
Shri Anand Patwardhan Vs The Union of India (UOI) and Another

Writ Petition No. 1958 of 1994

Court: Bombay High Court

Date of Decision: Jan. 6, 1997

Acts Referred:

Cinematograph Act, 1952 & Section 4, 4A, 5B#Constitution of India, 1950 & Article 19(1)(a)

Citation: (1998) 1 ALLMR 312 : (1997) 3 BomCR 438

Hon'ble Judges: A.P. Shah, J

Bench: Single Bench

Advocate: P.A. Sebastian, for the Appellant; L.S. Vyas and Shobha Joshi, for the Respondent

Final Decision: Allowed

Judgement

A.P. Shah, J.

This petition under Article 226 seeks a writ of mandamus directing the Union of India and Doordarshan to telecast the

petitioner's documentary film "Ram -Ke-Naam" on the Doordarshan on its national programme.

2. The petitioner is a well-known documentary film maker. The petitioner produced in 1991 a documentary film of ninety minutes duration called

Ram-Ke-Naam" (in the name of God). The film was granted "U" certificate by the Censor Board in 1992. The film deals with the

Ramjanmabhoomi-Babri Masjid dispute and various social and religious issues arising therefrom. The film was selected as the best investigative

documentary for the year 1993 and given National Award by the Government of India. It was adjudged as the best documentary in the year 1992

by the jury of the Film fare Award. It secured a best documentary award at Fry bourg Switzerland in 1992 and Citizens Award at Yamagota,

Japan in 1993 and Ecumenical Prize at Nyon, Switzerland. The film was selected as the only Indian documentary for screening in International Film

Festivals such as International Film Festival at Berlin, 1993, Sydney Film Festival, 1993, Film Festival of Willington in New Zealand, 1993 and the

Film Festival of Japan.

3. The petitioner submitted a preview copy of the said film to the Doordarshan with a covering letter dated 28th December, 1992 wherein he

requested the second respondent the Director General, Doordarshan, to telecast it on the National network of the Doordarshan. Since the letter of

the petitioner failed to evoke any response from the second respondent, the petitioner addressed another letter dated 7th April, 1993. As the first

respondent failed to respond to the petitioner's letter second time as well either in word or in deed, the petitioner's advocate addressed a letter to

the first respondent in which the latter was called upon to screen the petitioner's film on its National network. It was stated in the letter that the

petitioner's film is an attempt to stem and counteract the fissiparous and sectarian tendencies and to promote integrative forces in the Indian

Society. It was stated that in the present milieu of strife and bigotry, the film is capable of making a signal contribution for the unity and integrity of

India. Why Doordarshan ignores such a film is really intriguing and fraught with hidden meanings which the Indian citizens have a right to know.

Since even the advocate's notice failed to evoke any response from the respondents, the petitioner has approached this Court under Article 226.

4. The petitioner contends that Doordarshan being a State as envisaged under Article 12 of the Constitution, it must act within the structure of the

Indian Constitution and its actions must be informed with fairness, justice, non-arbitrariness and the principles of natural justice. The petitioner

contends that he has a constitutional right to know why his film was not screened on the Doordarshan and what reasons led to the decision of the

Doordarshan not to screen the film. By refusing to screen the film, the Doordarshan has deprived the petitioner of his freedom of expression

guaranteed by Article 19(1)(a) of the Constitution of India. The refusal of the Doordarshan to telecast the petitioner's film also denies to the Indian

citizens their right to be informed of and enlightened about important developments relating to Babri Masjid dispute which has affected the public

and democratic character of the Indian State. The petitioner contends that Part IV-A of the Constitution casts a fundamental duty on the Indian

citizens to promote harmony and the spirit of common brotherhood amongst all the people of India, transcend religious, linguistic and regional or

sectional diversities to value and preserve the rich heritage, our composite culture and to develop the scientific temper, humanism and the spirit of

inquiry and reforms among other things. The petitioner says that the duties and values mentioned above are inherent in the said film which makes

imperative for the respondents to disseminate it to the maximum extent possible inasmuch as it will lead to the fulfillment of a constitutional mandate.

