BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL

26.08.2020

Appeal No. 3/2020

Present: CHIEF JUSTICE (RETD.) MANMOHAN SARIN, CHAIRPERSON, FCAT
MR. SHEKHAR IYER, MEMBER, FCAT
MR. SAIBAL CHATTERJEE, MEMBER, FCAT

IN THE MATTER OF:

JITEN G. HEMDEV ..... **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 **TAMIL DUBBED VIDEO FILM "THE GREEN INFERNO"**

FOR THE APPELLANT: JITEN G. HEMDEV

FOR THE RESPONDENT: TUSHAR KARMARKAR [RO CBFC, MUMBAI]

ORDER

(APPEAL HEARD THROUGH VIDEO-CONFERENCE)

Chief Justice (Retd.) Manmohan Sarin

This Appeal is preferred against the impugned order dated 13.01.2020 passed by the Examining Committee of Central Board of Film Certification, granting U/A Certification, subject to the six excisions/modifications/insertions for the film '**The Green Inferno**' (Tamil dubbed video).

2. The movie was screened and viewed by the Tribunal. We have heard Mr. Jiten G. Hemdev Appellant and Mr. Tushar Karmarkar on behalf of the CBFC in opposition to the excisions and modifications directed.

3. For facility of reference, the relevant portions of the impugned order are being reproduced below.

"Reasons for grant of "UA" Certificate to the film subject to the following excisions/modifications":

_UA: for strong contents of violence and gory

Sr. No.	Insertions/Excisions/ Modificaiton	Location	Description of Excisions/Modification	Guidelines
1	Insertion	In all smoking scene	Insert anti-smoking message on the main picture frame (and not below it), in all smoking scenes	2(vi-a)
2.	Insertion	Beginning	Insert disclaimer with Tamil transcript All names, characters and incidents portrayed in this film are work of fiction and any similarity to any person (living or dead) is purely coincidental and unintentional. The makers neither intend to hurt the feelings/sentiments nor mean to defame or show in poor light, any person, community, or region. (on a separate slate, add bilingual warning disclaimer as follows) The film may contain some visuals that maybe disturbing. Viewers discretion is advised.	1(a), 2(xviii), 3
3.	Excisions	44.53-46.42	At 44.53-46.42, Reduce by 70 per cent the scenes of torture while abducting the travelers.	2(iv)

4.	Excisions	..	Remove the scenes of back and side nudity at a0 1.02.50 b) at 1.12.245	2(vii)
5.	Excisions	1.03.36-1.03.45	Remove the scene of killing of woman by hitting and the fear/horror associated with it, from 1.03.36-1.03.45	2(iv)
6.	Excision	1.13.18	Remove the scene of pulling/cutting of mouth/ tongue at 1.13.18	2(iv)

4. The first insertion for disclaimer related to statutory warning with regard to smoking while the second insertion is in respect of the film's characters and incidents being fictional and there being no intention to hurt the feelings and sentiments of any community or region. The Appellant has no grievance with regard to insertions of disclaimers as directed.

5. The main ground of the Appellant's challenge in Appeal is that the English and Hindi version of the film titled '**The Green Inferno**' have already been granted 'U/A' Certification with caution for satellite viewing. However when the Appellant applied for grant of certification for the film's Tamil version having the same scenes which had been approved for the English and Hindi version, the CBFC passed the impugned order directing the excisions has noted above.

6. Mr. Jiten G. Hemdev submitted before us that a horror film dealing with subject of cannibalism, will necessarily have violent scenes. The CBFC while approving the version for satellite viewing in "English" and "Hindi" had already directed excisions which had been carried out by the Appellant. Accordingly, there was no rationale for additional cuts now being imposed for the same scenes in Tamil version.

7. Mr. Tushar Karmarkar, Regional Officer, CBFC, Mumbai in defence of the impugned order, submitted that the Present Examining Committee on viewing of the Tamil version of the film was of the view that the scenes of violence eg. cutting of tongue etc. needed to be excised. The Present Examining Committee was competent to take a different view even if such scenes had escaped or had erroneously been approved by the Previous Committee. He submitted that an erroneous decision needed to be corrected.

8. We may at this stage note that the Appellant had filed an appeal before this Tribunal in respect of this film '**The Green Inferno**' way back in the year 2016, where the Certification for the film had been refused by the CBFC. The Tribunal while deciding Appeal No. 2/23/2016 titled Jiten G. Hemdev Vs. Central Board of Film Certification (CBFC) vide its order dated 6th July 2016 directed 'A' Certification

subject to a disclaimer and five excisions as directed in the said order. It appears that subsequently the Appellant made further cuts and got approval for satellite viewing as recorded by us earlier with 'U/A' certification with caution.

9. We have viewed the film and also heard the Appellant and the CBFC's Representative whose submissions have been noticed hereinbefore. Apart from the viewing the film in its entirety, we have specifically considered and gone over the recommended cuts. We find that given the background context and the theme and story of the film, the excisions as directed are not required or justified. In the normal course with the above theme and story, there would be scenes of violence when hitting for killing, screaming and resistance while resisting abduction. There is no explicit scene of cutting of tongue as mentioned in the impugned order. It is just pulling off a contraption worn by the native woman, with blood spilling. In other words a suggestion of the injuries being sustained. Similarly, there is hardly any back nudity. It is a fleeting scene showing bare back with a brassiere. Considering that the same version has also been approved for English and Hindi version, we find no reason to take a different view. This is also not a case where any issue of hurting community sentiments or provincial sensitivity arises for us to consider adoption of a stricter criteria.

10. The Appeal is allowed and the excisions as directed in the impugned order are set aside with the appellant abiding by the disclaimers as directed by way of insertions.

Shekhar Iyer

SHEKHAR IYER
(MEMBER, FCAT)

SAIBAL CHATTERJEE
MEMBER, FCAT

Manmohan Sarin

CHIEF JUSTICE (RETD.) MANMOHAN SARIN
CHAIRPERSON, FCAT