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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

PRESENTATION FORM

WP No 6050 2019 (117)

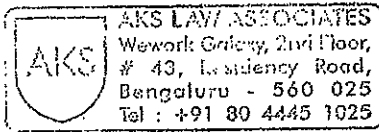
Bangalore District  
Between

Serial No. \_\_\_\_\_  
Advocate

Mr Padmanabh Shankar

KAR/1838/98  
AJESH KUMAR. S.

And



Union of India And

Sl.No.	Description of Paper Presented	Court Fee Affixed on the paper
<del>1.</del>	On the Memorandum Writ Petition	
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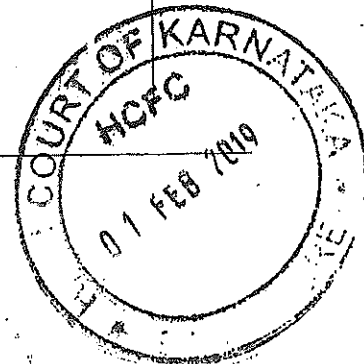
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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

WRIT PETITION NO. /2019 (PIL)

BETWEEN:

Mr. Padmanabh Shankar ..... PETITIONER

AND:

Union of India & Ors ..... RESPONDENTS

SYNOPSIS

Sl. No.	Date	Events
1.	19/03/2015	Studies conducted by international agencies. (Annexure-C, at page 63 to 108)
2.	--	Policy Documents/ Agreements of YouTube and Hotstar. (Annexure-B, at page 47 to 62)
3.	24/01/2019	Press Reports depicting lack of legislative framework regulating the broadcast of films, cinema, serials and other multimedia content, via internet. (Annexure-A, at page 25 to 46)

**BRIEF FACTS**

1. Films, cinema, serials and other multimedia content, are being broadcasted and transmitted, via internet, without any restriction. There is no regulation with regard to broadcasting of films, cinema, serials and other multimedia content, via internet. Although this has been brought to the notice of Respondent No. 1, Union of India, through various press reports, as produced at Annexure - A, no action has been taken in this regard.

2. The Central Board of Film Certification was constituted under the Cinematograph Act (Act), 1952, by Respondent No. 1, Union of India, to regulate the content broadcasted through cinemas and theatres, however, the regulation on broadcast and transmission of films, cinema, serials and other multimedia content, via internet, has not been deliberated upon by Respondent No. 1, the Union of India. Multimedia content so broadcasted by intermediaries, like that of Respondent Nos. 3 to 7, is often exhibited vulgarity through electronic media.

3. An individual or a member of his family watching movies, films, serials etc., intramural of the services provided by the Respondent Nos. 3 to 7 herein also would amount to public exhibition, therefore, the content of films, cinema, serials and other multimedia content provided by the Respondents 3 to 7 also needs to be regulated.

4. In the instant Petition the Petitioner is praying inter alia for a declaration that transmission or broadcast of any films, cinema, serials and other multimedia content through the internet, (i) shall come within the definition of Section 2(c) of the Cinematograph Act, 1952, (ii) watching the said multi-media content intramural would amount to public exhibition, thereby, requiring regulation, (iii) to direct the Union of India to come out with a suitable legislation to set up a suitable Board or Authority to sanction the films, cinema, serials and other multimedia content transmitted or broadcasted through the internet by the Respondent Nos. 3 to 7 for public exhibition with the help of Advisory Panels at Regional Centers and sanction the film for un-restricted public exhibition or sanction the film for public exhibition restricted to members of any profession or any class of persons keeping in to account the nature, content and theme of the film.

**BENGALURU**

**DATED: /01/2019**

**ADVOCATE FOR PETITIONER**

KAR/1838/98  
AJESH KUMAR. S.

