

1. You mentioned having previously fought censorship several times over the years. What were those experiences like?

I have always been following the principle of “live and let live”. I like to be a patient listener to the other’s opinion; similarly I do not like to be gagged by anyone. This seemingly simple formula has however erupted many confrontational situations.

My first encounter with censorship was in --- when the Maharashtra Stage Scrutiny Board wished to ban my play in Marathi called ‘*Avadhya*’. After a prolonged fight, I was granted an ‘A’ certificate to perform without any cuts. Later in 1973 my other play in Marathi called ‘*Vasanakand*’ was banned by the Maharashtra government. Same good old grounds of “morality” and “possible law & order situation” were flashed for both the plays. No such apprehended situation was caused after the performances.

In 1975, CBFC had objected to the “thematic content” of my film in Hindi ‘*DAAYARA*’. The Board offered an ‘A’ certificate plus demanded a few cuts. My films *THAANG* & *QUEST* were bilingual versions of a story depicting man woman relationship on the background of homosexuality. In 2007, CBFC cleared the English version with an ‘A’ certificate, however recommended to ban the Marathi version. Facing this ridiculous situation was an eye opener as to the regressive mindset of the CBFC as an institution. One of the members actually told me that the sensibilities of English speaking audience is different from that of Marathi speaking audience; hence the Marathi audience needed to be more protective. When I requested them to give me the ban-order in writing, they backed off fearing a legal action from me.

2. The cause of individual films which suffer cuts or bans has been taken up time and again. What encouraged you to pursue the route of questioning the very Constitutional validity of the Cinematograph Act of 1952?

Thanks to Sandhya Gokhale, my lawyer wife, who had told me long back that unless and until the constitutional validity of certain provisions of the said Act are challenged, individual film makers will continue to face curtailment of artistic freedom. In light of the new technologies and developments, considering the paradigm shift in the mass media, it’s the need of this hour that we redefine, reclaim and resurrect contours of our individual freedoms. Law must adapt itself to cope with new situations if it has to satisfy human needs and to meet the contemporary problems of life.

In 1970, in the matter of K.A.ABBAS v/s UNION OF INDIA, a five-judge bench of the Supreme Court ruled that cinematographic films in theaters were the most influential media of mass communication affecting the social mind therefore, exercise of censorship under the said Act was valid and necessary. The social situation based on which the said decision was given is changed drastically to such an extent that the decision needs to be overruled by a larger bench of the Supreme Court. Today modern technology makes dissemination of information available in real time through a variety of media, many of which are either not regulated or if regulated, not subjected to pre-censorship.

From 1980, we had *Doordarshan* as the only public service broadcaster. Now we have more than 800 registered television channels along with 1000s of local cable channels. We have over 780 million TV viewers in India. By June 2017, the number of internet users shall reach about 450 million. With the onslaught of television and internet, we are increasingly "interfacing" to predominantly cultural data encoded in the digital form. Thus, it's no longer the 'cinema' but 'the digitized world' which is the 21<sup>st</sup> Century media machine binding the universe. The direct corollary of this is that if the content presented/exhibited/uploaded on either of these two avenues is free of censorship or pre-censorship, what is the rationale behind the same content getting cut/altered/deleted and thereby being censored when and if exhibited in a cinema hall? This amounts to discrimination barred by Article 14 of our Constitution.

Since the decision in *Abbas*, the power of certification as a means of pre-censorship has been subjected to large scale abuse owing to ambiguity and lack of clear guidelines of how the power is to be exercised. As a result, the CBFC routinely demands cuts of scenes or dialogue failing which denies certificates to films for arbitrary reasons : Remove "Maan ki Baat" from a dialogue; get a NOC from the PM's office for the title of the film "Modi Kaa Gaon", the film is unsuitable to get released since "the story is lady oriented; their fantasy about sex, audio pornography", among others. Milder abusive words were demanded to be cut from many films whereas films like *Parched*, *Saat Uchchkke*, *Udta Punjab* were cleared with an 'A' certificate but without any cuts. On 31/07/2015, the CEO of CBFC informed the Board about the audit observations made by the CAG on working of CBFC. He said that 'the audit of 2014-15 had observed that CBFC converted 172 'A' films into 'UA', and 166 'UA' films into 'U' during 2012-15, without taking any

law or provision into account. It had also observed that there were inconsistencies in the time taken by CBFC for issue of certificates to various producers.”

The Aurangabad High Court has recently set another worse precedent which was not challenged by the producers of the film ‘Jolly LLB’. After the certification of the said film by the CBFC, the Hon’ble bench demanded 4 cuts in a scene citing a possible ‘defamation to the judiciary’. Till now judiciary has played a role of a saviour of citizens’ fundamental rights. With this decision, one more predator of artistic freedom has emerged which needs to be seriously scrutinized.

3. You have challenged the pre-censorship imposed on films when there is none on content meant for television or the Internet. There have been cases of fresh cuts being demanded before the television premieres of films too (most famously Dirty Picture). Why has cinema content been subject to greater scrutiny?

See the above answer.

4. Some amendments to the Cinematograph Act had earlier been prescribed by the Mudgal Committee in 2013 and last year, by the Shyam Benegal Committee. What is your view on those recommendations, and why have they not been implemented so far?

The Mudgal Committee Recommendations did not go many miles away from the actual Act however, the Benegal Committee Report is an outcome of a very serious analysis/study of the present legal provisions, changed social scenario, filmmakers’ demands etc. Their recommendations are very apt. They suggested qualifications of the members of the CBFC at all levels. They proposed increased number of categories of the certificates. They reworded the guidelines which are supposed to guide the members during the decision making. The most significant contribution is that they recommended that the Board should not have the power to demand cuts. Probably the present Government does not like this last recommendation because of which the recommendations are still not implemented.

5-From being an alternative space for banned films to release, the Internet has grown to become a host for original content and films too. Would the fact that the digitised world is an increasingly influential form of mass communication make a case for certification of content meant for the Internet?

Despite so many *faux pas*, the Government is steadfastly supporting Pahlaj Nihlani which confirms the government’s *de jure* consent to his actions. Bringing internet under the scanner will be a logical progression considering the direction we are marching towards. North Korea, China, Cuba, Iran, Syria, Saudi Arabia... we will be in the auspicious company of countries where internet content is under

the radar. That day will be a doomsday for every Indian... but that day won't rise... somehow my intrinsic faith tells me so.

6-Has the unrevised Cinematograph Act and the functioning of the CBFC until now affected the quality of cinema in the country? Would their re-examination lead to better films too?

I have heard many directors and producers objecting to some scenes in the script which they think will never be able to survive the CBFC. Their worse fear is that they will be given an 'A' certificate which has direct and immediate commercial consequences. The revenue generation from the ticket sale gets slashed as entire potential audience below the age of 18 years is forbidden to see the film. The satellite rights of the film cannot be sold unless the film removes the objectionable portions and gets a "U" or "UA" certification. The fact that at the level of scripting, the film makers consider these potential dangers, it certainly affects their creativity as well as their creation. Certification process is an example of the old adage, "process itself is the punishment."

7. What is your expectation with regard to the outcomes of your petition?

It is a long process. I hope some kind of an effective interim relief will be passed which will have an immediate impact. Ultimately my petition will have to go before a constitutional bench consisting of 7 judges. I sincerely hope that the same will be decided in my life time.