningful Bengali cinema for the past 2 years. Their first film was 'Meghnadbodh Rohoshyo', which was selected in the Indian Panorama of the 48<sup>th</sup> International Film Festival of India (IFFI) Goa in 2017 and the instant film is their second, 'Bhobishyoter Bhoot' (Future Ghosts) which has been short-listed for ARFF International – Barcelona,

Jury award. Petitioner 2 has put in a significant portion of his life savings and an entire year's effort into the film.

The director Anik Datta, is known to make meaningful Bengali films packed with wit, punch and humour, which leave the viewer to pause and reflect upon important social and political issues. His first was 'Bhooter Bhobishyot' (The future of ghosts), a unique comedy film on ghosts and outstanding success that popularized ghosts in Bengali cinema. The Director is known for his integrity to his work, honesty and forthrightness, wit, humour, and the high calibre of his films. His contribution to Bengali films in the last decade has been widely acknowledged.

Petitioner 2 received a letter on 11.2.2019 from the State Intelligence Unit (SIU) of Kolkata Police asking for a pre-screening of the film for senior officials of the Intelligence Unit of the Kolkata Police latest by 12.2.2019, and that inputs had been received *"that the contents of the film may hurt public sentiments which may lead to political law and order issues."*P2 responded to the Kolkata Police on 12.2.2019 itself stating that the inputs were subject matters duly addressed by the CBFC prior to issuance of clearance for release, and that as per Supreme Court rulings, no other authority of public office ought to venture into interference in such matters. That accordingly, any such inputs received by the SIU may have been misplaced and misdirected and the Kolkata Police had neither the legal competence nor the jurisdiction to

request such an advance private screening prior to the release “to a few senior officials” on a “priority basis”.

Prior to its national release, the Film was duly released in Kolkata and a few districts of West Bengal on 15.2.2019 as scheduled. It was by and large well received and by 16.2.2019, was running to packed houses in several halls. Viewers termed the film “mature” and “bold” after viewing it saying that “this is a film that everyone must see”. However, by the evening of 16.2.2019, without any communication from the exhibitors, the Producers received information that the Film was abruptly and suddenly taken off the majority of cinema halls and viewers were being refunded their tickets. The Director and some members of the cast and crew who visited Inox South City, were told by the local personnel that unnamed “higher authorities” had instructed them to take the Film off that day. Several exhibitors stated on conditions of anonymity, that the SHO (Station House Officer) from the local thana had instructed them to stop screening the film with immediate effect, at the risk of damage to their cinema halls.

Petitioners’ subsequent communication on 16/17.2.2019 to EIMPA (Eastern India Motion Pictures Association) seeking its support, on 17.2.2019 and 25.2.2019 to the Exhibitors seeking reasons, and on 21.2.2019 to the Kolkata Police Commissioner, seeking a formal, written confirmation clarifying whether the Government of West Bengal through the Police had instructed the Exhibitors to

stop showing the film, has received no response from. Petitioners urged the State to uphold the Rule of Law and Right to Freedom of Speech and Expression, and not to be seen to be doing the very opposite, but the Government of West Bengal has maintained a stony silence that does little to conceal its obvious interference which is apparent in light of its prior communication through its State Intelligence Unit and the remarkably organized / concerted removal of the large-scale unlawful removal of the Film from the cinema halls in Kolkata.

There have been numerous letters and messages of protest and condemnation from various eminent persons including the likes of Soumitra Chatterjee renowned poet, theatre and veteran film actor in Pather Panchali and several other Bengali films and winner of the Dadasaheb Phalke award, Aparna Sen, actor, screenwriter, filmmaker and director of well known films including 36 Chowringee Lane, Buddhadeb Dasgupta, renowned poet and contemporary Bengali film-maker, Director, but to no avail.

Today, the film is off all the screens in Kolkata that are under the jurisdiction of the Kolkata Police. Of 48 exhibitors/cinema halls and 60 screens, to the best of Petitioners' knowledge, only 2 remote halls/screens in upcountry West Bengal are showing the film. Thus the Film remains unlawfully obstructed from being exhibited in Kolkata in cinemas in areas under the jurisdiction of Kolkata Police, in a brazen and back-handed manner with a

deliberate avoidance of any written order, in calculated, wilful and defiant violation of Supreme Court rulings and all principles and provisions of law. There has been no response from the Kolkata Police despite a letter expressly seeking such clarification.

Petitioners are aggrieved that their Film remains obstructed from exhibition in most cinema halls in Kolkata. They are aggrieved by the utterly arbitrary act by the State, by the violation of their right to freedom of speech and expression, the right to occupation and trade of P2, the irrevocable hardship and huge loss to livelihood to P2, AND the utter injustice being perpetrated by the State by such sudden and arbitrary obstruction to the exhibition of the Film. They accordingly seek urgent redress from this Hon'ble Court to restore their fundamental rights under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution of India, viz. their right to exhibit their film in light of the Certificate granted by the CBFC and the settled law in this regard.