5. Before the hearing commenced the film was screened for the Court. The lawyers of both sides and the petitioner also remained present. The film

traces the genesis of the Ayodhya conflict from the time the mosque was built in 1528 to the revival of the conflict around the time of

independence, when in December 1949 an idol of Lord Ram was installed resulting in the area being declared disputed and the mosque being

closed. The film maker has interviewed an old mahant of Ayodhya who was among those who had placed the idol of Ram inside the mosque. The

film also interviews the mullah who had been conducting Namaz at the Masjid till he was stopped from doing so on the orders of the District

Magistrate. The film critically examines the theory circulated to the masses through video films showing the idol of Ram descending from heaven.

The film demonstrates that many of those marching in the cause have not a clue about the period of Lord Ram's birth though they are quite sure

about where he was born. At one point, an activist describing himself as a law student is asked which century Ram was born in, "I am, in the first

year of law College" he protests, "may be they will tell us about this in the second or third year".

6. The film then goes to show how blind faith has been exploited for political aggrandisement and how ordinary Indians are victims of such a

propaganda. The film effectively portrays destruction in terms of human life, property loss following the Rathayatra undertaken in 1991. The film

concentrates on the reactions of the common people who constitute the vast majority of the Indian population and pans over a group of poor

peasants and agricultural workers who discuss their problems in the background of green wheat and yellow mustard fields. Their problems are that

of falling terms of trade "Only our grains are cheap, all other things are expensive". They do not approve of the proposed razing of the Masjid

would not we feel sad if someone came and destroyed our mandir". How can then we approve of some other place of worship being

demolished?". One person who comes across prominently in the said film is Lal Das, the Court appointed Pujari of the Ram temple at Ayodhya

who almost becomes the "alternative" voice of "moderate". "Liberal" Hinduism through his frequent appearance or voiceovers. The film ends with

Kabir's famous couplet reviling "The hypocrisy of priesthood" :-

Saints I see the world is mad
If I lie they trust me
If I tell the truth they beat me

The Hindu claims Ram is the one
The Muslim claims Rahim
Then they beat and kill each other
Neither knowing the essence

The world goes on like this in vain
and yet they call me mad
But Kabir says, look
Who is the one insane ?

7. "Ram-Ke-Naam" had been given "U" certificate by the Central Board of Film Censor. In this connection, I may refer to the relevant provisions

of Cinematograph Act, 1952 which is an Act to make provisions for the certification of cinematograph films for exhibition and regulation, exhibition

by means of Cinematograph. The Act provides for Board of Film Censors. Section 4 of the Act provides for examination of films. A film is

examined in the first instance by an Examination Committee, u/s 4-A, and in, certain circumstances, it is further examined by a Revising Committee

u/s 5. Members of both the Committees are expected to set out not only their recommendations but also the reasons therefore in cases where

there is difference of opinion amongst the members of the committee. Section 5-A of the Act provides that if after examining a film or having it

examined in the prescribed manner, the Board considers that the film is suitable for unrestricted public exhibition, such a certificate is given which is

called ""U"" certificate. Section 5-B of the Act provides for guidance in certifying films. The said section 5-B provides as follows :-

5-B. Principles for guidance in certifying films - (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 an

offence.

(2) Subject to the provisions contained in sub-section (1) the Central Government may issue such direction 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.

8. Section 5-C of the Cinematograph Act provides for the constitution of Appellate Tribunals, consisting of persons who are familiar with the

social, cultural or political institutions of India, have special knowledge of the various regions of India and also social knowledge of films and their

impact on society, to hear appeals from the orders of the Censor Board. In addition, there is also an overall revisional power in the Central

Government to call for the record of any proceeding in relation to any film at any stage, where it is not made the subject matter of appeal to the

Appellate Tribunal, to enquire into the matter and make such order in relation thereto as it thinks fit, including a direction that the exhibition of the

film should be suspended for a period not exceeding two months. Under the newly added sub-section (5) of section 6, the Central Government

has also been given revisional powers in respect of a film certified by the Appellate Tribunal on the ground that it is necessary to pass an order in

the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States of public order or decency or

morality.

