

APPELLATE CIVIL

Mr. Justice Sushrut Arvind Dharmadhikari and Mr. Justice P.V. Balakrishnan

W.A. Nos.2803 and 2926 of 2025

2025 December 12

Catholic Congress .. Appellant

v.

Juby Thomas and others .. Respondents

The 1st petitioner is the producer and the 2nd petitioner, the director of the upcoming film titled "HAAL". Petitioners are aggrieved by the decision of the Central Board of Film Certification ("Board"), acting upon the recommendations of its Revising Committee and granting only restricted permission for exhibition of the film under "A" Category, with excisions and modifications. After completing the production works, the film, along with the requisite application for censorship, was submitted on the official portal of the Board on 08.09.2025. After a month, the regional officer informed petitioners that the film is not suitable for unrestricted exhibition, and permitted only restricted public exhibition with "A" certificate, subject to certain excisions. Petitioners challenged the direction in Writ Petition. The Writ petition was allowed by a learned Single Judge after watching the movie and considering the materials on record and hearing both sides, allowed the writ petition and quashed Exts.P6 decision, except excision Nos. 5 and 6, which respondents 1 and 2 have agreed to expunge. The learned Single Judge also directed the Board to issue fresh certification after completing the procedural formalities within two months of re-submission. Party respondent took appeal. Appellant contended that the excisions/modifications prescribed by the Censor Board are required to be adhered to, since those scenes are against public order, decency, and morality of the society and will not adhere to the contemporary standards of the country and the people. Appellant, by relying on a decision of this Court in **Shahan Sha A. and another v. State of Kerala** [2010 (1) K.L.J. 47], contended that High Court has confirmed the existence of the Love Jihad Movement in the State of Kerala and that, contrary to the said view, the film depicts a picture that there is no such movement in the State. In its appeal, Censor board contended that this case must not be treated as a precedent, since as per Section 5C of the Cinematograph Act, 1952 an appeal is provided to the High Court against the decision taken by the Censor Board. He also submitted that in the instant case, the appellate remedy was not invoked due to the fact that there is no nomenclature prescribed by the High Court for filing such appeals and that if writ petitions and thereafter, writ appeals are allowed challenging such orders, as in the instant case, it may result in a flood of litigation. Division bench also watched the movie. Dismissing the appeal, the Court;

Issue for Consideration

How the social impact of a movie should be assessed ?.

Constitution of India—Article 19 (1) (a) — The social impact of a movie should be judged from the perspective of an ordinary person of reasonable intelligence, rather than a hypersensitive one; social change, rather than orthodox notions of morality, must be borne in mind—The film must be judged by its overall message and not from isolated depictions of social evils and it need not comply strictly with religious requirements or be excessively moralising.

Held:

The afore dictums of the Hon'ble Apex Court thus stands to advice that the social impact of a movie is to be judged from the perspective of an ordinary person of reasonable intelligence and not of a hypersensitive person, and social change, rather than orthodox notions or what is right and moral must be borne in mind. The film must be judged by its overall message and not from isolated depictions of social evils and it need not comply strictly with religious requirements or be excessively moralising. Care must also be taken not to crucify the rights of an expressive mind, which may create characters different than an ordinary man and the judgment must be on the basis of the standards of a reasonable, strong-minded, and courageous man, having common sense and prudence and not that of a person who is hypersensitive and is having a wobbling mind. (Paragraph 12)

Case Law Cited:

- (1) I.L.R. 2025 Kerala OnLine 350—*Confirmed*.
- (2) 2010 (1) K.L.J. 47; (3) 2024 K.H.C. OnLine 6326; (4) (2018) 1 S.C.C. 778; (5) (1988) 1 S.C.C. 668; (6) (1980) 2 S.C.C. 175—*Referred to*.

Cinematograph Act, 1952 (Central Act of 37 of 1952)—Section 5C—Appeal to the High Court against order passed by Censor board shall be numbered as MFA (Cinematograph Act).