## LIST OF DATES / SEQUENCE OF EVENTS

2018	The film 'Bhobishyoter Bhoot' was made. The Film is a social and political satire about ghosts who wish to make themselves relevant in the future by rescuing the marginalized and the obsolete. The film mourns the living dead and the obsolete – cabaret that has been replaced by “item numbers”, old time typists and watch repairers (horologists) who have been replaced by digital-age alternatives, and old world ideals in journalism, film-making and politics that have been replaced by compromised values. It follow's Bengal's rich culture of stories about ghosts that are friendly and fun, and indeed, one of the characters conceived by the director in his former film is a household name among Bengalis today.
19.11.2018	The Central Board of Film Certification (CBFC) duly issued a UA certificate for public exhibition of the said film 'Bhobishyoter Bhoot'. The Certificate is valid in the entire country.
January- Feb 2019	Prior to its national launch, the Film was promoted pre-release with advertisements, posters, talk shows and other events backed by considerable effort and investment; film was scheduled for release initially in Kolkata and few other districts of West Bengal prior to its national release planned subsequently.
11.2.2019	Petitioner 2 received a letter from the State

	Intelligence Unit (SIU) of Kolkata Police asking for a pre-screening of the film for senior officials of the Intelligence Unit of the Kolkata Police latest by 12.2.2019, and that inputs had been received <i>“that the contents of the film may hurt public sentiments which may lead to political law and order issues”</i>
12.2.2019	P2 responded to the Kolkata Police stating that the inputs were subject matters duly addressed by the the CBFC prior to issuance of clearance for release, and that per Supreme Court rulings, no other authority of public office ought to venture into interference in such matters. That accordingly, any such inputs received by the SIU may have been misplaced and misdirected and the Kolkata Police had neither the legal competence nor the jurisdiction to request such an advance private screening prior to the release <i>“to a few senior officials”</i> on a <i>“priority basis”</i> .
15.2.2019 (Friday)	The Film was initially released in Kolkata and a few districts of West Bengal; the first show was at 11.00 am, the show for press and cast and crew was at 5.50 pm approximately. This was prior to the national release that was to follow shortly.
16.2.2019 (Saturday)	The Film was by and large well received and was running to packed houses in several halls without any incident. Viewers termed the film <i>“mature”</i> and <i>“bold”</i> after viewing it saying that <i>“this is a film that</i>

	<p>everyone must see”.</p> <p>By evening, without any communication from the exhibitors, the Producers received information that the Film was suddenly and abruptly taken off the majority of cinema halls and viewers were being refunded their tickets.</p> <p>The Director and some members of the cast and crew who visited Inox South City, were told by the local personnel that unnamed “higher authorities” had instructed them to take the film off that day.</p> <p>Several exhibitors stated on conditions of anonymity, that the SHO (Station House Officer) from the local thana had instructed them to stop screening the film with immediate effect, at the risk of damage to their cinema halls.</p>
<p>16- 17.2.2019</p>	<p>Petitioner wrote letters to EIMPA (Eastern India Motion Pictures Association), an umbrella association, requesting its support.</p> <p>Petitioner also wrote to the large exhibitors (INOX Movies, PVR Cinemas and Cinepolis) asking them for explanations.</p>
<p>17.2.2019</p>	<p>The matter was widely reported with news articles titled “The Disappearance of Anik’s Bhoot”, reporting</p>

	<p>the abrupt disappearance of the film from cinemas by 16.2.2019, “Plexes Pull Out ‘Satire’” in The Telegraph, “Stopping of screening of Bhoishyoter Bhoot” dated 17.2.2019, “Director accuses cops of yanking film off halls”, “Screening of Bhoot Stopped” dated 17.2.2019, etc.</p>
21.2.2019	<p>Petitioners wrote a letter dated 19.2.2019 with receiving dated 21.2.2019, to the Kolkata Police Commissioner (R2) seeking a formal, written confirmation clarifying whether the Government of West Bengal through the Police had instructed the Exhibitors to stop showing the film in order to understand the reasons and in the alternative, to provide an assurance to Exhibitors that their fears from the Police and State are misplaced. Petitioners urged the State to uphold the Rule of Law and Right to Freedom of Speech and Expression, and not to be seen to be doing the very opposite.</p>
21.2.2019 and onwards	<p>R2 maintains a stony silence that does little to conceal its obvious interference which is apparent in light of its prior communication through its State Intelligence Unit and the remarkably organized / concerted removal of the large-scale unlawful removal of the Film from the cinema halls in Kolkata.</p> <p>Thus the Film remains unlawfully obstructed from being exhibited in Kolkata in cinemas in areas under</p>

