

## Dual duty: the decision to stay notification of States prohibiting Padmaavat release

The state cannot choose between protecting freedom of expression and preserving law and order. It has a duty to do both. This is the core message of the [Supreme Court order staying the notifications and decisions of four States to prohibit the screening of the film \*Padmaavat\*](#), and directing them to ensure that law and order is maintained during its exhibition. Gujarat and Rajasthan have notified a ban, while Haryana and Madhya Pradesh have indicated they would follow suit. What troubled the court was that creative freedom could be so easily prohibited by the state citing a possible risk to public order. It needs no reiteration that summary bans on films violate the freedom of speech and expression enshrined in Article 19(1)(a) of the Constitution. Such a right is subject to reasonable restrictions on some grounds, including public order. However, the use of the threat of violence and other forms of intimidation cannot give the state an oblique reason to stifle fundamental freedoms by voicing apprehensions and invoking its powers to maintain peace. In the past, the Supreme Court has made it clear that it cannot give anyone a virtual veto over a certificate issued by the Central Board of Film Certification, a statutory body, by threatening violence. The court has reiterated that the grant of a certificate by the CBFC denudes the state of the power to prevent the exhibition of a film.

The interim order, which paves the way for *Padmaavat* to be released on January 25, is in line with a series of judicial decisions. In *S. Rangarajan v. P. Jagjivan Ram* (1989), the Supreme Court said the state cannot plead inability to handle the problem of a hostile audience as that “would be tantamount to negation of the rule of law and a surrender to blackmail and intimidation.” In *Prakash Jha Productions v. Union of India* (2011), it reiterated that it is the state’s duty to maintain law and order. In the current controversy, the filmmakers agreed to change its name from *Padmavati* to *Padmaavat*. The new title indicates it is based on a medieval poem on a legendary Rajput queen and not any historical personality. They also agreed to several cuts suggested by a special panel formed by the CBFC. If even after these concessions the protestors are allowed to obtain a ban, it would undoubtedly amount to a base surrender to blackmail and intimidation. It would be a taint on the country’s record of protecting free speech if a film with admittedly no claim to historical accuracy is banned on the mere pretext that some people, who have not even seen it, find it offensive. The Supreme Court has indicated where the constitutional duty of State governments lies. It is now up to them to live up to that expectation.

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