9. Mr. Sebastian, learned Counsel for the petitioner, submitted that refusal of the respondents to telecast the film ""Ram-Ke-Naam"" is a clear

violation of the petitioner's fundamental right under Article 19(1)(a) of the Constitution. He urged that the film carries a strong message for unity

and secular India and there is no justification to prevent its telecast on Doordarshan. He branded the action of the respondents in refusing to screen

the film as totally unfair, unjust and arbitrary. The Counsel further urged that the Censor Board has approved the film and granted ""U"" certificate

and since the guidelines of the Doordarshan in telecasting the film cannot be substantially different from the guidelines laid down under the

Cinematograph Act, it is necessary to issue appropriate writ to telecast the petitioner's film on Doordarshan in its National Network. Mr. Vyas,

Counsel for the respondents, however submitted that the result of telecasting the petitioner's film on T.V. would be that there is likelihood that

members of both the communities will rise in passion and anger against each other and take to acts which would lead to communal violence and

riots. Mr. Vyas urged that T.V. has reached the remotest corners of the country. It has a wide audience which mainly consists of illiterate and

average persons who will be largely affected due to screening of the movie. He, therefore, justified the decision of the Doordarshan not to telecast

the film on Doordarshan. Mr. Vyas also took exception to certain scenes in the film and particularly to a scene where a Karsevak in his interview

justifies even the assassination of Mahatma Gandhi by Nathuram Godse. Mr. Vyas says that at least such scenes should not be allowed to be

screened on T.V. Mr. Vyas lastly contended that this Court has no jurisdiction to entertain the writ petition as the entire cause of action has taken

place, outside Mumbai.

10. The principal question which falls for my consideration is whether the refusal of the Doordarshan to telecast the petitioner's film violates the

petitioner's fundamental right of freedom of expression under Article 19(1)(a) ?

Freedom of speech and expression has been recognised as one of the preeminent rights in a democratic Government, the touchstone of individual

liberty. Justice Cardozo of the U.S. Supreme Court characterized it as "...the matrix of the indispensable condition of nearly every other form of

freedom". In Sakal Papers (P) Ltd. and Others Vs. The Union of India (UOI), . Mudholkar, J., said -

The courts must be ever vigilant in guarding perhaps the most precious of all the freedoms guaranteed by our Constitution. The reason for this is

obvious. The freedom of speech and expression of opinion is of paramount importance under a democratic Constitution which envisages changes

in the composition of legislature and Governments and must be preserved.

11. It is now well settled by series of judgments of the Supreme Court that freedom of speech and expression includes the right to propagate one's

views through the print media or through any other communication channel e.g. radio and T.V. In S. Rangarajan Vs. P. Jagjevan Ram and Others,

, K. Jagannatha Shetty, J., speaking for the Bench observed that the freedom of speech under Article 19(1)(a) means the right to express one's

opinions by words of mouth, writing, printing, picture or in any other manner. It would thus include the freedom of communication and the right to

propagate or publish opinion. The communication of ideas could be made through any medium, newspaper, magazine or movie. But this right is

subject to reasonable restrictions in the larger interests of the community and country set out under Article 19(2). While dealing with the role of the

courts in striking balance between the interest of freedom of expression and social interest, the Supreme Court observed -

However, there must be a compromise between the interest of freedom of expression and social interests. Court cannot simply balance the two

interests as if they are of equal weight. Court's commitment to freedom of expression demands that it cannot be suppressed unless the situations

created by allowing the freedom are pressing and the community interest is endangered. The anticipated danger should not be remote conjectural

or far-fetched. It should have proximate and direct nexus with the expression. The expression of thought should be intrinsically dangerous to the

public interests. It should be inseparably locked up with the action contemplated like the equivalent of a "spark in a powder keg".