	<p>the jurisdiction of Kolkata Police, in a brazen and back-handed manner with a deliberate avoidance of any written order, in calculated, wilful and defiant violation of Supreme Court rulings and all principles and provisions of law.</p>
25.2.2019	<p>Petitioners wrote again to the Exhibitors seeking reasons for withdrawal of the Film, but to no avail</p>
February- March 2019	<p>Several eminent personalities have strongly condemned the removal of the Film from the halls of Kolkata. They include Soumitra Chatterjee renowned poet, theatre and veteran film actor in Pather Panchali and several other Bengali films, winner of the Dadasaheb Phalke award, Aparna Sen, actor, screenwriter, filmmaker and director of well known films including 36 Chowringee Lane, Buddhadeb Dasgupta, renowned poet and contemporary Bengali film-maker, Director, Bibhash Chakraborty well known Bengali theatre personality. Several actors of contemporary Bengali cinema have staged protests and demonstrations in Kolkata and they include Sabhyasachi Chakraborty (of Feluda fame), Koushik Sen, Sohag Sen, Chandan Sen, Deboleena Datta, Chandrayee Ghosh, Barun Chanda and several others, including the director of the film, Anik Datta, the co-script writer Utsav Mukherji. There have been several meetings and talks to decry the obstruction posed to the freedom</p>

	<p>of speech and expression of cinema artists, directors and producers. There have been open letters addressed to the State despite which there has been no response.</p>
5.3.2019	<p>Petitioners are aggrieved that the Film is still not being allowed to be exhibited in Kolkata and out of the initial 48 cinema halls and 60 screens, to the best of their knowledge, it is being shown only in about 2 halls today in upcountry West Bengal.</p> <p>They are aggrieved by the utterly arbitrary act by the State, by the violation of their right to freedom of speech and expression, the right to occupation and trade of P2, the irrevocable hardship and huge loss to livelihood to P2, AND the utter injustice being perpetrated by the State by such sudden and arbitrary obstruction to the exhibition of the Film.</p> <p>They accordingly seek urgent redress from this Hon'ble Court to restore their fundamental rights under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution of India, viz. their right to exhibit their film in light of the Certificate granted by the CBFC and the settled law in this regard.</p> <p>Petitioners are invoking the jurisdiction of this Hon'ble Court in order to be able to effectuate their</p>



Indira Unninar  
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DLF Phase 3, Gurgaon 122002  
Haryana

...Petitioner 3

Versus

Government of West Bengal  
Through Chief Secretary  
Nabanna, 13th Floor,  
325 Sarat Chatterjee Road, Mandirtala  
Shibpur, Howrah-711102  
Tel: 2214-5858  
Email: [cs-westbengal@nic.in](mailto:cs-westbengal@nic.in)

...Respondent 1

West Bengal Department of Home  
Through Principal Secretary  
Nabanna, 13th Floor,  
325 Sarat Chatterjee Road, Mandirtala,  
Shibpur, Howrah-711102  
Tel: 2214-5656  
Email: [wb.secyhome@gmail.com](mailto:wb.secyhome@gmail.com)

....Respondent 2

Kolkata Police  
Through Police Commissioner  
Kolkata Police Headquarters  
18, Lalbazar Street, Kolkata - 700 001  
West Bengal, India  
Tel: (91-33) 2214-5060  
EPABX (91-33) 2250-5000  
Email: [cp@kolkatapolice.gov.in](mailto:cp@kolkatapolice.gov.in)

....Respondent 3

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION  
OF INDIA AND ORDER XXXVIII RULE 7 OF THE SUPREME  
COURT RULES, 2013

To the Hon'ble Chief Justice of The Supreme Court of India and  
his Companion Justices

The Petitioners above-named most respectfully showeth:

BACKGROUND

1. Petitioners are moving this writ petition under Article 32 of The Indian Constitution seeking the urgent intervention of this Hon'ble Court for directions to the State of West Bengal (R1), the Department of Home (R2) and the Kolkata Police (R3) to cease their utterly unlawful obstruction of the public exhibition of their Bengali feature film 'Bhobishyoter Bhoot' (Future Ghosts) released initially in Kolkata prior to its national launch. For, despite the certificate for public exhibition duly issued by the Central Board of Film Certification (CBFC), the competent authority for the entire country, R1, through R2 and R3, are, in gross violation of Supreme Court rulings, obstructing the film from being exhibited in the Cinema Halls of Kolkata in a highly back-handed and arbitrary manner. The State of West Bengal is misusing police power and acting as a 'super-censor' sitting atop the CBFC and is violating the Petitioners' fundamental rights guaranteed under Articles 14, 19(1)(a), 19(1)(g) and

21 of the Indian Constitution through the Kolkata Police which is under the Department of Home. Petitioners seek to avoid multiplicity of litigation and are invoking the jurisdiction of this Hon'ble Court in light of their proposed national launch.

