



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL**
**ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced, stored, transmitted, translated, or distributed in any form or by any means—whether electronic, mechanical, photocopying, recording, scanning, or otherwise—without the prior written permission of the Editor-in-Chief of *White Black Legal – The Law Journal*.

All copyrights in the articles published in this journal vest with *White Black Legal – The Law Journal*, unless otherwise expressly stated. Authors are solely responsible for the originality, authenticity, accuracy, and legality of the content submitted and published.

The views, opinions, interpretations, and conclusions expressed in the articles are exclusively those of the respective authors. They do not represent or reflect the views of the Editorial Board, Editors, Reviewers, Advisors, Publisher, or Management of *White Black Legal*.

While reasonable efforts are made to ensure academic quality and accuracy through editorial and peer-review processes, *White Black Legal* makes no representations or warranties, express or implied, regarding the completeness, accuracy, reliability, or suitability of the content published. The journal shall not be liable for any errors, omissions, inaccuracies, or consequences arising from the use, interpretation, or reliance upon the information contained in this publication.

The content published in this journal is intended solely for academic and informational purposes and shall not be construed as legal advice, professional advice, or legal opinion. *White Black Legal* expressly disclaims all liability for any loss, damage, claim, or legal consequence arising directly or indirectly from the use of any material published herein.

ABOUT WHITE BLACK LEGAL

White Black Legal – The Law Journal is an open-access, peer-reviewed, and refereed legal journal established to provide a scholarly platform for the examination and discussion of contemporary legal issues. The journal is dedicated to encouraging rigorous legal research, critical analysis, and informed academic discourse across diverse fields of law.

The journal invites contributions from law students, researchers, academicians, legal practitioners, and policy scholars. By facilitating engagement between emerging scholars and experienced legal professionals, *White Black Legal* seeks to bridge theoretical legal research with practical, institutional, and societal perspectives.

In a rapidly evolving social, economic, and technological environment, the journal endeavours to examine the changing role of law and its impact on governance, justice systems, and society. *White Black Legal* remains committed to academic integrity, ethical research practices, and the dissemination of accessible legal scholarship to a global readership.

AIM & SCOPE

The aim of *White Black Legal – The Law Journal* is to promote excellence in legal research and to provide a credible academic forum for the analysis, discussion, and advancement of contemporary legal issues. The journal encourages original, analytical, and well-researched contributions that add substantive value to legal scholarship.

The journal publishes scholarly works examining doctrinal, theoretical, empirical, and interdisciplinary perspectives of law. Submissions are welcomed from academicians, legal professionals, researchers, scholars, and students who demonstrate intellectual rigour, analytical clarity, and relevance to current legal and policy developments.

The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

The journal accepts original research articles, case comments, legislative and policy analyses, book reviews, and interdisciplinary studies addressing legal issues at national and international levels. All submissions are subject to a rigorous double-blind peer-review process to ensure academic quality, originality, and relevance.

Through its publications, *White Black Legal – The Law Journal* seeks to foster critical legal thinking and contribute to the development of law as an instrument of justice, governance, and social progress, while expressly disclaiming responsibility for the application or misuse of published content.

FREEDOM OF EXPRESSION AND FILM REGULATION IN INDIA: CRITICAL ANALYSIS OF THE CENTRAL BOARD OF FILM CERTIFICATION'S CENSORSHIP PRACTICES

AUTHORED BY - NATHASHA DANIELLA DSOUZA
3rd year Student at School of Law,
CHRIST (Deemed to be University), Pune Lavasa Campus