12. In *Life Insurance Corporation of India and Union of India and another Vs. Prof. Manubhai D. Shah and Cinemart Foundation, . Ahmadi, J.,* as

His Lordship then was observed :-

Freedom of speech and expression is a natural right which a human being acquires on birth. It is, therefore, a basic human right. The words

freedom of speech and expression"" has to be broadly construed to include the freedom to circulate one's views by words of mouth or in writing

or through audio-visual instrumentalities. It, therefore, includes the right to propagate one's views through the print media or through any other

communication channel e.g. the radio and the television. Every citizen of this free country, therefore, has the right to air his or her views through the

printing and/or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution. The print media,

the radio and the tiny screen play the role of public educators, so vital to the growth of a healthy democracy. Freedom to air one's views is the life

line of any democratic institution and any attempt to stifle, suffocate or gag this right would sound a death-knell to democracy and would help usher

in autocracy or dictatorship. It cannot be gainsaid that modern communication mediums advance public interest by informing the public of the

events and developments that have taken place and hereby educating the voters, a role considered significant for the vibrant functioning of

democracy. Therefore, in any set up, more so in a democratic set up like ours, dissemination of news and views by popular consumption is a must

and any attempt to deny the same must be frowned upon unless it falls within the mischief of Article 19(2). It follows that a citizen for propagation

of his or her ideas has a right to publish for circulation his views in periodicals, magazines and journals or through the electronic media since it is

well known that these communication channels are great purveyors of news and views and make considerable impact on the minds of the readers

and viewers and are known to mould public opinion on vital issues of national importance. Once it is conceded, and it cannot be indeed disputed

that freedom of speech and expression includes freedom of circulation and propagation of ideas, there can be no doubt that the right extends to the

citizen being permitted to use the media to answer the criticism levelled against the view propagated by him. Every free citizen has an undoubted

right to lay what sentiments he pleases before the public; to forbid this, except to the extent permitted by Article 19(2), would be an inroad on his

freedom. This freedom must, however, be exercised with circumspection and care must be taken not to trench on the rights of other citizens or to

jeopardize public interest. It is manifest from Article 19(2) that the right conferred by Article 19(1)(a) is subject to imposition of reasonable

restrictions in the interest of, amongst others, public order, decency or morality or in relation to defamation or incitement to an offence. It is,

therefore, obvious that subject to reasonable restrictions placed under Article 19(2) a citizen has a right to publish, circulate and disseminate his

views and any attempt to thwart or deny the same would offend Article 19(1)(a).

13. The Supreme Court then proceeded to hold that heavy burden would lie on the authorities to justify restriction on the freedom envisaged by

Article 19(1)(a). It was observed that our Constitution recognises the need to place reasonable restrictions on grounds specified by Art. 19(2) and

section 5-B of the Act on the exercise of the right of speech and expression. It is for this reason that the need for prior restraint is recognised and

our laws have assigned a specific role to the censors as such is the need in a rapidly changing societal structure. But since permissible restrictions,

albeit reasonable, are all the same restrictions on the exercise of the fundamental right under Art. 19(1)(a) such restrictions are bound to be viewed

as anathema, in that, they are in the nature of curbs or limitation on the exercise of the right and are, therefore, bound to be viewed with suspicion,

thereby throwing a heavy burden on the authorities that seek to impose them. The burden would, therefore, heavily lie on the authorities that seek

to impose them to show that the restrictions are reasonable and permissible in law.

14. The main defence raised on behalf of the respondents is that the petitioner's film will have an adverse impact on the masses and particularly

those average and illiterate Indians. Mr. Vyas has argued that telecasting of film would lead to communal strife and might even induce forces to

take to the streets and indulge in rioting and looting causing loss to the human life and property. Vivian Bose, J., as he then was in the Nagpur High

Court in the case of AIR 1947 1 (Nagpur) has indicated the yardstick by which this question has to be judged. There at page 18 of the report the

Court observed that 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 approach has been time and again accepted

by the Supreme Court in judging the effect of exhibition of a film or the right of a book.