1A. Petitioner 1 the company named Indibily Creative Pvt Ltd CIN (Certificate of Incorporation No.) U74999HR2017PTC069681 has duly authorized Petitioner No. 2 (Kalyanmoy Chatterjee) and Petitioner No. 3 (Indira Unninar) to represent Petitioner No. 1 and sign legal documents on its behalf by way of board resolution dated 25.7.2017. Certificate of Incorporation of company and Company Board resolution are enclosed with Vakalatnama.

#### MATERIAL FACTS

#### CBFC CERTIFICATE

2. Petitioners have been duly issued a UA certificate for public exhibition of the said film 'Bhobishyoter Bhoot' on 19.11.2018 from the competent authority, the Central Board of Film Certification (CBFC), in accordance with the Cinematograph Act, 1952. The said Certificate is valid throughout the country and is necessary for the nationwide launch proposed for the Film. The Act provides for any person desiring to exhibit any film being required to apply to the CBFC for a certificate, and for the CBFC to sanction the film for public exhibition after examining the film in the

prescribed manner (S4, 5, 5A, 5B of The Act). Such certificate shall be valid throughout India for a period of 10 years. The guiding principles for granting certification include considerations of interests of sovereignty and integrity of India, security of the State, friendly relations with foreign States, public order, decency or morality, and whether the film involves defamation or contempt of court or is likely to incite the commission of any offence.

Copy of UA Certificate issued by CBFC for the film “Bhobishyoter Bhoot” dated 19.11.2018, annexed as **ANNEXURE P/1 (pages 38 - 41 )**

#### PETITIONERS

3. Petitioner 1 (P1) is Indibily Creative Pvt Ltd (ICPL), a small company established in 2017 with two directors who are Petitioner 2 (P2) and Petitioner 3 (P3). P1 is the producer of the film ‘Bhobishyoter Bhoot’ and P2 and P3 are co-producers of the said film by virtue of being directors of the said company. P2 runs the company on a day to day basis, as its Managing Director. P3 is an advocate who, as non-executive director in the company, by virtue of her relationship with P2, supports her husband P2 by providing legal and other intellectual and strategic know how for P1. Petitioners have been supporting meaningful Bengali cinema since the past 2 ½ years or so.

4. The company aims to “develop, promote and sell creative products and services” including but not limited to direct, produce, distribute and release Films including feature films, documentaries, docu-films, corporate films, promotional films, developmental films or films to communicate social messages in all forms and formats.
  
5. P2 and P3 are both citizens of India. P2 is Kalyanmoy Chatterjee @ Billy Chatterjee, S/O Late Santimay Chatterjee and Enakshi Chatterjee; the former was a renowned Nuclear scientist who served the Government of India, and the latter is a well known Writer and translator. P2 was working in a market research company for 3 decades which he ultimately headed as Managing Director prior to setting up P1 company. P3 is Indira Unninayar, D/O Late M S Unninayar and E M Jayalakshmi, the former was an upright Senior government official and the latter, a lecturer and home-maker. She is W/O P2, Kalyanmoy Chatterjee. P3 and as a practising advocate, takes up causes for marginalized and vulnerable groups in the Delhi High Court, Supreme Court and other courts and fora. Both P2 and P3 are duly authorized to represent P1 the company and sign legal documents on its behalf by way of board resolution dated 25.7.2017.

6. P1 the company, has the right to publicly exhibit the said film nation wide as it has obtained the requisite certificate from the competent authority. However, this right is being grossly violated as are the fundamental rights of Petitioners being transgressed. P2's right to practise any profession, to carry on any occupation, trade or business and earn a livelihood guaranteed under Articles 19(1)(g) and 21 respectively of the Indian Constitution, are being seriously transgressed. P2 has worked extremely hard for an entire year to produce the film, and, after working for about 33 years, has invested a significant portion of his life-savings into the company and the Film. P2 and P3 stand deprived of their right to freedom of speech and expression guaranteed under the Indian Constitution to every citizen of this country. The highly arbitrary and discriminatory action of R1, R2 and R3 is also a gross violation of Petitioners' rights guaranteed under Article 14 of the Indian Constitution.
  
7. P2 and now P1, have produced two Bengali films over the last 2 years, in order to promote and support meaningful Bengali cinema. The first was 'Meghnadbodh Rohoshyo', which was selected in the Indian Panorama of the 48<sup>th</sup> International Film Festival of India (IFFI) Goa in 2017 and the second is 'Bhobishyoter Bhoot' (Future Ghosts) which has been short-listed in 2018 for ARFF International – Barcelona, Jury award.

Copy of Certificate of Participation in the Indian Panorama of 48<sup>th</sup> IFFI and screened during the festival in Goa from November 20-28, 2017, annexed as **ANNEXURE P/2 (pages 42 - 43)**

Copy of List of Cinemas selected for ARFF International – Barcelona, Jury Award, annexed as **ANNEXURE/P3 (pages 44 - 45)**

#### RESPONDENTS

8. R1 is the Government of West Bengal through its Chief Secretary.
9. R2 is the Department of Home of the Government of West Bengal and is under the aegis of R1.
10. R3 is the Kolkata Police through its Commissioner. R2 has the oldest Commissionerate in the country. Its website says *inter alia*, that it is committed towards maintenance of law and order in the city and spearheading various citizen friendly initiatives for the people of Kolkata. R3 is under the aegis of R2.
11. The Kolkata Police functions under the Home Department under the Government of West Bengal, hence the

concerned Department, the State Government and Police Commissioner have been made parties to this writ petition.