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

**WRIT PETITION NO. /2019 (PIL)**

**BETWEEN:**

**Mr. Padmanabh Shankar**  
s/o Mannil Padmanabhan Nair,  
#1009, 13<sup>th</sup> Main,  
2<sup>nd</sup> Cross, HAL II Stage,  
Bangalore – 560008

**...PETITIONER**

**AND:**

- 1. Union of India**  
Represented by its Secretary  
Ministry of Information & Broadcasting  
A-Wing, Shastri Bhawan,  
Dr. Rajender Prasad Road  
New Delhi – 110 001
- 2. Government of Karnataka**  
Department of Information Technology  
M.S. Building, 6<sup>th</sup> Floor, 5<sup>th</sup> Stage,  
Bengaluru – 560 001  
By Chief Secretary
- 3. Netflix Entertainment Services India (LLP)**  
Kalavakkam Properties Private Limited,  
Having Registered Office at:  
Unit No.306-A,"The Capital",  
3<sup>rd</sup> Floor, Plot C-70, G Block,  
Bandra Kurla Complex, Bandra (East),  
Mumbai - 400051  
Represented herein by its  
Director, Mr. Upadhyay Manoj Tryambaklal
- 4. YouTube, Google India Pvt. Ltd.**  
No. 3, RMZ Infinity – Tower E,  
Floor – 3, 4 and 5  
Old Madras Road,  
Bengaluru – 560016  
Represented herein by its  
Director, Mr. Satya Raghavan

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5. **Hotstar, STAR India Pvt. Ltd.**  
House Urmi Estate,  
95 Ganpatrao Kadam Marg,  
Lower Parel, Mumbai - 400004  
Represented herein by its  
CEO, Mr. Ajit Mohan

6. **Amazon Prime, Amazon Development  
Centre (India) Pvt. Ltd.**  
World Trade Centre,  
Brigade gateway Campus,  
Dr. Rajkumar Rd, Malleswaram West,  
Bengaluru – 560055  
Represented herein by its  
Director, Mr. Gaurav Gandhi

7. **Aff Digital Media Entertainment Limited**  
C-13, Balaji House,  
Dalia Industrial Estate,  
Opp. Laxmi Industrial Estate,  
New Link Road, Andheri West,  
Mumbai – 400053  
Represented herein by its  
CEO, Nachiket Pantvaitya

...RESPONDENTS

**MEMORANDUM OF WRIT PETITION UNDER ARTICLE 226  
AND 227 OF THE CONSTITUTION OF INDIA**

The Petitioner most respectfully submits as here under:

1. The Petitioner is a citizen of India. The Petitioner is a retired Businessman and he has 4 children and 5 grandchildren. The Petitioner is concerned with the unrestricted broad-casting of films, cinema, serials and other multimedia content, via Internet, without there being any process whereby the same is restricted to either members of any profession or any class of persons keeping into account, the nature of content and the theme of films, cinema, serials or multimedia content. The Petitioner has no personal interest in the said matter and is not involved in making films, cinema, serials and other multimedia content or associated with the said industries. The Petitioner is a public-spirited person and is concerned with the unrestricted access to any person without there being any restriction to proactive content.

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2. The Petitioner is also a founder member of a Charitable Trust which from the past decade is engaged in making Bangalore a cleaner place by engaging its resources in the Swachh Bharat Movement.

3. It is submitted that the lack of legislative framework regulating the broadcast of films, cinema, serials and other multimedia content, via internet, though having been brought to the notice of Respondent No. 1, Union of India, through the various press reports, as per **Annexure - A** no action has been taken in this regard. Admittedly and undisputedly, there does not appear to be a regulatory mechanism in place to regulate unrestricted broadcasting of films, cinema, serials and other multimedia content, via the internet.

4. In order to more fully present the case, the Petitioner would like to bring out the background of the Cinematograph Act, 1952, and the regulatory frame work in that regard. In addition to the same, the Petitioner would also like to bring out the regulatory frame work with regard to publication of books and the showcasing of television serials by Cable TV networks, hence this Public Interest Litigation.

