

For the record- The state cannot plead its inability to handle the hostile audience problem: SC

In 1989, the Tamil Nadu government stopped the release of a Tamil film, 'Ore Oru Gramathile', which criticised caste-based reservation, after some political groups in the state threatened violence. However, a three-judge bench of the Supreme Court headed by Justice K.J. Shetty upheld the right of the filmmakers to make movies that criticise government policies and ruled that "freedom of expression, which is legitimate and constitutionally protected, cannot be held to ransom by an intolerant group of people".

The SC also said: "The State cannot plead its inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression." S. Rangarajan vs. P. Jagjivan Ram, considered a landmark judgment in the history of censorship in India, is relevant again in the context of the controversy over Sanjay Leela Bhansali's 'Padmavati'.

Excerpts from the judgment:

Movie is the legitimate and the most important medium in which issues of general concern can be treated. The producer may project his own messages which the others may not approve of. But he has a right to "think out" and put the counter appeals to reason. It is a part of a democratic give-and-take to which no one could complain. The State cannot prevent open discussion and open expression, however, hateful to its policies...

In the affidavit filed on behalf of the state government, it is alleged that some organisations like the Tamil Nadu Scheduled Castes/Scheduled Tribes People's Protection Committee, Dr Ambedkar People's Movement, the Republican Party of India have been agitating that the film should be banned as it hurt the sentiments of people belonging to Scheduled Caste/Scheduled Tribes. It is stated that the general secretary of the Republican Party of India has warned that his party would not hesitate to damage the cinema theatres which screen the film.

Some demonstration made by people in front of The Hindu office on March 16, 1988 and their arrest and release on bail are also referred to. It is further alleged that there were some group meetings by Republican Party members and Dr Ambedkar People's Movement with their demand for banning the film. With these averments it was contended for the State that the exhibition of the film will create very serious law and order problem in the State.

We are amused yet troubled by the stand taken by the state government with regard to the film which has received the National Award. We want to put the anguished question, what good is the protection of freedom of expression if the State does not take care to protect it? If the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence. That would tantamount to negation of the rule of law and a surrender to black mail and intimidation. It is the duty of the State to protect the freedom of expression since it is a liberty guaranteed against the State.

The State cannot plead its inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression. In this case, two... committees have approved the film. The members thereof come from different walks of life with variegated experiences. They represent the cross section of the community. They have judged the film in the light of the objectives of the Act and the guidelines provided for the purpose. We do not think that there is anything wrong or contrary to the Constitution in approving the film for public exhibition.

The producer or as a matter of fact any other person has a right to draw attention of the

government and people that the existing method of reservation in education institutions overlooks merits. He has a right to state that reservation could be made on the basis of economic backwardness to the benefit of all sections of community. Whether this view is right or wrong is another matter altogether and at any rate we are not concerned with its correctness or usefulness to the people. We are only concerned whether such a view could be advocated in a film. To say that one should not be permitted to advocate that view goes against the first principle of our democracy. We end here as we began on this topic.

Freedom of expression, which is legitimate and constitutionally protected, cannot be held to ransom by an intolerant group of people. The fundamental freedom under Article 19(1)(a) can be reasonably restricted only for the purposes mentioned in Articles 19(2) and the restriction must be justified on the anvil of necessity and not the quirks and of convenience or expediency. Open criticism of government policies and operations is not a ground for restricting expression.

We must practise tolerance to the views of others. Intolerance is as much dangerous to democracy as to the person himself...

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