15. In this regard it may be necessary to refer to two leading judgments of the Supreme Court. The first judgment is in the case of K.A. Abbas Vs.

The Union of India (UOI) and Another, . There K.A. Abbas the petitioner made a documentary film called ""A Tale of Four Cities"", which

attempted to portray the contrast between the life of the rich and the poor in the four principal cities of the country. The film included certain shots

of the red light district in Bombay. Although the petitioner applied to the Board of film Censors for a "U" certificate for unrestricted exhibition of the

film, he was granted a certificate only for exhibition restricted to adults. The petitioner then filed the writ petition in the Supreme Court. At the

hearing of the petition the Central Government indicated that it had decided to grant a "U" certificate for unrestricted exhibition of the film without

the cuts previously ordered. Hidaytulla, C.J., exhaustively dealt with the question and noted the statutory requirements. In that film there was a

scanning shot of a very short duration much blurred by the movement of the photographer's camera, in the words of Chief Justice, in which the red

light district of Bombay was shown with the inmates of the brothels waiting at the doors or windows. Some of them wore abbreviated skirts bare

legs up to the knees and sometimes a short way above them. This was objected to. The film was shown to the learned Judges in the presence of

lawyers. The learned Chief Justice at page 468 of the report addressed himself to the question; "How far can these restrictions go and how are

these to be imposed". The Court examined the provisions of section 5-B(2) of the Act. After examining the relevant provisions and large number of

authorities the Chief Justice noted that the task of the censor was extremely delicate and its duties cannot be the subject of an exhaustive set of

commands established by prior ratiocination. The Supreme Court at page 474 of the report observed as follows :-

Sex and obscenity are not always synonymous and it is wrong to classify sex as essentially obscene or even indecent or immoral. It should be our

concern however, to prevent the use of sex designed to play a commercial role by making its own appeal. This draws in the censor's scissors.

Thus audience in India can be expected to view what equanimity the story of Oedipus son of Latius who committed patricide and incest with his

mother. When the seer Tiresias exposed him, his sister Jocasta committed suicide by hanging herself and Oedipus put out his own eyes. No one

after viewing these episodes would think that patricide or incest with one's own mother is permissible or suicide in such circumstances or tearing

out one's own eyes is a natural consequence. And yet if one goes by the letter of the directions the film cannot be shown. Similarly, scenes

depicting leprosy as a theme in a story or in a documentary are not necessarily outside the protection. If that were so Verrier Elwyn's Phulmat of

the Hills or the same episode in Henryson's Testament of Cressaid (from where Verrier Elwyn borrowed the idea) would never see the light of the

day. Again carnage and bloodshed may have historical value and the depiction of such scenes as the sack of Delhi by Nadir Shah may be

permissible, if handled delicately and as part of an artistic portrayal of the confrontation with Mohammed Shah Rangila. If Nadir Shah made

golgothas of skulls, must we leave them out of the story because people must be made to view a historical theme without true history ? Rape in all

its nakedness may be objectionable but Voltaire's Candide would be meaningless without Cunegonde's episode with the soldier and the story of

Lucrece could never be depicted on the screen.

16. The Chief Justice observed that our standards must be so framed that we are not reduced to a level where the protection of the least capable

and the most depraved amongst us determines what the morally healthy cannot view or read. The standards that we set for our censors must make

a substantial allowance in favour of freedom thus leaving a vast area for creative art to interpret life and society with some of its foibles along with

what is good. We must not look upon such human relationship as banned in toto and forever from human thought and must give scope for talent to

put them before society. In our scheme of things, the Chief Justice noted, ideas having redeeming social or artistic value must also have importance

and protection for their growth.