ABSTRACT

The Central Board of Film Certification, a statutory body authorised by the Cinematography Act, continues to be a de-facto cancelling authority rather than a censorship body, raising serious constitutional violations regarding the freedom of speech and expression guaranteed under Article 19(1)(a) of the Indian Constitution. This paper critically examines to what extent does the Central Board of Film Certification's decision-making process, influenced by subjective biases of morality, political sensitivities and ambiguous interpretations of "public order", constitute an impermissible form of prior restraint. While the Cinematography Act provides for a limited statutory authority to the board, the board frequently exceeds these statutory boundaries, undermining the reasonableness and proportionality standards prescribed under Article 19(2). The abolition of the Film Certification Appellate Tribunal in 2021 has further intensifies these constitutional tensions by removing speedy, time-sensitive appellate remedy, thereby highlighting restraining and discouraging effect on the filmmakers in India. Through statutory analysis, case laws evaluation and assessment of structural deficiencies, this paper critically analyses and argues that the current censorship regime violates the fundamental freedoms and necessitates urgent reforms. The paper concludes by proposing a rights-oriented regulatory model that censors with reasonable restrictions and not through personal biases, strengthens appellate oversight and aligns film regulation with contemporary constitutional jurisprudence.

Keywords: Freedom of Expression, Film regulation, India, Censorship, certifying authority,

INTRODUCTION

In India, Cinema occupies the largest and most unique constitutional space. It is a creative medium that is protected by the Constitution of India under Article 19 (1) (a)¹. However, it is still is one of the most highly censored art form in any democracy. The Central Board of Film Certification², established under Cinematograph Act, 1952, was primarily established as a certification authority, yet contemporary scholars and judicial decisions reveal that the Board is frequently involved in censoring and banning movies across India, thereby engaging in forms of prior restraint which has raised serious constitutional concerns.³

The Supreme Court in the case of *K. A. Abbas v. Union of India*⁴, upheld the constitutionality of pre-censorship. However, the court has also imposed strict limitations grounding in reasonableness and proximity to the said restrictions conceded in Article 19 (2)⁵. Subsequent Supreme Court case of *S. Rangarajan v. P Jagjivan Ram*⁶, strengthened the constitutionality, warning that biased dissatisfaction, anticipated public peace disorder, a centralist sentiment cannot justify restricting expressive freedom

Despite this clear doctrinal rule granted by the Supreme Court, empirical patterns and case-specific controversies reveal that CBFC's decision making continuously deviates from these standards, instead it relies heavily on fluctuating notions of political and religious sensitivities, morality and vague interpretations of "public order"

These constitutional tensions have deepened, post Tribunal Reforms Act, 2021⁷, where the act abolished the Film Certification Appellate Tribunal⁸, which previously served as a quick and specialised appellate body for the CBFC's decisions. Due to this abolition, filmmakers must now have to directly go before the High Court to seek remedy which is a hasty long process and is also relatively slow to commercial release schedules. This has resulted in "chilling effect" on creative expressions, as delays and financial burdens force the directors to accept the decisions given by the CBFC making them final.

¹ Const. of India, art. 19(1)(a).

² Central Board of Film Certification, Government of India, Ministry of Information and Broadcasting.

³ Anmol Kaur, "Censorship and Artistic Freedom – A Philosophical Inquiry," (2023) SSRN Electronic Journal.

⁴ *K.A. Abbas v. Union of India*, AIR 1971 SC 481: (1971) 2 SCC 446.

⁵ The Constitution of India, art. 19(2).

⁶ *S. Rangarajan v. P. Jagjivan Ram & Others*, AIR 1989 SC 42: (1989) 2 SCC 574.

⁷ The Tribunal Reforms Act, 2021.

⁸ Film Certification Appellate Tribunal, Government of India, Ministry of Information and Broadcasting.

This paper therefore goes forward from a constitutional inquiry: Whether the Central Board of Film Certification's current decisions amount to an unconstitutional prior restraint, and whether the restrictions satisfy the limitations given under article 19 (2) of the constitution. Further, this paper also examines whether the removal FCAT has fuelled the filmmakers' inability to contest the unlawful censorship. Through analysis of case laws and assessment of the decision-making framework, the paper argues that the paper fails the test of legality, proportionality and necessity. Further the paper also contends that subjective decisions, morality-based and political-religious driven censorship not only surpasses the statutory boundaries but also violates the freedom of speech and expression of the people.

By establishing CBFC practices with constitutional functions rather than administrative convenience, the paper establishes a foundation for reenvisioning film regulation in India, that respects creative freedom, preserves the legitimate autonomy and state interests, and that aligns with the vision of the constitution of India.