#### **Background**

5. It is submitted that the Cinematograph Act (Act), 1952 came into force, bringing into place a Regulatory framework for films. The Preamble of the said Act is extracted hereunder:

*"An Act to make provision for the certification of cinematograph films for exhibition and for regulating exhibitions by means of cinematographs."*

6. It is submitted that certain important definitions which are relevant to the instant Petition are extracted hereunder:

"Section - 2(c) "cinematograph" includes any apparatus for the representation of moving pictures or series of pictures

Section - 2(dd) "film" means a cinematograph film"

7. It is submitted as can be seen from the foregoing, there is a provision for the constitution of the Board called "Central Board of Film Certification" by the Central Government.

8. It may be fair to say that to a large extent, by regulation of films under the aforesaid Act, unrestricted public exhibition of films which affect human sensibilities by showing excess of vulgarity, obscenity or depravity, or scenes degrading women in any manner are largely contained.

9. The said Act has also more or less successfully regulated or prevented the usage of words which are contemptuous of social, religious practices, etc.

10. It is submitted that some of the leading cases which came up before the Hon'ble Supreme Court of India concerning the foregoing are extracted hereunder:

Sl. No.	Citation	Proposition
1.	K.A. Abbas v. Union of India [[1970] 2 SCC 780]	The SC observed "Film censorship becomes necessary because a film motivates thought and action and assures a high degree of attention and retention as compared to the printed word.  Therefore, it has as much potential for evil as it has for good and has an equal potential to

		instill or cultivate violent or good behavior. It cannot be equated with other modes of communication. Censorship by prior restraint is therefore, not only desirable but also necessary."
2.	Amitabh Bachhan Corporation Ltd. vs. Om Pal Singh Hoon [[1996] 37 DRJ 352(DB)]	Producers and directors cannot create a taste for sex and violence and contend that there is popular demand for the same. Constitutional values and statutory standards as interpreted by the Supreme Court have to guide us. It is not the shifting popular will but our fundamental assessments of human values and the purpose of society that should govern.
3.	Bobby Art International v. Om Pal Singh Hoon & Ors. [[1996] 4 SCC 1]	The Court in this case observed that a film that illustrates consequences of a social evil necessarily must show the social evil. Depiction must be just sufficient for the purpose of the film.
4.	S. Rangarajan vs. P. Jagjevan Ram and Ors. [[1989] 2 SCC 574]	In the name of new innovation, we cannot throw the general human morality and wisdom, we are throwing away our ethical standards and the tradition of our country into the winds. Of course, the Censor Board need not have an orthodox or conservative look, but the Board must display more sensitivity to motives, which will have a



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		markedly deleterious effect to lower the moral standards of the viewers, especially the young.
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11. It is submitted that the Respondents, like Netflix and YouTube, are aggregators of inter alia films, serials and other multimedia content including and not limited to films and television serials. Further, the said Respondents are able to make the films and television serials' contents available to the general public through internet or intermediaries, like Google or Yahoo!, or by having persons in the public download an application on Apple devices, through the App Store, or on Android devices, through Google Play Store. If a person downloads the application of any of the Respondents from Respondent No. 3 to 7, like Netflix and others, once they log into the said application, they will be able to view the content without any restriction per se. However, each of the Respondents have different subscription models where some amount of content is free and some is paid for.

12. It is submitted that as per Section 79 of the Information Technology Act, 2000, under certain circumstances intermediaries are exempted from liability. Section 79 of the Information Technology Act is extracted here under:

**"79. INTERMEDIARIES NOT TO BE LIABLE IN CERTAIN CASES**

*(1) Notwithstanding anything contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3), an intermediary shall not be liable for any third party information, data, or communication link made available or hosted by him.*

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(2) The provisions of sub-section (1) shall apply if—

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not-

- (i) initiate the transmission,
- (ii) select the receiver of the transmission, and
- (iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if—

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable

access to that material on that resource without vitiating the evidence in any manner."