#### THE FILM & IT'S DIRECTOR

12. The film 'Bhobishyoter Bhoot' is a social and political satire about ghosts who wish to make themselves relevant in the future by rescuing the marginalized and the obsolete. The film mourns the living dead and the obsolete – cabaret that has been replaced by “item numbers”, old time typists and watch repairers (horologists) who have been replaced by digital-age alternatives, and old world ideals in journalism, film-making and politics that have been replaced by compromised values. Bengal has a rich culture of stories about ghosts that are friendly and fun. Indeed, one of the characters conceived by the director in his former film is a household name among Bengalis today.
13. The film director Anik Datta, is known to make meaningful Bengali films which leave the viewer to pause and reflect upon important social and political issues. His films are packed with wit, punch and humour. This is his fourth film. His first was 'Bhooter Bhobishyot' (The future of ghosts), a unique comedy film on ghosts and outstanding success that popularized ghosts in Bengali cinema. That story was about the forcible but unsuccessful attempts at

usurping a dilapidated old home to convert it into a mall by driving out the old habitants within. So, the ghosts come forward to fiercely protect their last domain of haunted houses from the ruthless builders. His second film was 'Ascharyo Pradeep', which was about eroding middle-class values falling prey to endless consumerism. His third film 'Meghnadbodh Rohoshyo', was a political who-dunnit thriller that interweaves the Bengal of the '70s with modern day Bengal. The latter film Meghnadbodh Rohoshyo was also produced by P2.

14. The director is known for his integrity to his work, honesty and forthrightness, wit, humour, and the high calibre of his films. His contribution to Bengali films in the last decade has been widely acknowledged.

Copy of Director Anik Datta's short bio as of February 2019, annexed as **ANNEXURE P/4 (page 46 )**

15. Prior to its national launch, the film was scheduled for initial release in Kolkata and few other districts of West Bengal on 15.2.2018. It had been promoted on various media by way of advertisements, posters, hoardings, metro, radio, newspaper advertisements and social media, for nearly 3 weeks prior to its release. This was supported by television talk-shows and other events on social media that generated

considerable public excitement and interest in the film. All this effort was backed by sizeable investment by the Petitioners.

Copy of Reduced Size of a Poster of Bhobishyoter Bhoot posted in various parts of Kolkata city during February 2019 with typed copy of English translation of Bengali(relevant portions), annexed as **ANNEXURE P/5 (pages 47 – 48)**

Copy of a Newspaper Advertisement of Release of Film on 15<sup>th</sup> February 2019 in 6 major dailies, providing listings in different Cinema Halls in Kolkata with typed copy of translation of English translation of Bengali (relevant portions), annexed as **ANNEXURE P/6 (pages 49 – 50)**

True Copy of a Mask distributed at some points in February 2019 with typed copy of English translation of Bengali (relevant portions), annexed as **ANNEXURE P/7 (pages 51 – 52)**

INTERFERENCE BY KOLKATA POLICE (R3) EVEN BEFORE RELEASE

16. On 11.2.2018, just 4 days prior to the scheduled date of release, P2 received a telephonic call on his mobile from mobile number 98307 20982, where the caller identified

himself as Dilip Bandopadhyay from the State Intelligence Unit (SIU) of the Kolkata Police (R3) and said that his department had received some information re the film 'Bhobishyoter Bhoot' which he was forwarding shortly. Shortly thereafter, P2 received a letter from the State Intelligence Unit (SIU) asking P2 to arrange for a prior screening of the film for senior officials of the Intelligence Unit of the Kolkata Police latest by 12.2.2019. The letter said that inputs had been received *"that the contents of the film may hurt public sentiments which may lead to political law and order issues."*

Copy of Letter issued by SIU, Kolkata Police to P2, dated 11.2.2019, annexed as **ANNEXURE P/8 (page 53)**

17. P2 duly responded to the Kolkata Police (R3) by 12.2.2019 itself stating that the said inputs were subject matters that had already been looked into and duly addressed by the competent authority, the CBFC prior to issuance of clearance for release. That the Supreme Court has confirmed that no other authority of public office ought to venture into interference in such matters as that would amount to a violation of the Rule of Law. That Supreme Court orders are the law of the land and that every authority must act in aid of them. That accordingly, any such inputs

received by the SIU may have been misplaced and misdirected. That the Kolkata Police had neither the legal competence nor the jurisdiction to request such an advance private screening prior to the release “to a few senior officials” on a “priority basis”.