Held:

As per Section 5C of the Cinematograph Act, 1952, an appeal has been provided to the High Court, from the orders passed by the Censor Board at the instance of a person aggrieved. In the instant case, the impugned judgment would go to show that the writ petition came to be entertained by the learned Single Judge only because of the fact that this Court was not accepting such appeals due to the absence of a specific nomenclature for filing the appeal under Section 5C. The report of the Registry obtained on this aspect, which is extracted by the learned Single Judge in paragraph 9 of the judgment confirms the said fact. It is beyond doubt that when a statutory right of appeal is provided to a person, the same cannot be curtailed on technical grounds such as the one referred to above. In such circumstances, while holding that the present case will not be treated as a precedent, we hereby direct the Registry to accept and entertain appeals filed under Section 5C of the Cinematograph Act, 1952, under the nomenclature MFA (Cinematograph Act) until, a specific nomenclature is adopted by issuing appropriate notifications/modifications. We also hope that the Registry will ensure compliance of the afore order, without

much delay. (Paragraph 14)

List of Acts and Rules:

Cinematograph Act, 1952.

List of Keywords:

Social impact of movie, Ordinary person, Hyper sensitive person, Appeal against order of Censor board.

Case Arising From:

Against Judgment of Mr. Justice V.G. Arun in W.P.(C) No. 37251 of 2025 of the High Court of Kerala.

Appearance of Parties:

Smt. Mariya Rajan, Sri. Shinu J. Pillai, Smt. S. Suja, Smt. Ann Mariya John, Sri. Felix Samson Varghese and Sri. G. Sreekumar (Chelur), Sr. Panel Counsel . . . for appellant

Sri. Joseph Kodiyanthara . . . for respondents

JUDGMENT

The Judgment of the Court was delivered by **P.V. Balakrishnan, J.**—These intra-court appeals are filed challenging the judgment dated 14.11.2025 in W.P.(C)No.37251 of 2025, allowing the writ petition filed by respondents 1 and 2 herein.

2. The W.A.No.2803 of 2025 is filed by the additional 5th respondent and W.A.No.2926 of 2025 is filed by respondent Nos. 1 to 2 in W.P.(C) No.37251 of 2025.

3. The parties are hereinafter referred to as in their status in Writ Appeal No.2926 of 2025 for convenience.

4. The facts in brief, as are necessary for the disposal of these writ appeals, are as follows:

The 1st respondent is the producer and the 2nd respondent is the Director of the movie titled “HAAL”. Respondent Nos. 1 and 2 under the banner “JVJ Productions” produced the afore movie, starring Shane Nigam. Initially, it was decided to release the film for Onam, but due to unforeseen reasons, it got delayed. The movie was forwarded and Ext.P3 application was submitted before the 2nd appellant for censor certificate. The movie was played before the Censor Board on 10.09.2025 and it was informed that further communications will be issued shortly. Later, while checking the application status, respondent Nos. 1 and 2 came to know that the same has been forwarded to the Revision Committee. It was without any intimation to respondent Nos. 1 and 2, the application was forwarded to the Revision Committee and the same is illegal and arbitrary. Even though as per Ext.P5 application status it is stated that the matter is pending before the Revision

Committee, no intimations were received by respondent Nos. 1 and 2. Since the matter was delayed, respondent Nos. 1 and 2 approached this Court by filing W.P.(C) No.25576 of 2025. In the meantime, on 06.10.2025, the 2nd appellant communicated Ext.P6 decision to respondent Nos. 1 and 2 stating that the movie is not suitable for unrestricted exhibition. It was also stated that restricted public exhibition can be granted with A certificate subject to certain excisions and modifications. The decision of the 2nd appellant is illegal, arbitrary and violative of principles of natural justice; having no reasoning for curtailing the fundamental rights of freedom of speech and expression. Hence, respondent Nos. 1 and 2 filed the afore writ petition challenging Ext.P6.

5. The learned Single Judge, after watching the movie and considering the materials on record and hearing both sides, allowed the writ petition and quashed Exts.P6 decision, except excision Nos. 5 and 6, which respondents 1 and 2 have agreed to expunge. The learned Single Judge also directed the Board to issue fresh certification after completing the procedural formalities within two months of re-submission.

6. Heard Adv. Sri.Shinu J. Pillai, the learned counsel appearing for the appellant in W.A.No.2803 of 2025, Adv.G.Sreekumar (Chelur), the learned Senior Panel Counsel appearing for the appellant in W.A.No.2926 of 2025 and Adv. Joseph Kodiyanthra, the learned Senior counsel appearing for respondent Nos. 1 and 2. The movie was also viewed by us on 03.12.2025 to appreciate the facts and contentions better.