13. It is submitted that by the Act No. 60 of 1986, the Union of India promulgated the Indecent Representation of Women (Prohibition) Act, 1986, which is to regulate or prohibit indecent representation of women through advertisements, publications, paintings, writings, figures or in any other manner and for matters connected or incidental thereto.

14. It is submitted that notwithstanding there being no specific statute which solely deals with regulation of unrestricted content in literary works, Section 292 to 294 of the Indian Penal Code, 1860, have been invoked from time to time to regulate the same. The test has always been to see as to what extent the expression in literary works be permitted or regulated, and at all times keeping in mind Article 19 (2) of the Constitution of India, 1950. Section 292 to 294 of the Indian Penal Code, 1860, have been extracted as hereunder:

*"292. Sale, etc., of obscene books, etc.—*

*(1) For the purposes of sub-section (2), a book, pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt person, who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.*

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293. Sale, etc., of obscene objects to young person.—  
Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of twenty years any such obscene object as is referred to in the last preceding section, or offers or attempts so to do, shall be punished [on first conviction with imprisonment of either description for a term which may extend to three years, and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years, and also with fine which may extend to five thousand rupees

294. Obscene acts and songs.—Whoever, to the annoyance of others—

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both."

15. In the English Case of *Regina v. Hicklin* [(1868) LR 3 QB 360], the Court proposed the popularly known Hicklin Test wherein the obscene matter would be considered by itself and then separately to find out whether the obscenity is so gross so as to deprave and corrupt those whose minds are open to influences of this sort in whose hands this book is likely to fall. Since the case of *Ranjit D Udeshi v. State of Maharashtra* [AIR 1956 Pat. 188 (195)] where this Hicklin Test was first adopted by the Indian Courts, the courts have followed this test for over 50 years until the Hon'ble Supreme Court in the case of *Aveek Sarkar & Anr. v. State of West Bengal & Ors.* [(2014) 4 SCC

257] rejected the Hicklin test which judged obscenity based on isolated passages of a work, which were considered out of context. The Hon'ble Supreme Court in this case adopted the "community standard test" established in the American case of *Roth v. United States* [1 L Ed 2d 1498: 354 US 476 (1957)]. It said that only those sex related materials which have the tendency of "exciting lustful thoughts" were found to be obscene and the same has to be judged from the point of view of an average person by applying contemporary community standards and not the standard of susceptible and sensitive persons.

15A. It is submitted that some of the leading cases which came up before the Hon'ble Supreme Court of India concerning the foregoing are extracted hereunder:

Sl. No.	Citation	Proposition
1.	Ajay Goswami v. Union of India [(2007) 1 SCC 143]	The Court held that there needs to be a balance between the freedom under Art 19 (1)(a) and public decency and morality. Further, the Court opined that in cases where the latter is substantially transgressed, the former must give way.
2.	Shri Chandrakant Kalyandas Kakodkar v. State of Maharashtra and Ors. [(1969) 2 SCC 687]	The Hon'ble Court observed that the concept of obscenity would differ from country to country depending upon the standards of morals of the contemporary society. It is pertinent to see whether a class, not an isolated case, into whose hands a literary work (book) is likely to fall suffers in

		their moral outlook or may have impure or lecherous thoughts aroused in their minds.
3.	Ranjit D Udeshi v. State of Maharashtra, [AIR 1956 Pat. 188(195)]	In this case the Courts for the first time used the Hicklin Test to judge obscenity.
4.	Aveek Sarkar & Anr. V. State of West Bengal & Ors., [[2014] 4 SCC 257]	The Hon'ble Supreme Court in this case adopted the "community standard test" and rejected the Hicklin Test.

16. Since the year 1959, entertainment and other Television programs have been broadcasted through Dish Antenna and also by various Cable TV operators.

16A. It is submitted that pursuant to the Hero Cup Judgment [*Secretary, Ministry of Information and Broadcasting, Government of India v. Cricket Association of Bengal* [(1995) 2 SCC 16] the Hon'ble Supreme Court was pleased to observe the lacunae in the area of broadcasting regulation and directed the establishment of an autonomous broadcasting authority to control and regulate broadcasting media.

