

ITEM NO.6

COURT NO.1

SECTION X

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Writ Petition (Civil) No.1119/2017

NACHIKETA WALHEKAR

Petitioner(s)

VERSUS

CENTRAL BOARD OF FILM CERTIFICATION & ANR.

Respondent(s)

Date : 16-11-2017 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE  
HON'BLE MR. JUSTICE A.M. KHANWILKAR  
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

For Petitioner(s)

Mr. Pushkar Sharma, Adv.  
Mr. Divyesh Pratap Singh, AOR  
Mr. Suraj Prakash Singh, Adv.  
Mr. Kunwar Aditya Singh, Adv.  
Ms. Shivangi Singh, Adv.  
Mr. Ajeet Singh, Adv.  
Mr. Varun Mishra, Adv.  
Mr. Abdul Qadir, Adv.  
Mr. F.A. Ayyub, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following  
O R D E R

Heard Mr. Pushkar Sharma, learned counsel for the petitioner.

In this writ petition preferred under Article 32 of the Constitution of India, the petitioner has prayed for issue of a writ of mandamus or direction or passing of appropriate order for staying of the nation wide release of a

film, namely, "An Insignificant Man" on 17<sup>th</sup> November, 2017, as it contains a video clip pertaining to the petitioner. It is submitted by Mr. Sharma that the video clip was originally shown by the media, but after a complaint case was filed at Patiala House Courts, New Delhi, that was not shown and, therefore, such a film should not have been granted the certificate by the Central Board of Film Certification (CBFC).

It is urged by Mr. Sharma that the petitioner has a right under the Constitution, especially under Articles 14 and 21 of the Constitution that he should not be projected in a manner in which the film is going to depict. On a query being made, learned counsel would submit that the petitioner has come to know of the same as there has been a trailer of the film on certain National channels.

The thrust of the matter is whether this Court should entertain the writ petition and pass an order of injunction directing the CBFC to delete the clip and further not to get the movie released in theaters on 17<sup>th</sup> November, 2017. It is worthy to mention that freedom of speech and expression is sacrosanct and the said right should not be ordinarily interfered with. That apart, when the respondent No.1, CBFC, has granted the certificate and only something with regard to the petitioner, which was shown in the media, is being reflected in the film, this Court should restrain itself in not entertaining the writ petition or granting injunction.

Be it noted, a film or a drama or a novel or a book is a creation of art. An artist has his own freedom to express himself in a manner which is not prohibited in law and such prohibitions are not read by implication to crucify the rights of expressive mind. The human history records

that there are many authors who express their thoughts according to the choice of their words, phrases, expressions and also create characters who may look absolutely different than an ordinary man would conceive of. A thought provoking film should never mean that it has to be didactic or in any way puritanical. It can be expressive and provoking the conscious or the sub-conscious thoughts of the viewer. If there has to be any limitation, that has to be as per the prescription in law.

The Courts are to be extremely slow to pass any kind of restraint order in such a situation and should allow the respect that a creative man enjoys in writing a drama, a play, a playlet, a book on philosophy, or any kind of thought that is expressed on the celluloid or theater, etc.

Needless to emphasize, the apprehension of the petitioner that this documentary would be used as evidence during the trial is not to be commented upon as that would be for the trial court to adjudge under the Evidence Act and we are sure, the trial court should exercise its jurisdiction in accordance with law.

In view of the aforesaid analysis, the writ petition, being devoid of merit, stands dismissed.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Assistant Registrar