CONSTITUTIONAL FRAMEWORK: ARTICLE 19(1)(A), PRIOR RESTRAINT AND THE LIMITATIONS OF ARTICLE 19(2)

The constitutional protection of artistic freedom of expression derives directly from Article 19(1)(a), which guarantees the freedom of speech and expression to all the citizens of India. As held in the Supreme Court case of *K. A. Abbas v. Union of India*, films are integral form of artistic and political expression and hence they fall directly within this constitutional guarantee. However, unlike newspapers and other medium, films have historically been subject to procedure of pre-censorship, an exception from the general constitutional principle against freedom of speech and expression. Because such pre-censorship is inherently capable of surpassing the freedom of speech even before the speech reach the public, the Supreme Court has consistently held in multiple cases that any form of prior restraint must be strictly controlled and exercised only within the limits that are granted by article 19(2)

1. Constitutional validity of Pre-Censorship

In *Abbas* case, the Court upheld the constitutionality of prior restraint. However, the court also emphasised that the power must be exercised with "scrupulous care," and only to the limits strictly necessary to protect interests that are enumerated in Article 19(2). The court further reasoned that the impact of cinema is more "instantaneous and profound" than any other forms of media, yet simultaneously warned that the state shall

not silence the legitimate expressions of the citizens merely because of subjective disagreement or anticipated offence.

The previous decisions given by CBFC repeatedly invokes notions of “public order,” “decency” and “morality”. However, these terms comprise constitutional meaning only within adaptive architecture of Article 19(2) and cannot be interpreted as a free-floating ground for censorship of the cinemas.⁹

2. Article 19(2): reasonable Restrictions and the constitutional discipline

Article 19(2) permits restrictions on the freedom of expression only if the sovereignty, integrity and security of the state is on threat. It also further includes disruption of public order, decency and morality. Therefore, any restriction must meet three essentials:

- A direct proximate connection to the given grounds
- A clear statutory basis
- A constitutionally proportionate action for the expression¹⁰

Cases repeatedly shows that CBFC often restricts invoking these terms without establishing a proximate connection, especially in cases where cinema involves sexual content, political critique or portrayal of caste discrimination. Supreme Court has further upheld these 3 thresholds in S Rangarajan case, stating that unless the expression poses any imminent danger to the grounds given in Article 19(2), the state cannot interfere and suppress merely because due to the fear of hostile audience reaction. The further declared that freedom of speech and expression cannot be suspended unless the situation is “akin to spark in a powder keg”

Under this doctrine, it happens to be constitutionally impermissible for CBFC to deny certifications or impose excessive cuts based on anticipated protests, biased political sensitivities or majoritarian outrage.

3. The proportionality Test: A constitutional requirement

Following the landmark Supreme Court cases; Modern Dental College¹¹ and Puttaswamy¹², proportionality test has become India’s standard for assessing restriction

⁹ Pratyush Kumar, “The Debate over Freedom of Speech and Censorship in India,” (2024) SSRN Electronic Journal

¹⁰ Abhirup Bhadra, “Central Board of Film Certification, Controversy’s and Indian Cinema” (2022) 7(5) International Journal of Novel Research and Development (IJNRD) 1605–1610.

¹¹ Modern Dental College and Research Centre v. State of Madhya Pradesh, AIR 2016 SC 2601: (2016) 7 SCC 353.

¹² Justice K.S. Puttaswamy (Retd.) v. Union of India, AIR 2017 SC 4161: (2017) 10 SCC 1.

on the fundamental rights. A restriction of free speech must satisfy:

- A legitimate ground falling under article 19(2)
- A rational connection between restriction and aim
- Necessity; least restrictive means
- Balancing; benefit outweighs the harm

Applying these tests on CBFC's actions shows frequent constitutional failure:

- Cuts or bans are justified for "hurting sentiments" but fail under "legitimate ground" and "necessity"
- 89 cuts on the film *Uda Punjab*¹³ and Excessive cuts on the film *Lipstick Under My Burkha*¹⁴ fail the "least restrictive means" requirement
- Bans or forced changes due to anticipated protests also fail the "balancing" test.