16B. In the year 1995, Union of India enacted The Cable Television Networks (Regulation) Act, 1995. the relevant definitions are extracted as hereunder:

2(aii). "Broadcaster" means a person or a group of persons, or body corporate, or any organisation or body providing programming services and includes his or its authorised distribution agencies;

2(aiii). "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network and fulfils the prescribed eligibility criteria and conditions;

2(g). "programme" means any television broadcast and includes—

- (i) exhibition of films, features, dramas, advertisements and serials;
- (ii) any audio or visual or audio-visual live performance or presentation."

17. It is submitted that with reference to Cable TV Operators in India, they are such governed under Cable Television Networks (Regulation) Act, 1995 and Cable Television Networks (Rules), 1994. Rule 6 and Rule 7 which are pertinent to the petition are detailed as hereunder:

"Rule 6: Programme Code:

- (i) No programme shall offend good taste or decency; shall contain anything obscene, defamatory, deliberate, false, and suggestive innuendos and half-truths; or denigrates women through the depiction in any manner the figure of a women; (these amongst other things).

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(ii) Programmes meant for children must not contain bad language or explicit scenes of violence. These are not to be projected during those time period where the percentage of minor viewers is the higher magnitude.

Rule 7: Advertising Code:

(i) Tends to incite people to crime, cause disorder or violence or breach of law or glorifies violence or obscenity in any way; depiction of women violates the constitutional guarantees to all women and portray submissive or passive traits of women; exploits social evils (these amongst other things).

(ii) Indecent, vulgar, suggestive, repulsive, or offensive themes or treatment shall be avoided in all advertisements."

17A. It is submitted that some of the leading cases which came up before the Hon'ble Supreme Court of India concerning the foregoing are extracted hereunder;

Sl. No.	Citation	Proposition
1.	Secretary, Ministry of Information and Broadcasting v.	The Hon'ble Supreme Court laid down a set of guidelines to stop "oppressive and slanderous" surrogate advertisements during electioneering.



	Gemini TV (Pvt.) Ltd.  [[2004] 5 SCC 714]	
2.	Pratibha Naitthani v. Union of India  [AIR 2006 Bom 259]	The Hon'ble Court held that the Cable TV Operators couldn't telecast certified adult films by CBFC because reasonable restrictions could be imposed by way of 19(2) of the Constitution of India.  Additionally, the adult viewer's right to watch would not be taken away by way of such restriction.
3.	Secretary, Ministry of Information and broadcasting, Government of India v. Cricket Association of Bengal (Hero Cup Judgement)  [[1995] 2 SCC 161]	The Hon'ble Court directed the establishment of an autonomous broadcasting authority to control and regulate broadcasting media

18. It is submitted that the Internet has invaded the homes of India and is now accessible as a medium of entertainment and communication to carry content and is available on Televisions, Phones, Tablets, etc.

19. It is submitted that as far as the Internet is concerned same is regulated by the Information Technology Act, 2000. It is submitted that any

person who provides internet service would be called an intermediary. The definition is extracted hereunder:

*"2(w). "intermediary" with respect to any particular electronic message means any person who on behalf of another person receives, stores or transmits that message or provides any service with respect to that message;"*

20. It is submitted that some of the well-known intermediaries are Google, Yahoo, etc. and Google has been added as Respondent No. 4 in the present petition.

20A. It is submitted that Respondents like Netflix, Hotstar, AltBalaji etc. generate contents like films, serials, etc. and are Respondent Nos. 3 to 7.

21. It is submitted that the above-named Respondents, be it either Google or Yahoo, or Netflix or Hot Star, etc have either a Policy Document or an Agreement with their content generators which inter alia gives the latter the right to decide whether they are going to publish the content or transmit the same to users. A copy of the Policy Documents/Agreements of the said Respondents as available in public domain is appended hereto at **Annexure - B**. In other words, the said Respondents take up the responsibility of deciding as to whose and which content can be transmitted or broadcast by them and consequently, they cannot claim any protection under Section 79 of the Information Technology Act.