Copy of Letter issued by P2, to the SIU of Kolkata Police, copying P3, dated 12.2.2019, annexed as **ANNEXURE P/9 (page 54)**

18. Thereafter, there was no further communication from Kolkata Police.

#### RELEASE OF THE FILM

19. P1 duly went ahead with the initial release of the Film on 15th February 2019, a Friday, as scheduled; the first show was at 11.00 am, the show for press and cast and crew was at 5.50 pm approximately.

20. The film was by and large well received and was running to packed houses in several halls by Saturday the 16th of February 2019. Viewers termed the film “mature” and “bold”

after viewing it saying that “this is a film that everyone must see”. The film was release without any reported incident.

True Typed Copy of List of Exhibitors / Cinema Halls where the Film was being exhibited on 15.2.2019 and 16.2.2019, annexed as **ANNEXURE P/10 (pages 55 – 56)**

#### OBSTRUCTION TO EXHIBITION

21. Within one day of the film’s initial release in Kolkata and few districts of West Bengal on 15th February 2019, by Saturday the 16<sup>th</sup> of February 2019, the film was running to packed houses. However, on Saturday, 16<sup>th</sup> February itself, an overwhelming majority of the exhibitors without any communication to the producers, suddenly and abruptly took the film off the screens. By the evening of Saturday the 16th of February 2019, Petitioners began to receive the news that the film was being taken off the screens in most cinemas of Kolkata. Tickets were being refunded to the viewers without the exhibitors offering any reason. It is pertinent that there was not a single reported incident of any law and order issues. The matter of the sudden and abrupt removal of the Film was widely reported in the newspapers.

22. The Director with some members of the cast and crew visited the Exhibitor at Inox South City, and asked the local personnel why tickets were being refunded to viewers. They

cited unnamed “higher authorities” who they said had instructed them to take the film off that day. Several of the exhibitors later stated on conditions of anonymity, that the SHO (Station House Officer) from the local thana had called or visited them and told them in no uncertain terms to stop screening the film with immediate effect, failing which they would have to face the risk of damage to their cinema halls.

23. Today, the film is off all the screens in Kolkata that are under the jurisdiction of the Kolkata Police. Of 48 exhibitors/cinema halls and 60 screens, to the best of Petitioners’ knowledge, only 2 remote halls/screens in upcountry West Bengal are showing the film.

Copy of English Translation of Bengali News Article in Ananda Bazar Patrika, “The Disappearance of Anik’s Bhoot”, reporting the abrupt disappearance of the film from cinemas by 16.2.2019, dated 17.2.2019, annexed as **ANNEXURE P/11 (pages 57 - 58 )**

Copy of English News Article “Plexes Pull Out ‘Satire’” in The Telegraph, dated 17.2.2019, annexed as **ANNEXURE P/12 (pages 59 - 61)**

Copy of English Translation of News Article in Pratidin, titled “Stopping of screening of Bhubishyoter Bhoot” dated 17.2.2019, annexed as **ANNEXURE P/13 (page 62 )**

Copy of English News Article in The TOI, titled “Director accuses cops of yanking film off halls”, dated 17.2.2019, annexed as **ANNEXURE P/14 (pages 63 – 65)**

Copy of English Translation of News Article in Aaj Kaal, titled “Screening of Bhoot Stopped” dated 17.2.2019, annexed as **ANNEXURE P/15 (page 66 )**

#### STEPS TAKEN TO SEEK INFORMATION RE: OBSTRUCTION

24. Petitioners, on the night of 16.2.2019 itself, wrote to the Exhibitors and EIMPA (Eastern India Motion Pictures Association), an association of producers, directors and exhibitors, laboratory and studio owners, where all fields of film trade activities are tied under the control of a single organization requesting its support and necessary action. Petitioners also wrote to the large exhibitors that are not covered under EIMPA. However, despite follow-up, there has been no response forthcoming.

Copy of Email from Petitioner to EIMPA dated 16.2.2019 / 17.2.2019, annexed as **ANNEXURE P/16 (pages 67 – 68)**

25. Petitioners have also repeatedly written to the large exhibitors – INOX Movies, PVR Cinemas and Cinepolis asking them for explanations, but have received no written response from them.

Copy of Chain of Email dated 25.2.2019 pursuant to Email dated 17.2.2019 from P2 to INOX Movies, annexed as **ANNEXURE P/17 (pages 69 – 70 )**

Copy of Chain of Email dated 25.2.2019 pursuant to Email dated 17.2.2019 from P2 to PVR Cinemas, annexed as **ANNEXURE P/18 (pages 71 - 72 )**

Copy of Chain of Email dated 25.2.2019 pursuant to Email dated 17.2.2019 from P2 to Cinepolis, annexed as **ANNEXURE P/19 (pages 73 – 74)**

26. Petitioners next wrote to the Kolkata Police Commissioner (R2) seeking a formal, written confirmation clarifying whether the Government of West Bengal through the Police had instructed the Exhibitors to stop showing the film in order to understand the reasons and in the alternative, to provide an assurance to Exhibitors that their fears from the Police and State are misplaced. Petitioners urged the State to uphold the Rule of Law and Right to Freedom of Speech and

Expression, and not to be seen to be doing the very opposite.