The Supreme Court has held consistently that morality under Article 19(2) refers to *constitutional morality* and not subjective social morality. The contemporary decisions of CBFC are frequently shaped by subjective moral judgements, political biasness, social morality and not constitutional morality.

CBFC'S DECISION MAKING: ARBITRARINESS, SUBJECTIVE BIAS AND MAJORITARIAN INFLUENCE

Chandana Arval argues that "artistic expression is often subordinated to culturally conditioned moral anxieties," leading to intensified censorship of sexuality, gender and caste representation, and women-centric narratives.¹⁵ This is evident in cases like *Lipstick Under My Burkha*, which CBFC denied certification on grounds that the film was too "lady oriented" and contained "contagious sexuality"; reasons with no constitutionally valid ground under reasonable restrictions.

Similarly, Komal Devi and Rakesh Sharma in their work, show how portrayal of violence, though contextually justifies in the narrative, are censored due to fears of corrupting the minds of the youth, despite have no evidence of actual harm.¹⁶ This is evident in the movie *The Girl*

¹³ Phantom Films Pvt. Ltd. and Another v. Central Board of Film Certification, 2016 SCC OnLine Bom 3862.

¹⁴ T. Tripura Sundari, "Legal Limits on Creativity: Understanding Film Censorship in India" International Journal for Multidisciplinary Research (IJFMR) E-ISSN 2582-2160.

¹⁵ Chandana Arval, "A Conceptual and Legal Analysis on How Film Censorship Hampers the Freedom of Artistic Expression" (2016) The Indian Journal of Law and Public Policy 22–31.

¹⁶ Komal Devi and Rakesh Sharma, "Censorship Guidelines Related to Violence and Their Adoption in Hindi Cinema" (2022) 7(8) International Journal for Research Trends and Innovation.

with the *Dragon Tattoo* where the CBFC demanded for several cuts on grounds of violence and when the director denied, it led to the banning of the entire movie in India.

1. Political and Ideological Influence on Certification

Multiple scholars have identified political interference as a common factor for shaping CBFC's decisions.

Abhirup Bhadra documents several films where the Board's decision was influenced due to the political pressure, rather than the statutory criteria.

- *Padmaavat*: Delayed certifications, forced alterations due to politically mobilised groups¹⁷
- *Uda Punjab*: Excessive cuts demanded due to influence of state-level political considerations
- *Vishwapooram*: Banned by the Tamil Nadu government despite the grant of certification by the board.

Together, these works reveal the political influence; whether ideological or identity based, on the Board's decision making them arbitrary and disproportionate.

2. Inconsistency and lack of Objective Standards

Another major reason being is the inconsistent decisions by the board even when films consist of similar themes or visual content.

One such example being, *Mohenjo Daro* passed without any major objects, while *UnIndian* faced intimate scene cuts.¹⁸ Films criticising the political actors face harsher decisions, while the others don't, reinforcing the dominant narratives. Such inconsistencies result from absence of clear interpretive criteria, leaving too much room for the board members' beliefs.¹⁹

These inconsistent decisions violate the administrative, natural justice principles of reasoned decisions and equal application of standards.

STRUCTURAL AND PROCEDURAL DEFICIENCIES IN THE CBFC FRAMEWORK

The regulatory schemes under the Cinematograph Act, 1952, Give the Board with wide range of discretionary power but insufficient institutional safeguards. This results in the board using

¹⁷ Viacom18 Media Pvt. Ltd. and Others v. Union of India and Others, AIR 2018 SC 499: (2018) 1 SCC 761.

¹⁸ Vijay G, "A Critical Analysis on Censorship Issues in Indian Cinema & Its Challenges" (2020) 3(4) International Journal of Law Management & Humanities.

¹⁹ Namita Vyas Joshi, "An Analysis of Law Relating to Censorship of Literary and Cinematographic Works" (2022) 6(S2) International Journal of Health Sciences

this power arbitrarily and makes the decisions unpredictable, inadequately reasoned and subject to biasness.