22. It is submitted that Hon'ble Supreme Court in *Shreya Singhal v. Union of India* [(2015) 5 SCC 1] was pleased to uphold that:

*"Section 79 being an exemption provision, it is closely related to provisions which provide for offences including Section 69 A. Under Section 69A blocking can take place*

only by a reasoned order after complying with several procedural safeguards including a hearing to the originator and intermediary. There are only two ways in which a blocking order can be passed- one by the designated officer after complying with the 2009 rules and the other by the designated officer when he has to follow an order passed by the competent court.

The intermediary applying its own mind to whether information should or should not be blocked is noticeably absent in Section 69A read with the 2009 Rules.

23. It is submitted that it is quite clear that there is no statutory frame-work in force to regulate the content broadcast by the Respondent Nos. 3 to 7 through internet and there is absolutely no mechanism to regulate broadcasting of films, cinema, serials and other multimedia content. Even though the said matter has been noticed by Respondent No. 1, Union of India, as is evident from the news reports at **Annexure – A**.

24. It is submitted that at present there is no law enforced to regulate the films, cinema, serials and other multimedia content broadcast by the Respondent Nos. 3 to 7, for instance, content produced by content generators like HBO Cable Networks (which produced Game of Thrones), Focus Features (which produced 50 Shades of Grey), etc., and hence this petition.

25. It is submitted that the Petitioner craves leave of this Hon'ble Court to file this Writ Petition as there is no alternate or efficacious remedy available to the Petitioner. The Petitioner is filing the instant Writ Petition urging the following among other Grounds. The Petitioner has not filed any other Writ Petition on the same cause of action against the Respondents herein and no such petition is pending.

**Grounds**

A. That Union of India has as far back as in 1952 recognized that there was a requirement of some form of regulation with regards to films and their public exhibition. It is for the said purpose the Cinematograph Act of 1952 was promulgated. Under the said Act, the Board so constituted, may either sanction a film for unrestricted public exhibition, or may sanction the film for public exhibition restricted to Adults only, or it may sanction the film for public exhibition restricted to any profession or class of persons keeping into account the nature, content and theme of the film. The said Act has been interpreted by the Hon'ble Supreme Court as stated herein before. The Constitution of India also provides for some reasonable restrictions to be put in the place for ensuring public order.

B. That it is only in the intervention of the Hon'ble Supreme Court in the Hero Cup Judgment that the foundation was laid for regulation of content broadcast by Cable TV Operators through Cinema and Television. Consequent to the judgment was the enactment of the Act and Rules.

C. That even though the Andhra Pradesh General Sales Tax Act was enacted in the year 1957, during which time the manufacturing of Computer Software was not specifically included in the definition of goods under the said act, the Hon'ble Supreme Court in *Tata Consultancy Services v State of Andhra Pradesh* [(2005) 1 SCC 308] was pleased to interpret the Act by holding that the development of software was also considered as goods. Similarly, even though the Cinematographic Act of 1952 or the Cable Television Network Regulation Act of 1995 is silent with regard to broadcasting of films, cinema, serials and other multimedia content, via internet, the law should be declared to state that the Cinematograph Act, 1952, shall apply for transmission or broadcasting of

films, cinema, serials and other multimedia content, via the internet. In fact, in the case of *Laxmi Video Theatres and Ors. v. State of Haryana and Ors.*, (1993) 3 SCC 715, the Hon'ble Supreme Court interpreted Section 2(c) of Cinematograph Act, 1952, to include DVDs and VCRs within the meaning of the word "apparatus" and consequently held that the Cinematograph Act of 1952 shall also apply to films broadcast through VCRs, DVDs, etc.