7. The learned counsel for the appellant in Writ Appeal No.2803 of 2025 contended that the excisions/modifications prescribed by the Censor Board are required to be adhered to, since those scenes are against public order, decency, and morality of the society and will not adhere to the contemporary standards of the country and the people. He, by relying on a decision of this Court in **Shahan Sha A. and another v. State of Kerala** [2010 (1) K.L.J. 47], contended that this Court has confirmed the existence of the Love Jihad Movement in the State of Kerala and that, contrary to the said view, the film depicts a picture that there is no such movement in the State. He submitted that the scenes in the movie, recorded in the court are such as stated afore, and they portray the legitimate warnings of two major communities about the movement, as unfounded. He argued that the scenes in the police station wherein the hero of the movie is subjected to harassment on the basis of his name, in the presence of school children and the forceful conversion scene of the heroine, in a religious institution are contemptuous of religious groups and defame the entire police force of the State. He further submitted that the film pictures the heads of the Christian institution making statements contrary to the policy of their community thereby, disparaging/tarnishing the image of the community.

8. The learned counsel for the appellant in Writ Appeal No.2926 of 2025 submitted that his only prayer is that this case must not be treated as a precedent, since as per Section 5C of the Cinematograph Act, 1952 an appeal is provided to the High Court against the decision taken by the Censor Board. He also submitted that in the instant case, the appellate remedy was not invoked due to the fact that there is no nomenclature prescribed by the High Court for filing such appeals and that if writ petitions and thereafter, writ appeals are allowed challenging such orders, as in the instant case, it may result in a flood of litigation.

9. *Per contra*, the learned counsel for respondent Nos.1 and 2 supported the impugned judgment and contended that there are no grounds to interfere with the same. He submitted that a movie has to be judged in its entirety from the point of view of its overall impact and that too, through the eyes of an ordinary human being. He contended that the movie does not contain any visuals/words that are contemptuous of any religion or community and if the movie is appraised in whole, only conveys the message that love has no religion and that the couples can move forward in their life, by keeping aside each of their religious tenets/culture.

10. While considering the rival contentions, it will only be apt to take note of Section 5B of the Cinematograph Act, 1952 which speaks about the guiding principles in certifying films. Section 5B reads as follows;

"5B. (1) A film shall not be certified for public exhibition if, in the opinion of the authority competent to grant the certificate, the film or any part of it is against the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or involves defamation or contempt of Court or is likely to incite the commission of any offence.

(2) Subject to the provisions contained in sub-section (1), the Central Government may issue such directions as it may think fit setting out the principles which shall guide the authority competent to grant certificates under this Act in sanctioning films for public exhibition."

By virtue of the power conferred in sub-section 2 of Section 5B, the Central Government has framed Guidelines for Certification of Films for Public Exhibition, in 1991. A perusal of Ext. P6 would go to show that excisions/modifications of certain scenes have been recommended in Sl. Nos.1 to 4 on the basis of Clause 2(xii), Clause 2(xviii), and Clause 3(i) of the afore guidelines. As per Clause 2(xii), the movie must not contain visuals or words contemptuous of racial, religious or other groups and as per Clause 2(xviii), must not contain visuals or words involving defamation of an individual or a body of individuals or contempt of court. As per Clause 3(i) the Board of Film Certification shall ensure that the film is judged in its entirety from the point of view of its overall impact.

11. Now, before delving into the question whether the excisions/modifications suggested in Sl.Nos. 1 to 4 is violative of the Guidelines or the provisions of the Act requiring interference, it would be apt to take note of the settled principles of law laid down by the Apex Court as to how the fitness of a film for public exhibition has to be considered. The Hon'ble Apex Court in the decision in **Nipun Malhotra v. Sony Pictures Films India Private Limited** [2024 K.H.C. OnLine 6326] has held that;

"25. Restraints on films are founded on principles of due process, social interest, limited application in cases of absolute necessity and clear purpose of the restraint. Among the principles which must be borne in mind when deciding the fitness of a film for public exhibition include the following: (i) Social impact of the film is judged from the perspective of an ordinary person of reasonable intelligence and not a hypersensitive person; (iii) Social change, rather than

orthodox notions or what is right and moral must be borne in mind; and (iv) The film must be judged by its overall message and not from isolated depictions of social evils."

In the decision in **Nachiketa Walhekar v. Central Board of Film Certification and Another** [2018 (1) SCC 778] the Hon'ble Apex Court held thus;

"5. 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."