Copy of Letter from Petitioner to Kolkata Police Commissioner, dated 19.2.2019, hand delivered with receiving on 21.2.2019, annexed as **ANNEXURE P/20 (pages 75 – 77 )**

27. However, R2 maintains a stony silence that does little to conceal its obvious interference which is apparent in light of its prior communication through its State Intelligence Unit and the remarkably organized / concerted large-scale unlawful removal of the film from the cinema halls in Kolkata.

28. The film remains unlawfully obstructed from being exhibited in Kolkata in cinemas in areas under the jurisdiction of Kolkata Police in a brazen and back-handed manner.

29. The Kolkata Police has stopped the film 'Bhobishyoter Bhoot' by misuse of its police machinery, in calculated, wilful and defiant violation of Supreme Court rulings and all principles and provisions of law by a deliberate avoidance of any written order or clarification by the Kolkata Police despite a letter seeking such clarification.

## CONDEMNATION OF THE FILM'S REMOVAL FROM CINEMA HALLS

30. Several eminent personalities have strongly condemned the removal of the Film from the halls of Kolkata. They include Soumitra Chatterjee renowned poet, theatre and veteran film actor in Pather Panchali and several other Bengali films, winner of the Dadasaheb Phalke award, Aparna Sen, actor, screenwriter, filmmaker and director of well known films including 36 Chowringee Lane, Buddhadeb Dasgupta, renowned poet and contemporary Bengali film-maker, Director, Bibhash Chakraborty well known Bengali theatre personality. Several actors of contemporary Bengali cinema have staged protests and demonstrations in Kolkata and they include Sabhyasachi Chakraborty (of Feluda fame), Koushik Sen, Sohag Sen, Chandan Sen, Deboleena Datta, Chandrayee Ghosh, Barun Chanda and several others, including the director of the film, Anik Datta, the co-script writer Utsav Mukherji. There have been several meetings and talks to decry the obstruction posed to the freedom of speech and expression of cinema artists, directors and producers. There have been open letters addressed to the State despite which there has been no response.

Copy of English Translation of Open Letter of condemnation sent by Senior Actor and Dadasaheb Phalke award winner, Soumitra Chatterjee sent dated 17.2.2019, annexed as **ANNEXURE P/21 (page 78 )**

Copy of Facebook Post of Aparna Sen, dated 19.2.2019, annexed as **ANNEXURE P/22 (page 79 )**

Copy of English translation of Whatsapp Message from Buddhadeb Dasgupta sent to Anik Datta dated 19.2.2019, annexed as **ANNEXURE P/23 (page 80 )**

Copy of English translation of Email from Bibhash Chakraborty sent to Anik Datta dated 19.2.2019, annexed as **ANNEXURE P/24 (pages 81 – 82 )**

31. Viewers have also expressed concern about the violation of their fundamental right to watch the film. Articles and essays are being written about the withdrawal of the Film.

Copy of news article titled 'Actors Protest Film Pull-Out' in The Telegraph - Metro, dated 20.2.2019, annexed as **ANNEXURE P/25 (pages 83 – 85 )**

Copy of news article titled Protests Over Bhubishyoter Bhoot Getting Removed from Theatres in West Bengal

Gaining Ground on tv18.com, dated 20.2.2019, annexed as **ANNEXURE P/26 (pages 86 – 88 )**

Copy of news article titled 'Exit the Ghost' in The Statesman dated 21.2.2019, annexed as **ANNEXURE P/27 (pages 89 - 90 )**

#### URGENT REDRESS SOUGHT

32. Petitioners are aggrieved that their Film remains obstructed from exhibition in most cinema halls in Kolkata. The State of West Bengal is misusing police power in a highly back-handed and arbitrary manner, and is acting as a 'super-censor' sitting atop the CBFC, violating the Petitioners' fundamental rights guaranteed under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Indian Constitution through the Kolkata Police of the Department of Home.

33. In light of their proposed national launch, Petitioners are invoking the jurisdiction of this Hon'ble Court in order to be able to effectuate their right to exhibit the film not only in the State of West Bengal but also in other States throughout the country by preferring this Writ Petition under Article 32 of the Constitution of India with a view to avoid multiplicity of proceedings by requiring to seek reliefs in different states.

34. Petitioners accordingly seek urgent redress from this Hon'ble Court to restore their fundamental rights under Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution of India, viz. their right to exhibit their film in light of the Certificate granted by the CBFC and the settled law in this regard with respect to the right to freedom of speech and expression, the right against arbitrary action by the State, the right to livelihood and to pursue any occupation or trade.

