

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

TUESDAY, THE 23RD DAY OF MARCH 2021 / 2ND CHAITHRA, 1943

WP(C).No.7543 OF 2021(P)

PETITIONERS:

- 1 SANDEEP MEHTA  
S/O.ASHOK KUMAR MEHTA, RESIDING AT FLAT NUMBER 1,  
FIRST FLOOR, KEGEYES KAVERI APPARTMENT, CRESCENT  
STREET, ARCHBISHOP MATHIAS AVENUE, RA PURAM, CHENNAI-  
600028, REPRESENTED BY HIS POWER OF ATTORNEY HOLDER  
MR.COLLEEN PETRIZ.
- 2 SANY FRANCIS,  
S/O.K.C.FRANCIS, RESIDING AT KATTRUKUDIYIL HOUSE,  
HOUSE NO.50, RMV ROAD, ELAMAKKARA, KOCHI-682026.
- 3 K.V.JOSE,  
S/O.K.P.VARKEY, KAKKANATTU HOUSE, PERINGAZHA,  
PERUMBALLOOR, MUVATTUPUZHA-686673.

BY ADVS.

SRI.SANTHOSH MATHEW  
SRI.ARUN THOMAS  
SRI.JENNIS STEPHEN  
SRI.VIJAY V. PAUL  
SMT.KARTHIKA MARIA  
SRI.ANIL SEBASTIAN PULICKEL  
SMT.DIVYA SARA GEORGE

RESPONDENTS:

- 1 UNION OF INDIA  
MINISTRY OF INFORMATION AND BROADCASTING, ROOM  
NO.552, A WING, SHASTRI BHAWAN, NEW DELHI-110001,  
REPRESENTED BY ITS SECRETARY.
- 2 THE CHIEF EXECUTIVE OFFICER,  
CENTRAL BOARD OF FILM CERTIFICATION, FILMS DIVISION  
COMPLEX, PHASE-1 BUILDING, 9TH FLOOR, DR.G.DESHMUKH  
MARG, MUMBAI-400026.
- 3 THE REGIONAL OFFICER,  
CENTRAL BOARD OF FILM CERTIFICATION , 1ST FLOOR,  
CHITRANJALI STUDIO COMPLEX, TIRUVALLUM,  
THIRUVANANTHAPURAM-695027.

- 4 THE CHAIRMAN,  
CENTRAL BOARD OF FILM CERTIFICATION, FILMS DIVISION  
COMPLEX, PHASE-I BUILDING, 9TH FLOOR, DR.G.DESHMUKH  
MARG, MUMBAI-400026.
  
- 5 MR.ABRAHAM MATHEW,  
AGE AND FATHERS NAME NOT KNOWN TO THE PETITIONERS,  
C/O.M/S.ABAAM MOVIES, SOUTH BRIDGE AVENUE, B,  
KOCHI, 2ND CROSS ROAD, ERNAKULAM-682036.

ADV.SRI.JAISANKER.V.NAIR,CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
23.03.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**JUDGMENT**

**Dated this the 23rd day of March 2021**

The writ petition is filed seeking the following reliefs:

*"(i) Issue a writ of declaration or any other appropriate writ or order or direction, declaring that in the light of the judgment in KS Puttuswamy (Supra), the issuance of Ext.P3 certification for the film Maradu 357 based on a live story without hearing the petitioners is a violation of their fundamental rights;*

*(ii) Issue a writ of mandamus or any other appropriate writ or order or direction, directing the 1<sup>st</sup> respondent to revoke Ext.P3 certificate for the film Maradu 357 issued to the 5<sup>th</sup> respondent by the 3<sup>rd</sup> respondent;*

*(iii) Issue a writ of mandamus or any other appropriate writ or order or direction, directing the respondents No.1 & 4 to re-examine the film Maradu 357 in the light of the objections raised by the petitioners vide Ext.P7 representation;*

*(iv) Issue a writ of mandamus or any other appropriate writ or order or direction, directing the 3<sup>rd</sup> respondent to recall Ext.P3 certificate for the film Maradu 357 issued to the 5<sup>th</sup> respondent;*

*(v) Issue a writ of mandamus or any other appropriate writ or order or direction, directing the respondent No.1-3 to consider*

*and pass orders on Ext.P7, within a time period stipulated by this Honourable Court;  
(vi) Grant such other reliefs which are just and necessary in the interest of justice."*

2. The petitioners are aggrieved by Ext.P3 censor certificate issued in favour of the 5<sup>th</sup> respondent. It is stated that the petitioners have submitted Ext.P7 representation before the respondents 1 to 3 invoking the provisions contained in Section 5E and 6 of the Cinematograph Act and Rule 32 of the Cinematograph (Certification) Rules, 1983. It is pointed out that under Section 6 of the Cinematograph Act, the Central Government is vested with revisional powers either on its on motion or otherwise, at any stage in respect of certification of film by the Board. Under Section 5E also, the Central Government is vested with powers either to suspend or revoke a certificate granted by the Board. According to the petitioners, Ext.P3 certificate is issued without hearing the petitioners and

there is no provision for hearing anybody else at the time of issuance of the certificate, other than the applicant.

