

Freedom supreme

While Indian governments have perfected the art of the ban on the convenient fear of public disorder, the Supreme Court has returned the focus of the debate over the suppression of culture to the real issue: Protection of the constitutional right to free expression.

The question is no longer: “Are anyone’s sentiments hurt?” It is back to: “Are fundamental rights curtailed?” While hearing a petition against the selective banning by states of Padmaavat, the censored version of the much-harassed Sanjay Leela Bhansali film, a Supreme Court bench headed by Chief Justice Dipak Misra has laid down the law: Once a film has been cleared by the Central Board of Film Certification (CBFC), it has the right to state protection for screenings. States cannot suspend screenings citing law and order concerns. Rather, it is their duty to firmly address them.

The decisions of a statutory body like the CBFC must be honoured, for otherwise it would be rendered irrelevant. These principles were once self-evident and commonly understood, and yet they must be restated by the apex court to refresh the memory of BJP-led state governments inclined to prohibit screenings. These principles, and the primacy of free speech, were overridden for decades by the law and order concerns of various governments, which gave free rein to vandals to create a state of lawlessness and disorder. Once established, the fear that the state will not protect free speech rights is not readily dispelled. It was established by the then UPA government’s failure to prevent M F Husain being hounded out of the country by a mob.

The effects of that distant event are still evident, when prominent publishers withdraw and pulp books at the drop of a lawyer’s letter. And when, instead of honouring a court order for national release of Padmaavat, activists talk of “unofficial” bans and threaten to organise jauhar at Chittorgarh.

But the quality of the debate has taken a turn for the better with this case. The apex court has proscribed all attempts to override the CBFC’s clearance thus reinforcing the power of the institution. In addition, it has made it the business of state governments to ensure screenings and protect the cinema crew. And, most interestingly, Harish Salve, counsel for the plaintiff Viacom18, has promised — and he should be applauded for that — to argue “someday” for the artist’s right to distort history. This is the argument which will sunder the Gordian knot in which history, myth and tradition are now messily bound up.

Rigorous history stands apart from folk histories, myth and creative traditions. The first must be respected, while the others are ever-changing playthings and talismans which have entertained generations and given meaning to their lives. Unless we can tell one from the other, we run the risk of being rendered speechless.

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