

# Analysis of Cinematograph Amendment Bill, 2021

In the modern world, cinema has a great impact on people; it is considered to be a powerful form of art, however a complex art. It is a great form of entertainment and it also conveys a message that it intends to.

It is important to censor movies to prevent people from getting negatively impacted or negatively influenced. Censorship means examining or suppressing images, videos, films, books, etc which are considered to be offensive or objectionable for the public access.

The first case where censoring movies was dealt was in *K. A. Abbas v. Union of India*, pre-censorship of movies with regard to freedom of speech & expression as provided in Article 19(1) (a) was in question. The Hon'ble Supreme Court held that pre-censorship of movies was constitutionally valid as it imposes justifiable limitation under Article 19(a) of Indian Constitution.

In India, censorship of films is governed by Cinematograph Act, 1952. This act makes provision for establishing Central Board of Film Certification. This is a regulatory body that grants certificate to movie makers for public display in India.

## **Cinematograph (Amendment) Bill 2021**

The Cinematograph (Amendment) Bill 2021 was proposed by the Ministry of Information and Broadcasting, to make the procedure of examining movies more efficient and to curb piracy that threatens the film industry. The significant modifications recommended are:

- Sub dividing certification of movies under 'unrestricted public exhibition' into age-based category as U/A 7+, U/A 13 + & U/A 16+.
- In the amendment bill it has been suggested to remove the restriction on validity of certificate and make the certificate so granted to be valid in perpetuity.
- The Amendment Bill proposes to add a proviso to subsection (1) of Section 6, which deals with revisional powers of Central government. It has been proposed that any film that has been certified by the board for public exhibition and the Central government is of the opinion that the film is violating the principles as laid down in Section 5B, then it has the power to direct the CBFC to re-examine the film.
- The Amendment bill proposes to insert Section 6AA to Prohibit unauthorised recording of a copy of a film or any part of a film.
- The bill also proposes to insert sub-section 1A in Section 7 so as to penalise violation of Section 6AA with fine or imprisonment (or both).

## **Issues with the Cinematograph (Amendment) Bill 2021**

The Cinematograph (Amendment) Bill 2021 has caused a great turmoil in the Indian film industry as it threatens the autonomy of the CBFC & film makers. They are of the opinion that by giving revisionary powers to the central government, they will be left powerless and will be exposed to vandalism, harassment as well as mob-censorship. The proposed

amendments will give the Central government ultimate dominion over the films curtailing the freedom of speech and expression, which has been ensured to each and every citizen of the country.

Providing Central government with reversionary powers regarding film certification is in contravention to the judgement given in *K. M. Shankarappa v. Union of India*, where the Hon'ble Supreme Court held that once the films are certified by CBFC, in such case the Union government cannot exercise its revisional powers.

If the Central government will be provided with revisional powers, then the Producers can never be certain regarding certification of their film, even after being granted with certification, there will be a possibility that their film certification will be re assessed and undergo a subsequent certification. India is a country with innumerable cultures and people belonging to such cultures will have a different perspective and if films will be judged through a cultural perspective, then it will lead to a moralistic & subjective assessment of films, immaterial of whether the film is certified or not.

The Cinematograph (Amendment) Bill, 2021 neither expressly includes the OTT platform nor excludes it. However, similar regulation/restriction has been imposed on the OTT platforms through the Information Technology Rules 2021. Due to such stringent provisions, OTT platforms will also need to thoroughly inspect the films for red flags because if they do not comply with the provisions there will be a risk of getting banned and hence the OTT platforms will avoid such films altogether. This will negatively impact the filmmakers.

### **Conclusion**

The Cinematograph (Amendment) Bill, 2021, takes a positive step towards preventing and punishing film piracy that has haunted the film industry for several years. However, vesting revisional powers with the Central government will lead to severe inconvenience and harassment of film makers. It takes away the power of CBFC and the Central government can direct the Board to re-examine a film that has already been certified until it is satisfied. Hence, the Central government should not be vested with revisionary powers.