35. Petitioners urge that P2 has suffered huge loss to livelihood and irrevocable hardship as the film has been unable to earn much due to such obstruction of the film from theatrical release, as a film is known to earn its maximum revenues in the first few weeks of its release in cinema theatres.

#### UNDERTAKING

36. Petitioners state that they have not filed any other petition seeking the reliefs sought in this petition, before this court or any other court.

GROUNDS

- A. Because the sudden and abrupt obstruction to exhibition of the Film 'Bhobishyoter Bhoot' by R1 through R2 and R3 blatantly violates the Petitioners' right to exhibit the said Film as it has obtained a UA Certificate for public exhibition issued by the concerned competent authority, the Central Board of Film Certification (CBFC),
  
- B. Because the obstruction to exhibition of the CBFC certified Film 'Bhobishyoter Bhoot' by R1 through R2 and R3 amounts to a subversion of certification issued by the competent authority and the Rule of Law,
  
- C. Because the obstruction to exhibition of the Film by R1 through R2 and R3 is a wilful and defiant violation of Supreme Court rulings that have settled that once a film has been cleared by the CBFC, it can neither be subjected to further censorship nor can the State take recourse to 'law and order' concerns to stop its exhibition,
  
- D. Because the attempts to interfere by the State even prior to the Film's release by insisting on it being previewed by the State Police on some unfounded basis, is also a violation of Petitioners' fundamental rights and a subversion of the CBFC Certificate,

- E. Because it is settled law per (2011) 8 SCC 372 Prakash Jha Productions & Anr. v Union of India & Ors., (2018) 1 SCC 770 Manohar Lal Sharma v Sanjay Leela Bhansali & Ors. , etc. while considering the role of the CBFC under the Cinematograph Act, that once an expert body has viewed a film and considered the impact of the film on the public and cleared it for release it is no excuse to say that there may be a law and order situation and it is for the State Government concerned to see that law and order is maintained.
- F. Because it is settled law per (2018) 1 SCC 770 Manohar Lal Sharma v Sanjay Leela Bhansali & Ors. that the freedom of the individual is of utmost importance in a democratic society and can be deprived only by due process of law
- G. Because it is settled law per the aforementioned rulings and the order passed in (2018) 1 SCC 761 Via Com 18 Media Private Ltd. & Ors. v Union of India & Ors. W.P.(C) No. 36/2018 that once the CBFC has granted certification, it is not for any other public authority to interfere with it.
- H. Because R1 ought not to be allowed to stop exhibition of the film 'Bhobishyoter Bhoot' through R3 and R2 in the aforementioned back-handed manner by such deliberate and

calculated avoidance of any written order or clarification to evade due process,

- I. Because until the Film 'Bhobishyoter Bhoot' can be exhibited as per the UA certificate granted to it, the fundamental rights to freedom of speech and expression guaranteed to P2 and P3 under Article 19(1)(a) of the Indian Constitution will continue to remain gravely violated,
  
- J. Because until the film can be exhibited in accordance with the UA certificate granted to it, P2's right to practise any occupation, trade or profession and to earn his livelihood under Articles 19(1)(g) and 21 of the Indian Constitution will continue to be denied to him,
  
- K. Because the whimsicality and arbitrariness of the Government of West Bengal through Kolkata Police and the Department of Home is in gross violation of Article 14 of the Constitution of India guaranteed to the Petitioners,
  
- L. Because the obstruction by R1 through R2 and R3 is a violation of the principles of democracy, constitutional principles and the Rule of law that the State is duty-bound to uphold,

M. Because the State ought to be required to take immediate remedial steps asit has openly and wilfully trampled upon the Petitioners' fundamental rights in utter disregard to the law of the land,

N. Because it is the duty of the State to uphold law and order instead of subverting it through such unlawful obstruction.

#### PRAYERS

Petitioners accordingly seek a writ of mandamus or any other writ, order or direction from this Hon'ble Court under Article 32 of the Constitution of India:

- A. Directing R1, R2 and R3 to stop obstructing and causing any obstruction in any manner whatsoever, to the unhindered exhibition of the film 'Bhobishyoter Bhoot' (Future Ghosts)
  
- B. Directing R1, R2 and R3 to abide by the Certificate issued by the CBFC (Central Board of Film Certification) in letter and spirit,

- C. Directing R1, R2 and R3 to provide police protection to the persons who are involved in the film Bhubishyoter Bhoot and the audience watching the film, whenever sought for or necessary,
- D. Directing R1, R2 and R3 to uphold the Rule of law, and law and order, with regard to the public exhibition and viewing of the film 'Bhubishyoter Bhoot' (Future Ghosts),
- E. Any other writ, direction or order deemed fit by this Hon'ble Court.

Filed by

DRAWN BY:

INDIRA UNNINAYAR  
(Advocate)

DRAWN ON: 4.3.2019

FILED ON: 5.3.2019

Place: Delhi

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