1. Absence of Qualification Standards by the act:

The Cinematograph Act does not give the minimum qualifications for standards or even expertise that is required by the individuals appointed to the Board²⁰. As a result of this, the certification process often reveals the personal biasness and value systems of the committee member rather than constitutionally valid grounds. The lack of this structured eligibility grounds for decision making members in the board, highly weakens the legitimacy of the body who is entrusted with power of imposing prior restraint on speech.

2. Opaque Examination and Revising Committee Processes:

The statutory framework also provides for confidentiality of the examining committees and its members from the filmmakers, leaving them unaware of who evaluated their films, and what criteria have they applied and why such specific cuts or modifications were demanded. Decisions made and that are communicated are frequently without detailed speaking orders.²¹ This opacity weakens principles of natural justice of administrative laws that requires transparency and reasoned decisions, especially where the constitutional rights are restricted.

3. Vague Statutory Language in the Cinematograph Act

Section 5B includes terms such as “public order,” “decency,” “morality,” and “sovereignty”²² yet it offers no definition or threshold as to what actions constitutes of such words. These vagueness increases the subjective interpretations and expansive censors by the board which is totally unrelated to constitutionally permissible restrictions under Article 19(2)²³. In several instances, films have been restricted multiple times not for constitutional restrictions but for undefined community standards or broad moral expectations.

4. Delay as a Mechanism of Censorship

Because the film releases is a time sensitive projects, delays in certification becomes

²⁰ Suman and Deeksha Singh, “Socio-Legal Perspective of Censorship in Motion Pictures” (2025) 3(3) International Journal of Legal Studies and Social Sciences (IJLSSS) 17.

²¹ Archana Chanuvai Narahari and Kaushik Garasiya, “Central Board of Film Certification (CBFC) – Spectators’ Perspective on Censorship Process in India” (2019) 6(6) Journal of Emerging Technologies and Innovative Research.

²² The Cinematograph Act, 1952, § 5B.

²³ Sukanta K Nanda, “Media Freedom, Film Censorship and Freedom of Expression – An Evaluation” (2015) 4(1) International Journal of Science, Technology & Management 77.

an indirect but highly effective mode of censorship. Multiple layers of review from the Examining Committee, Revising Committee and the Chairperson's review makes it bureaucratic stalling. Delays have been the reasons for delayed releases of the movies in numerous documented cases, effectively surpassing speech without the formal ban.

5. Absence of Procedural Safeguards

The certification framework at present lacks mandatory guidelines that requires consistency in evaluation, organised decision making or uniformly application of criteria with consistency. There are no statutory provisions to provide detailed reasoning for the decisions given, adherence to the timelines or even to apply benchmarks²⁴. This becomes a massive reason for the inconsistent outcomes, where few films undergo extensive scrutiny for themes likes sexual content, politics or religion while others with similar or same content pass unchallenged.

IMPACT OF THE ABOLITION OF THE FILM CERTIFICATION APPELLATE TRIBUNAL

The 2021 abolition of Film Certification Appellate Tribunal has completely changed India's film regulation process, increasing the constitutional problems associated with the CBFC. Previously, FCAT worked as a time sensitive, speedy and specialised body designed to rectify the errors done by the CBFC²⁵. Now the abolition of such mechanism has increased the violation of freedom of speech to a larger extent. FCAT was necessary and specialised because it gave awards considering the commercial urgency, contextual contexts and artistic expressions. Movies such as *War and Peace*, *No fathers in Kashmir*, *Uda Punjab* have emphasising that FCAT used to function as a rectifying body for all the unjustifiable decisions given by CBFC.

