

47

2111/2014-FCAT

BEFORE THE FILM CERTIFICATION APPELLATE TRIBUNAL

Thursday, 11th September, 2014

PRESENT: SHRI LALIT BHASIN, CHAIRPERSON

IN THE MATTER OF:

PANKAJ BUTALIA, PRODUCER

.....APPELLANT

VERSUS

CENTRAL BOARD OF FILM CERTIFICATION, DELHI

.....RESPONDENT

APPEAL UNDER SECTION 5-C OF THE CINEMATOGRAPH ACT, 1952 (37 OF 1952) AGAINST THE DECISION OF CENTRAL BOARD OF FILM CERTIFICATION (CBFC) IN RESPECT OF KASHMIRI-ENGLISH DOCUMENTARY "THE TEXTURES OF LOSS".

Appearances:

Pankaj Butalia, Producer

.....for the Appellant

Ms A Dhanalaxmi

.....for CBFC

ORDER

1. This is an Appeal under Section 5-C of the Cinematography Act, 1952 (37 of 1952) filed by Shri Pankaj Butalia, Producer.
2. Shri Vipin Gogia informed the Secretary, FCAT telephonically that he would not attend today's hearing.
3. The Chairman would have adjourned the matter but keeping in view the expense incurred by the appellant in coming all the way from Chandigarh, the parties have desired that the Chairman should proceed with the hearing and viewing of the movie.

4. The Chairman has gone through the provisions of the Cinematograph Act, 1952 as well as Rules thereunder. Unlike the provisions relating to a quorum for a meeting of the CBFC, there is no provision for a quorum as far as the FCAT is concerned. Keeping in view the legal provisions as well as the request of the parties and in the interest of justice and expeditious disposal of the appeal the Chairman decide to proceed with the hearing singly.
5. The Tribunal has heard Mr. *Pooja Singh* who is Producer as well as their *director*. Shrimati A. Dhanalaxmi, Regional Officer, Hyderabad I is present on behalf of the Central Board of Film Certification, Mumbai.
6. The Tribunal has viewed the film and the decision of the Tribunal with regard to the cuts suggested by CBFC is as under:
 - (a) The disclaimer as suggested by CBFC is in order and the Tribunal does not find any justification to interfere with the recommendation of CBFC.
 - (b) The 2nd suggested cut from 00:23:28 to 00:28:37 "Jehad is all right----- for them" to "jehad is all right" is not at all justified. What has been missed out by CBFC is that real Jehad means doing something for the benefit of the society like educating children, health care etc. There is a clear message in this sentence which seems to have been overlooked by CBFC because the word Jehad is used. This recommendation is set aside.
 - (c) The 3rd suggested cut from 00:39:24 to 00:39:36 from "With Disproportionate Violence" line from textual graphics/plate has been recommended by CBFC to be deleted. The expression "With Disproportionate Violence" does not do justice to the role of the

4. The Chairman has gone through the provisions of the Cinematograph Act, 1952 as well as Rules thereunder. Unlike the provisions relating to a quorum for a meeting of the CBFC, there is no provision for a quorum as far as the FCAT is concerned. Keeping in view the legal provisions as well as the request of the parties and in the interest of justice and expeditious disposal of the appeal the Chairman decide to proceed with the hearing singly.
5. The Tribunal has heard Mr. *Pankaj Sahay* who is Producer as well as their *director*. Shrimati A. Dhanalaxmi, Regional Officer, Hyderabad I is present on behalf of the Central Board of Film Certification, Mumbai.
6. The Tribunal has viewed the film and the decision of the Tribunal with regard to the cuts suggested by CBFC is as under:
 - (a) The disclaimer as suggested by CBFC is in order and the Tribunal does not find any justification to interfere with the recommendation of CBFC.
 - (b) The 2nd suggested cut from 00:23:28 to 00:28:37 "Jehad is all right----- for them" to "jehad is all right" is not at all justified. What has been missed out by CBFC is that real Jehad means doing something for the benefit of the society like educating children, health care etc. There is a clear message in this sentence which seems to have been overlooked by CBFC because the word Jehad is used. This recommendation is set aside.
 - (c) The 3rd suggested cut from 00:39:24 to 00:39:36 from "With Disproportionate Violence" line from textual graphics/plate has been recommended by CBFC to be deleted. The expression "With Disproportionate Violence" does not do justice to the role of the

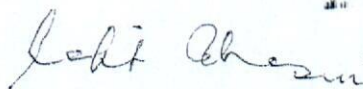
(5)

security forces/police who faced a storm of stone throwing. The action of the forces was partly in self defense and secondly to deter occurrence of stone throwing incidents. The Tribunal accordingly agrees with CBFC that the expression "With Disproportionate Violence" should be deleted as this could have demoralizing effect on the security forces /police who were actually victims of stone throwing incidents.

(d) The 4th suggested cut from 00:42:01 to 00:42:11 from "He had small-.....there can tell". There is nothing objectionable in the sentence as mentioned above and we see no justification for deleting this sentence. This is allowed to be retained.

(e) The 5th suggested cut from 00:44:04 to 00:44:15 from "I beg Allah-----all their families". This is most objectionable and CBFC has rightly directed this to be deleted. This sentence speaks against India as a nation and uses expression such as India be damned. We agree with CBFC for deletion of this as it is in violation of the Guidelines for exhibition of film for public exhibition and also borders on anti-national statement.

7. We order accordingly. Parties to be informed accordingly.



(LALIT BHASIN)
CHAIRPERSON, FCAT