17. The second decision of the Supreme Court to which a reference may be made at this stage is the decision in Ramesh Dalal Vs. Union of India

(UOI) and Others, . A practising advocate of this Court filed a writ petition under Article 32 in the Supreme Court for prohibiting the respondents

from releasing or screening the serial titled ""Tamas"" and to enforce the petitioner's fundamental right under Articles 21 and 25 of the Constitution

and declaring the screening or televising of ""Tamas"" as violative of section 5-B of the Cinematograph Act, 1952. One Javed Ahmed Siddique also

filed a writ petition in this Court praying for similar reliefs. The learned Single Judge of this Court while admitting the petition granted stay of further

telecasting of the said serial on T.V. till further orders. The respondents challenged the said order before the Division Bench. The two learned

Judges, namely, Justice Lentin and Justice Mrs. Sujata Manohar (as she then was) saw the complete serial and vacated the stay by an order dated

January 23, 1988. The judgment was impugned in the SLP which came to be heard along with the writ petition filed under Article 32. Serial

Tamas"" was based on a novel written by Shri Bhisma Sahni in 1974. It depicted how during the period prior to the partition in India communal

violence was generated by fundamentalists and extremists in both communities, how innocent persons were duped into serving the ulterior purpose

of fundamentalists and communalists of both sides and extremist elements in both communities infused tension and hatred for their own ends. It

further showed that realisation ultimately dawned as to the futility of it all and finally how inherent goodness in human mind triumphed and both

communities learnt to live in amity. The Supreme Court observed :-

The potency of the motion picture is as much for good as for evil. If some scenes of violence, some nuances of expression of some events in the

film can stir up certain feelings in the spectator, an equally deep, strong, lasting and beneficial impression can be conveyed by scenes revealing the

machinations of selfish interests, scenes depicting mutual respect and tolerance, scenes showing comradeship, help and kindness which transcend

the barriers of religion. What is necessary sometimes is to penetrate behind the scenes and analyse the causes of such conflicts. The attempt of the

author in this film is to draw a lesson from our country's past history, expose the motives of persons, who operate behind the scenes to generate

the foment conflicts and to emphasize the desire of persons to live in amity and the need for them to rise above religious barriers and treat one

another with kindness, sympathy and affection. It is possible only for a motion picture to convey such a message in depth and it is able to do this, it

will be an achievement of great social value.

The argument that ""Tamas"" was not a historical movie but it merely takes into account certain events from history and builds upon them the story

with imagination and perception of reality is without any force. ""Tamas"" takes us to historical past - unpleasant at times but revealing and

instructive. Though a writer should cling to truth and right but a measure of accommodation in the very interests of truth itself is necessary. Naked

truth in all times will not be beneficial but truth in its proper light indicating the evils and the consequences of those evils is instructive and that

message is there in ""Tamas"". The book is being taught in various universities. There has been no adverse reactions to the novel during the past

fourteen years.

18. As observed by the Supreme Court the effect of exhibition of a film has to be judged from the standards of reasonable strong-minded, firm and

courageous men or as has been said in English law ""the man on the top of the Clapham omnibus"", and not those of weak and vacillating minds, nor

of those who scent danger in every hostile point of view. The Cinematograph Act itself contains several provisions to ensure the fulfillment of the

conditions laid down in section 5-B and to ensure that any film which is likely to offend the religious susceptibilities of the people are not screened

for public exhibition. The high-power committee of Film Censor Board has approved the exhibition of the film and given ""U"" certificate. The entire

structure of the film of the petitioner is based on the ideology of social justice for lower classes and castes. The film presents the

Ramjanmabhoomi-Babri Masjid dispute not as a Hindu Muslim problem but as a secular world view versus non-secular world view. The

protagonists in the said film are, therefore, not Muslims or Hindus, but Indians especially the poor and the working class. A powerful plea for

communal amity and co-existence is structurally incorporated in the film. Throughout the film those who are intolerant and those who spread hatred

in the name of God are condemned. This is meant to create in the audience a response of disgust directed against the perpetrators of communal

hatred. The film unmistakably condemns hate-mongering communalists but it painstakingly underlines the fact that they do not represent all Hindus.