Now that FCAT has been abolished, the filmmakers must now have to approach to the High Courts to appeal. Though this is constitutionally valid, High Courts usually cannot provide

- Fast-track adjudication
- Specialised film industry knowledge

²⁴ Namita Vyas Joshi, "An Analysis of Law Relating to Censorship of Literary and Cinematographic Works" (2022) 6(S2) International Journal of Health Sciences

²⁵ Gunjan Chawla and Nidhi Buch, "Regulation of Web-Based Entertainment in India: Evaluating Self-Regulation over Censorship as a Mechanism for Regulating OTT Platforms" (2023) 36(S1) Journal of Namibian Studies 134–155

- Urgent interim relief

Further, abolishment of FCAT has also intensified prior restraint. This has raised various issues, such as;

- Delays may outlast a film's commercial life
- Directors often choose to self-censor rather than litigate
- High Courts are often reluctant to interfere with administrative expertise matters

This has resulted in a stronger chilling effect²⁶ because filmmakers anticipate time-taking system forcing them to take decisions pre-emptively.

Under the Maneka Gandhi²⁷ and Puttaswamy²⁸ proportionality framework, the courts have held that restriction on fundamental rights is only constitutionally valid if they are accompanied by reasoned decisions and procedural safeguards. FCAT, previously worked as this procedural safeguards. Time sensitivity is intrinsic to free speech especially in film industries; lack of rapid appeal itself becomes a constitutional injury.

DO CBFC PRACTICES CONSTITUTE UNCONSTITUTIONAL PRIOR RESTRAINT?

The constant operation of the CBFC's statutory discretions, subjective decision-making practices and structural deficiencies indicates that contemporary film certification in India very frequently crosses the constitutional boundary into prohibited prior restraint. While pre-censorship of films has been upheld previously, the manner in which CBFC exercises this power fails to comply with the constitutional discipline given in Article 19(1)(a) and Article 19(2).

1. Failure to comply the threshold of Prior Restraint

Prior restraint is constitutionally permitted only in exceptional circumstances and must be exercised with increased scrutiny. The Supreme Court has multiple times held that suppression of expression before publication is more injurious than censoring post-publication sanctions and therefore requires convincing justification. Certification decisions that mandate extensive cuts, demand modifications unrelated to the public harm, morality, decency or delay release without urgent necessity effectively suspend

²⁶ Arushi Dokania, "A Critical Overview of Film Censorship in India vis-à-vis Freedom of Speech" (2021) 24 Jindal Global Law Review ISSN 2456-9704.

²⁷ Maneka Gandhi v. Union of India, AIR 1978 SC 597 (1978) 1 SCC 248.

²⁸ Justice K.S. Puttaswamy (Retd.) v. Union of India, AIR 2017 SC 4161: (2017) 10 SCC 1.

speech before it reaches the public space.

CBFC decisions frequently rely on anticipated offence, moral discomfort rather than actual harm. Such grounds fall short of the imminence and proximity standard required under constitutional jurisprudence, making these restraints unconstitutional in total even if formally framed as “certification.”

2. Non – Compliance with Article 19(2) Restrictions

Restrictions of freedom of speech and expression is only allowed if it falls under the permits given under article 19(2). However, CBFC censoring decisions and the reasoning behind them often invoke “public decent” “order” or “morality” without establishing a direct connection between the reasoning given on the restricted content²⁹. What content of the entire film should be restricted and why is often very vague and ambiguous. What is it that is morally right and permitted among the general public is not justified neither by the board nor by the cinematograph act.

Restrictions by CBFC are covered by the veil of Article 19 (2) and convert permissible art into unconstitutional censorships. Furthermore, the repeated using of the term “hurt sentiments” as a reason for regulating the films shifts from constitutional protection of expression of the administrative enforcement of subjective biases³⁰. What is sensitive to one group of people might not be the same to another set of people. Constitutional jurisprudence makes it clear through judicial decisions that the state cannot silence expressions merely because it provokes a certain set of people throughout the country.

3. Institutionalised Subjectivity and Arbitrariness

What appears in the decisions of CBFC is not a series of errors but it is a pattern of institutionalised arbitrariness. The absence of structured objectives, along with vague procedures and biasness has transformed CBFC into a body with uncontrolled power. This discretion has operated without any internal or external checks, allowing subjective morality leading to decisions overriding the constitutional guarantees³¹. The mainstream commercial productions face very minimal restrictions, while the independent or politically critical films receive extensive censorship, this unequal treatment of films has violated the principles of equality before law and has also

²⁹ Amit Mishra, “Interpreting Censorship: A Comparative Study of Obscenity and Pornography in Indian Jurisprudence” *International Journal of Law Management & Humanities* ISSN 2581-5369.