3. I heard Sri.Santhosh Mathew, the learned counsel appearing for the petitioners, Sri.Jayasankar V.Nair, the learned CGC and Sri.C.C.Thomas, the learned Senior counsel who entered appearance on behalf of the 5<sup>th</sup> respondent.

4. Rule 32 of the Cinematograph (Certification) Rules, 1983 reads as follows;

**"32. Re-examination of certified films.-**

(1) Where in respect of a film which has been certified for public exhibition, any complaint is received by the Board, the same shall be forwarded to the Central Government.

(2) The Central Government may, if it considers it necessary so to do, direct the Chairman to re-examine any film(in respect of which a complaint has been received by it directly or through the Board) in such manner and with such assistance as may be specified in the direction.

(3) The Chairman may, for the purpose of re-examination aforesaid, require by written notice the person who made the application for certification of the film or the person to whom the rights of ownership or distribution in the film have passed, to arrange at his expense to

*deliver a print of the certified film to any specified Regional Officer within such time as may be specified in the notice for the purpose of re-examination.*

*(4) The place, date and time of such re-examination shall be determined by the Chairman.*

*(5) The Chairman shall forward his opinion together with the print of the film in relation to which a certificate was issued earlier to the Central Government who may after such enquiry as it deems fit, pass such orders thereon in exercise of the revisional powers under section 6.*

*(6) The provisions of this rule shall apply only in cases where the revisional powers are exercisable by the Central Government under section 6."*

5. As Ext.P7 can be treated as a petition filed either under Section 5E or Section 6 of the Cinematograph Act read with Rule 32 of the Cinematograph Rules, 1983, it is only appropriate that the 1<sup>st</sup> respondent considers Ext.P7 petition in accordance with law.

6. Therefore there shall be a direction to 1<sup>st</sup> respondent to consider Ext.P7 representation after affording an opportunity of hearing to the petitioners as well as the 5<sup>th</sup> respondent in accordance with the procedure prescribed under

the Rules and to take a decision thereon as expeditiously as possible and at any rate, within a period of four weeks from the date of receipt of a copy of the judgment and to communicate the same to the parties.

7. The learned Senior counsel appearing for the 5<sup>th</sup> respondent undertakes that till orders are passed on Ext.P7, the film will not be released in any format. This is recorded.

The writ petition is accordingly disposed of.

sd/-  
**P.V.ASHA**  
**JUDGE**

DM

**APPENDIX**

**PETITIONERS' EXHIBITS:**

EXHIBIT P1 TRUE COPY OF THE JUDGMENT IN  
B.A.NO.8399/2019 DATED 29.06.2020.

EXHIBIT P1 (A) TRUE COPY OF THE JUDGMENT IN  
B.A.NO.8380/2019 DATED 25.11.2019.

EXHIBIT P1 (B) TRUE COPY OF THE JUDGMENT IN  
B.A.NO.8360/2019 DATED 11.12.2019.

EXHIBIT P2 TRUE COPY OF THE SCREENSHOTS OF THE  
POSTERS OF THE FILM MARADU 357 WHICH  
ARE AVAILABLE ON THE OFFICIAL  
FACEBOOK PAGE OF THE FILM.

EXHIBIT P3 TRUE COPY OF THE CENSOR CERTIFICATE  
ISSUED FOR MARADU 357 DATED  
25.01.2021 IN FAVOUR OF THE 5TH  
RESPONDENT.

EXHIBIT P4 TRUE COPY OF THE ORDER OF THE MUNSIFF  
COURT II, ERNAKULAM DATED 01.03.2021  
IN I.A.NO.2/2021 IN O.S.NO.186/2021.

EXHIBIT P5 TRUE COPY OF THE ORDER OF THE 1ST  
ADDITIONAL MUNSIFF COURT, ERNAKULAM  
DATED 03.03.2021 IN I.A.NO.6 OF 2021  
IN O.S.NO.186/2021.

EXHIBIT P6 TRUE COPY OF THE ADDITIONAL REPLY  
DATED 19.03.2021 FILED BY THE  
PETITIONERS AFTER VIEWING THE FILM.

EXHIBIT P7 TRUE COPY OF THE REPRESENTATION  
BEFORE THE RESPONDENTS NO.1-3 DATED  
20.03.2021.

EXHIBIT P8 TRUE COPY OF THE ORDER OF THE  
HONOURABLE SUPREME COURT DATED  
27.09.2019 IN MA.NO.1808-1809 OF  
2019.

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

PA TO JUDGE