Pujari Laldas in his interview after witnessing the Karsevak's attack on the mosque, says that ""the ideals of Ram have been murdered"". He adds

that the storm of communal hatred will pass and sanity will one day return. Laldas is depicted as the voice of tolerant and humanistic Hinduism.

Under these circumstances the argument of Mr. Vyas that telecast of the movie is likely to generate communal strife amongst the communities must

be rejected. The argument of Mr. Vyas that an average or illiterate person is likely to be adversely affected by the screening of the movie is also

without any merit. Illiterates are not devoid of common sense, or unable to grasp the calumny of the fundamentalists and extremists when it is

brought home to them in action on the screen. The filmmaker has made a serious attempt to examine the Babri Masjid dispute from a secularist

angle with the basic object to convey a message of communal harmony and amity. The apprehension expressed by Mr. Vyas that the exhibition of

the film will provoke the people to commission of offences is completely baseless. On the other hand, viewed from the healthy and common sense

point of view it is more likely that it will prevent incitement to such offences in future by extremists and fundamentalists.

19. Mr. Vyas has taken objection to the sequence on the bridge in Ayodhya where a Karsevak justifies the murder of father of the nation. We

have already noted that the movie had been given "U" certificate by the Board of Film Censors. The Board consists of people who are

knowledgeable and competent in their respective fields. The Board did not find it necessary to excise the bridge sequence. In Raj Kapoor and

Others Vs. State and Others, Justice Krishna Iyer has observed that a certificate by a high-powered Board of Censors with specialised

composition and statutory mandate is not a piece of inconsequence. Doordarshan takes decision on the basis of same guidelines. The petitioner's

film must be judged in its entirety. The film has a theme and it has a message to convey. The question is whether the bridge sequence goes well with

the theme and promotes a message. In my opinion, the question has to be answered in the affirmative. The entire film relies not so much to the

didactic technique of using a heavy handed commentary but on juxtaposing events, speeches and interviews which speak for themselves. The

bridge sequence is meant to create in the audience a response of disgust directed against the perpetrators of communal hatred. Indeed when

audience realize that some of the same people who are fanatical also believe that it was good that Gandhiji was killed, it is true though sickening

moment of revelation. Mr. Sebastian submitted and in my opinion rightly that even ardent supporters of Ramjanmabhoomi would not approve of

Gandhiji's murder. It is such a revelation that has power to open their eyes to the corrosive nature of religious hatred.

20. Lastly, few words about Mr. Vyas's objection relating to the jurisdiction of this Court. The objection is required to be stated only to rejected.

Union of India and Doordarshan are very much present in Bombay. The petition was admitted by the Bench despite the objection of jurisdiction. It

will not be proper to dismiss the writ petition on this technical objection particularly when at stake is the issue of fundamental right enshrined in

Article 19(1)(a).

21. Mr. Sebastian brought to my notice that in respect of another film the order of this Court for telecasting the film was virtually negated by

exhibiting the film at midnight. He, therefore, requested that the film should be exhibited during reasonable hours. He requested for issuing similar

directions to the respondents as in Anand Patwardhan Vs. The Union of India and others, . Mr. Sebastian also made an appeal to the Court to

issue a directive to exhibit the film on national channel. I hereby direct the respondents to telecast the petitioner's film ""Ram-Ke-Naam"" on Channel

I or II (Metro Channel) within two months from today between 6.00 to 11.00 p.m. if shown between Monday to Saturday or in the morning or

evening slot if shown on Sunday. I also recommend to the Doordarshan that considering the powerful message of communal harmony conveyed by

the film, the Doordarshan may consider its telecast on Channel I which has the maximum viewership.

Rule is made absolute accordingly. No order as to costs.