

**BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL**

**06.10.2020**

**Appeal No. 06/2020**

**Present : CHIEF JUSTICE (RETD.) MANMOHAN SARIN,  
CHAIRPERSON, FCAT**

**MS. MADHU JAIN, MEMBER, FCAT**

**MR. SHEKHAR IYER, MEMBER, FCAT**

**IN THE MATTER OF:**

**TURNER INTERNATIONAL INDIA PVT. LTD.                      ...APPELLANT**

**VERSUS**

**CENTRAL BOARD OF FILM CERTIFICATION**

**(CBFC), MUMBAI    ...RESPONDENT**

**APPEAL UNDER SECTION 5C OF THE CINEMATOGRAPH ACT, 1952 (37 OF  
1952) AGAINST THE DECISION OF CENTRAL BOARD OF FILM CERTIFICATION  
(CBFC) IN RESPECT OF ENGLISH FILM "JOKER"**

**FOR THE APPELLANT: JAYA GOYAL, ADVOCATE**

**FOR THE RESPONDENT: MAHESH KUMAR, RO CBFC, DELHI**

**ORDER**

**JUSTICE MANMOHAN SARIN**

1. This is an appeal preferred by M/s Turner International India Pvt. Ltd. through its Director, Mr. Raas Taneja against CBFC's Impugned Order bearing No. 2A011205202000013 dated 10.08.2020 regarding refusal for certification for satellite viewing of the film "Joker" (English). CBFC held that the film "Joker"

*MS Sarin*

(English) was suitable for restricted public exhibition. The reason and rationale given for grant of 'A' certificate is — "The Film has dark, disturbing and extremely violent theme and narrative, surrounding a character with mental illness. The storyline, especially in the climax part, tends to justify violence and criminal behaviour by the protagonist (playing anti-hero) and is not likely to be suitably appreciated by children. The Film may also create lasting impression (fear) in the impressionable minds of children about people with the slightest of mentally irrational and ill behaviours. Therefore, in the light of Guidelines 1(a), 1(c), 1(d), 2(i), 2(iii)(b), 2(iv), 2(xvii), 3(i) and 3(ii), the Film is refused for children viewing (UA/U).

2. The Appellant had earlier applied for certification for theatrical release and CBFC had granted 'A' certificate vide certificate No. DFL/3/59/2019-MUM dated 23.9.2019.
3. Thereafter, the Appellant had applied to CBFC on 14.5.2020 seeking permission for unrestricted public exhibition via satellite telecasting offering 58 voluntary mutings and deletions as given at S.No.1 to 58 (Annexure "B") of the appeal memorandum in relation to the film "Joker" with English subtitles. The Examination Committee of the CBFC vide impugned Order dated 10.8.2020 held that the film is not suitable for unrestricted public exhibition for the reasons noted above in Para No. 1. The Appellant is aggrieved by the impugned order since the category of certificate requested from CBFC was 'U/A' for satellite telecast.
4. The appellant claims excellent credentials for producers, directors as well as the film. The film, it is stated, has already had a very successful run in Indian theatres. The Film premiered at the 76th Venice International Film

*M. S. Sanyal*

Festival where it received an eight-minute standing-ovation and was honoured with the Golden Lion Award. The Film has garnered universal critical acclaim and had the most nominations (eleven) at the 92nd Academy Awards, including Best Picture.

5. While the appellant claims that the universal acclaim and laurels won by the movie are testimony to its acceptance by the audience and it being in conformity with the values of the society. The above argument completely overlooks that, even internationally, in almost all jurisdictions it has received certification for restricted/adult viewing.
6. Learned Counsel for the Appellant, Ms. Jaya Goyal, submitted that the CBFC had failed to appreciate the theme of the film in its proper perspective. The film represents the story of a person mentally challenged from childhood, who suffers from a peculiar/unusual disease/ailment or challenged condition. The moment the person is nervous or disturbed, it results in a condition where he goes into peals of laughter. Normally, a person under stress or tension would be quiet and pensive but here, because of the ailment, he bursts out laughing. This brings him into conflict with the normal behaviour and functioning of the common people. She submits that the intention and theme of the film was to create empathy for the person rather than projecting mindless violence by the mentally challenged person.
7. Learned Counsel also laid considerable emphasis on the right of freedom of expression and creativity being given full play. She submitted that it was a difficult theme handled with ingenuity which resulted in the film being acclaimed internationally and being a recipient of numerous awards as listed in the appeal memorandum. The violence which was projected was essential to the theme of the story. She relied on the following judicial pronouncements:

MS Goyal

1. ***K.A. Abbas Vs. The Union of India and Ors; (1970) 2 SCC***
2. ***Bobby Art International and Ors. Vs. Om Pl Singh Hoon & Ors.; AIR 1996 SC 1846***
3. ***Director General, Directorate General of Doordarshan and Ors. vs. Anand Patwardhan and Ors; (2006) 8SCC 433***
4. ***Phantom Films Pvt. Ltd. and Ors. Vs. The Central Board of Film Certification and Ors.; 2016(4) ABR 593***
5. ***Nachiketa Walhekar Vs. Central Board of Film Certification & Anr.; (2018) 1 SCC 778***

submitting that the artistic creativity and at times violence was required to be depicted for effective presentation and projection. To further buttress her argument, the Appellant's Counsel referred to the prevalent norms and standards where adolescent children were exposed to unregulated violence and sex scenes on numerous Over-the-top (OTT)/digital media streaming platforms without there being any restrictions. However, this would be a matter outside the domain and jurisdiction of this statutory Tribunal.

8. There is no quarrel with the principles laid down in the authorities cited, it is the application of those principles which has to be considered in the factual context. It is true that several scenes depicting violence have been allowed, considered from the contextual representation and picturisation while similar violent scenes may be found pointless in another movie and hence disallowed.
9. Seeking to draw support from domestic cinema, she contended that there were several Hindi films and shows the content of which is horrifying, portraying vulgarity, murders, violence and brutality. In an attempt to persuade us, she submitted that the movie being an English one, it would not be seen by the masses but by and large be restricted to those familiar with the


*MS. Sonu*


English language and having a certain educational and societal background. Further, she submitted that if U/A certificate was granted with parental caution, it would be telecast only in the evening hours and thereby avoiding the bulk of children watching it. The audience being confined, by and large, to an adult audience.

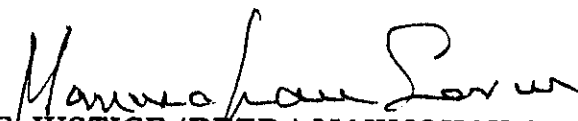
10. The movie was screened before us and was carefully viewed. The movie undoubtedly portrays the life of a character who, because of his affliction and disease, indulges in mindless and excessive violence, shooting and killing people without any reason and appears to be satisfied. The CBFC has given tenable grounds and good reasons in para 5 (unnumbered) of the impugned order in granting of 'A' certificate. We find ourselves in agreement with the findings of the CBFC that such projection of violence and brutality in the manner it has been done can leave lasting impression on the minds of children. Besides, giving them a distorted view of those who are mentally challenged or afflicted. The voluntary cuts proposed and carried out by the appellant numbering 58 are of a total duration of 0.38 secs and are mostly muting of cuss words. These are cosmetic in nature and would not dilute the overall impact of the film. We have also noticed that the film was duly granted 'A' certificate for theatrical release and the said position was accepted by the Appellant.
11. Mr. Mahesh Kumar, RO CBFC, Delhi, submitted that normally for a mentally challenged individual, the attitude of others with whom he interacts is expected to be sympathetic and respectful of his needs. However, in this case the character is portrayed in a manner coupled with reckless shooting without any provocation or rhyme or reason, which should not be generating any empathy or sympathy towards him. However, the Audience is shown as applauding and cheering the killings. These could have adverse consequences on impressionable minds.

1/5/2019

12. We tend to agree that the film glorifies violence and in case it is seen by non-adults, it would have lasting effect on their impressionable minds. Contrary to the submissions of the appellant's counsel that the movie was intended to generate empathy it is seen that the movie depicts the population lauding violence and the character is receiving appreciation for the same. It therefore, is likely to produce an opposite effect. The mental complexities that are sought to be projected would appear to be difficult for non-adults to comprehend. We are of the view that considering all relevant factors the movie has been rightly certified for 'A' viewing only and is unfit for universal satellite viewing. In these circumstances, we find no merit in this appeal.

  
**Ms. MADHU JAIN,**  
**MEMBER, FCAT**

  
**Mr. SHEKHAR IYER,**  
**MEMBER, FCAT**

  
**CHIEF JUSTICE (RETD.) MANMOHAN SARIN,**  
**CHAIRPERSON, FCAT**