Similarly the decision in **Ramesh Chotalal Dalal v. Union of India and others** [(1988) 1 S.C.C. 668], the Hon'ble Apex Court observed as follows;

"13. the effect of the words must be judged from the standards of reasonable, strong minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. This in our opinion, is the correct approach in judging the effect of exhibition of a film or of reading a book. It is the standard of ordinary reasonable man or as they say in English law "the man on the top of a clapham omnibus"

Like wise in **Raj Kapoor v. Laxman** [(1980) 2 S.C.C. 175], the Hon'ble Apex Court has held thus;

"11. Going to the basics, freedom of expression is fundamental, The censor is not the moral tailor setting his own fashions but a statutory gendarme policing films under Art. 19 (2) from the angle of public order, decency or morality. These concepts are themselves dynamic and cannot be whittled down to stifle expression nor licentiously enlarged to promote a riot of sensual display."

12. The afore dictums of the Hon'ble Apex Court thus stands to advice that the social impact of a movie is to be judged from the perspective of an ordinary person of reasonable intelligence and not of a hypersensitive person, and social change, rather than orthodox notions or what is right and moral must be borne in mind. The film must be judged by its overall message and not from isolated depictions of social evils and it need not comply strictly with religious requirements or be excessively moralising. Care must also be taken not to crucify the rights of an expressive mind, which may create characters different than an ordinary man and the judgment must be on the basis of the standards of a reasonable, strong-minded, and courageous man, having common sense and prudence and not that of a person who is hypersensitive and is having a wobbling mind.

13. While analyzing the movie in its entirety by keeping in mind the afore principles of law, we have no hesitation to find that the contentions raised by the appellant in Writ Appeal No.2803 of 2025, are totally unfounded and trumped-up. The movie as a whole depicts a love story between a Muslim boy and a Christian girl, facing opposition from their families against their union. The opposition from the respective families is on the basis of their own religious faith/beliefs. But ultimately after some drama, both the boy and the girl overcomes the hurdle with the help of a well-wisher who acts as their guardian, by convincing each of their families that they can move forward in their lives, after marriage, by keeping aside their faiths. The movie shows that religious leaders of both the communities also accept the afore view and repents their earlier actions. It is for the purpose of laying the edifice for the story depicted in the movie, and to move forward with the theme, the scenes that the Censor Board has sought excisions/modifications, have been included. The scene where the heroine, a Christian girl wearing a Muslim attire and the interrogation of the hero by a police officer in the police station, in such circumstances, cannot be considered as indecent, immoral, contemptuous, affecting public order or affecting the morale of the police force as such. Similarly, the court scene pictures only the arguments raised by the counsels on both sides in a case registered against the hero of the movie alleging commission of 'Love Jihad'. While the character portraying the public prosecutor argued the commission of 'Love Jihad' by the hero, the character portraying the counsel appearing for the hero only negated and countered the contentions and nothing more. The afore scene can never be considered as supporting or negating the existence of the movement. As regards the scene relating to the alleged conversion of the heroine, there is nothing in the movie to show that the heroine was forced to undergo such a process as alleged by the appellant. In such circumstances, we find that the contentions raised by the appellant in Writ Appeal No.2803 of 2025 are only based on the view point of a person having a hypersensitive, intolerant, and blinkered mind and hence cannot be accepted. As rightly found by the learned Single Judge, the restrictions imposed by the Censor Board undoubtedly is an unwarranted impingement on the artistic freedom guaranteed under Article 19(1)(a) of the Constitution.

14. As regards the contention raised by the learned counsel for the appellant in Writ Appeal No. 2926 of 2025, we are of the view that there is some merit in it. As per Section 5C of the Cinematograph Act, 1952, an appeal has been provided to the High Court, from the orders passed by the Censor Board at the instance of a person aggrieved. In the instant case, the impugned judgment would go to show that the writ petition came to be entertained by the learned Single Judge only because of the fact that this Court was not accepting such appeals due to the absence of a specific nomenclature for filing the appeal under Section 5C. The report of the Registry obtained on this aspect, which is extracted by the learned Single Judge in paragraph 9 of the judgment confirms the said fact. It is beyond doubt that when a statutory right of appeal is provided to a person, the same cannot be curtailed on technical grounds such as the one referred to above. In such circumstances, while holding that the present case will not be treated as a precedent, we hereby direct the Registry to accept and entertain appeals filed under Section 5C of the Cinematograph Act, 1952, under the nomenclature MFA (Cinematograph Act) until, a specific nomenclature is adopted by issuing appropriate notifications/modifications. We also hope that the Registry will ensure compliance of the afore order, without much delay.

With these observations, Writ Appeal Nos.2803 and 2926 of 2025 are dismissed.

Result of the Case:

Writ appeal dismissed.

Headnote prepared by M.S.