D. That it was by the intervention of the Supreme Court, realizing the gravity of smoking and passive smoking in case of *Murali S Deora v. Union of India* [2001 8 SCC 765], directed and prohibited smoking in public places and issued directions to the Union of India to take steps to prohibit smoking at public places. Only thereafter the Government of India enacted Cigarettes and Other Tobacco Products Act, 2003. There are various studies by international agencies that further highlight the direct nexus between the action of persons who perpetuate crime and the content they have seen prior thereto. The same has been provided in **Annexure - C**. Additionally, the Hon'ble High Court of Uttarakhand, in the case of *In Re, "In the matter of, Incidence of Gang Rape in a boarding School, situated in Bhauawala, District Dheradhun" v. State of Uttarakhand and Ors.*, [W.P. (PIL) No. 158/2015], had dealt with a matter wherein a 10<sup>th</sup> grade girl was brutally raped by two minors and had subsequently found that these minors were persuaded towards the commission of such a criminal act due to the access to obscene content, i.e., pornographic material.

E. That when Union of India has recognized the need for regulations on film content as far back as in 1952, for that same reason, there has to be a suitable board to regulate the content being broadcasted on online streaming platforms, like those of Respondent Nos. 3 to 7, especially regarding films, cinema, serials and other multimedia content.

F. That in *Super Cassette Limited & Anr. v. Board of Film Certificate & Others* [(2010) 175 DLT 163] it was held that watching a movie through the medium of DVD's and VCD's would amount to public exhibition. It is therefore submitted that even if an individual or a member of his family is to watch any movies or films, available through Respondent Nos. 3 to 7, within four walls would amount to public exhibition. Therefore, the content of films, cinema, serials and other multimedia content available through the aforementioned Respondents should also be regulated.

#### Prayer

Wherefore, the Petitioner most respectfully prays that the Hon'ble Court may be pleased to:

- (i) Issue an appropriate Writ, Direction or Order to declare that the transmission or broadcast of any films, cinema, serials and other multimedia content through the internet shall come within the definition of Section 2(c) of the Cinematograph Act, 1952,
- (ii) Issue an appropriate Writ, Direction or Order to declare that watching films, cinema, serials and other multimedia content through internet within the four walls of a house or office would amount to public exhibition under the Cinematograph Act, 1952.
- (iii) To issue an appropriate Writ, Direction or Order to direct the Union of India to come out with a suitable legislation to set up a suitable Board or Authority to sanction the films, cinema, serials and other multimedia content transmitted or broadcasted through the internet by the Respondent Nos. 3 to

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7 for public exhibition with the help of Advisory Panels at Regional Centers and sanction the film for un-restricted public exhibition or sanction the film for public exhibition restricted to members of any profession or any class of persons keeping in to account the nature, content and theme of the film.

AND

To issue an appropriate Writ, Direction or Order to declare that the Board so constituted by the Union of India shall have the necessary power and authority to direct the Respondent Nos. 3 to 7 to carry out the said modification.

AND

Until Respondent No. 1, the Union of India, comes out with a suitable legislation as stated supra, this Hon'ble Court be pleased to direct the Central Board of Film Certification, constituted under the Cinematograph Act, 1952, to certify all the films, cinema, serials and other multimedia content broadcasted or transmitted by Respondent Nos. 3 to 7, whereby the same is restricted to any profession or class of persons keeping into account the nature, content and theme of the films, cinema, serials and other multimedia content.

AND

Issue suitable Writ or Direction to direct the Respondent Nos. 3 to 7 to broadcast any films, cinema, serials and other multimedia content only upon obtaining certificate issued by the Central Board of Film Certification constituted under the Cinematograph Act of 1952.

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- (iv) To pass such other order/s as the Hon'ble Court may deem fit to grant under the circumstances of the case, in the interest of justice and equity.

BENGALURU

DATED: /01/2019

ADVOCATE FOR PETITIONER

KAR/1838/98  
AJESH KUMAR. S.