³⁰ Nischal M.S., “An Analysis of Censorship in India: Balancing Freedom of Speech and Public Sensitivity in Media” (2024) 6(4) *International Journal of Legal Science and Innovation* 148–155.

³¹ Sakshi Grover, *Freedom of Expression in Hindi Cinema: A Study of Major Controversies and the Emergent Trends* (2023, Indira Gandhi National Open University, School of Journalism and New Media Studies).

undermined the fundamental rights.

4. Chilling Effect and Self- Censorship

Post the abolishment of FCAT, the filmmakers have increasingly anticipated the board's decisions altering their work beforehand in order to safeguard time and money, thereby internalising state censorship themselves. This type of indirect restriction is highly harmful because the expressions are censored without any formal state intervention. Such self-censors that cause constitutional violations are difficult to even identify. With an effective appellate tribunal with time-sensitive adjudication, judicial review for CBFC is possible, further safeguarding the expression of the people.

RECOMMENDATIONS

The Central Board of Film Certification requires rectification rather than abolition. A reformatory development is required to correct it. The board calls for state interest while restricting the film for releasing. However, these interests need to be perceived through mechanisms that are constitutionally valid. The first necessary reform is reorientation of the board into a classifying authority. This should be performed with statutory guidelines, structured clarification that confines the Board's authority to demand cuts and refuse clarifications. This allows the board to only decide on those such issues that are directly related to incitement of violence, explicit criminal instruction or an eminent threat to public order, while also addressing all other age-based clarifications.

Second, the vagueness of the statutory terms such as "decency" "morality" and "public order" should be specifically codified in the statutes. Issuing explanatory links to those terms will also ease the board to interpret it in its original form. It is also importance for the board to give reasoned decision, one of the principles of natural justice in administrative law, for all the certification- related decisions that involved demands for cuts, modifications or refusals. Such decisions should clearly clarify the grounds and reasons to invoke such ground as to why less restrictive alternatives are insufficient. This procedural safeguard will enhance transparency and enable meaningful judicial review or appeal Moreover, professionalism of CBFC is important and should be achieved. Implementation of minimum criteria to become the member of the board, along with mandatory training in constitutional free speech jurisprudence who are culture sensitised would further enhance the transparency along with the quality and neutrality of the decisions. Besides, strict lines for certifying process governed by rules will

also avoid delays, particularly in situations where the release timing is vital for commercial entertainment.

Lastly, there is also a need to streamline an effective appellate mechanism for a quicker appeal. The constitutionally appropriate way to achieve this is by establishing a time-bound, special appellate tribunal for film certification related disputes. In short, these reforms offer constitutionally valid approaches that protect regulatory oversight while also protecting the artistic freedom.

CONCLUSION

The paper has analysed the operation of the Central Board of Film Certification through the lens of freedom of expression and has showed that contemporary film regulation in India often functions as a form of prior restraint. While pre-certification is constitutionally valid and recognised, the manner in which the CBFC exercises its power routinely deviates from the narrow limits prescribed under Article 19(2). Uncontrolled discretion, vague statutory language and moral pressures have collectively transformed the core objective of the board, that is certifying.

This paper further analyses that the abolition of Film Certification Appellate Tribunal has intensified these constitutional deficiencies by removing a time-bound, specialised mechanism capable of rectifying the CBFC arbitrary decisions. In the absence of such procedural safeguards, CBFC decisions often produce a chilling effect on the filmmakers, encouraging self-censorship and undermine their artistic expressions that are essential to a democratic society.

A constitutionally permissible framework does not require the elimination of Film Certification Board, instead It requires disciplined reforms. Enforcing proportionality, codified statutory explanations, ensuring transparency in decisions and restoring meaningful appellate oversight are important to align film regulation with constitutional guaranteed freedom of expression. Unless such reforms are undertaken, the current regime risks to disintegrate artistic autonomy and constitutional guarantees under the disguise of regulatory oversight.