

**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI**

**Bench
Sr.Nos:-SL
1 & 2
[3483]**



**WP(PIL) NO: 155 of 2022
ALONG WITH
WP(PIL) No.120 of 2019**

K.Jagadishwara Reddy

...Petitioner

Vs.

Union Of India and Others

...Respondent(s)

Advocate for Petitioner: Mr. Gundala Siva Prasada Reddy

Advocate for respondents: Mr. Venna Hemanth Kumar, Central Government
Counsel – R1, R2, R3, R7 & R8.
Mr. O. Manohar Reddy, learned Senior Counsel – R9.
Mr. C. Raghu, learned Senior Counsel – R10.

**CORAM : THE CHIEF JUSTICE DHIRAJ SINGH THAKUR
SRI JUSTICE RAVI CHEEMALAPATI**

DATE : 6th December, 2024.

PER DHIRAJ SINGH THAKUR, CJ :

Since, in both these petitions common questions of law are involved, we propose to dispose of the same by way of this common order.

2. The present petitions, purportedly in public interest have been filed by the petitioner, who seeks to highlight the inaction of the official respondents in regard to a television show namely, Bigg Boss, which, according to the petitioner, promotes obscenity, vulgarity, violence and depicts anti-moral activities and abusive behavior, thereby negatively affecting children and young citizenry and thus, causing harm to the society.

Insofar as W.P.(PIL) No.120 of 2019 is concerned, the same was filed in regard to Bigg Boss 3, which was to be telecast in the year 2019. Whereas W.P.(PIL).No.155 of 2022 has been filed with regard to the same reality show that was to be aired in 2022.

The programme is stated to be telecast over a period of approximately 100 days and is viewed by millions of people within and outside the country. The petitioner, among others, sought the relief in the nature of Mandamus directing respondent No.9 - Star India Private Limited (Maa TV) and respondent No.10 - M/s. Endemole India Private Limited, not to telecast Bigg Boss reality show without a censor certificate.

3. The petitioner also claims that a complaint was addressed by him to the Ministry of Home Affairs and the Ministry of Information and Broadcasting, among others, which was forwarded by virtue of communication, dated 30.08.2019, to the concerned officer in the Ministry of Information and Broadcasting. By virtue of communication, dated 18.09.2019, the Ministry of Information and Broadcasting has forwarded the complaint to the Secretary General of the Broadcasting Content Complaints Council (for short, "BCCC") and finally, the Secretary General of BCCC *vide* a communication, dated 15.10.2019, informed the petitioner in the following terms:

"You have suggested to create a body like the Censor Board of Film Television to censor programmes like the abovementioned one by framing certain law or by amending certain existing laws as

Television channels repeat this programme without any social responsibility.

Broadcasting Content Complaints Council, a self-regulatory and independent body has been created to look into content related complaints of non-news channels that are IBF members. If you have a specific complaint, the Council will take it up, however, your suggestion to create a pre-censorship body to ascertain the content of TV Channels is outside the mandate of the Council and cannot be adjudicated.

Since your representation is marked to the MIB and other Government Ministries, they may perhaps be better suited to take a call on your suggestions.

If you have any specific content related complaints you can log on to our website www.ibfindia.com and make a complaint.”

4. Reply affidavits have been filed by respondent No.2 - Ministry of Information and Broadcasting, as also respondent Nos.9 and 10, in which the stand taken is that private satellite TV channels are regulated in accordance with the Cable Television Networks (Regulation) Act, 1995 (for short, “the Act of 1995”) and the Rules framed thereunder. It is stated that according to the Act of 1995, there is no pre-censorship of a programme telecast on private TV channels other than the films, film song or film promo or film trailer, which have to be pre-certified by the Central Board of Film Certification (for short, “the CBFC”).

It is stated that under the Act of 1995 and the Cable Television Networks Rules, 1994 (for short, “the Rules of 1994”) all private TV channels had to adhere to the Programme Code and that it is the responsibility of TV

channels to ensure that the programmes telecast on private TV channels, do not violate any provision of the Programme Code prescribed under Rule 6 of the Rules of 1994.

It is further stated that the Cable Television Networks (Amendment) Rules, 2021, dated 17.06.2021, provided for a statutory mechanism for redressal of grievances/complaints of citizens related to content broadcast by television channels, in accordance with the Act of 1995. The Rule 15, it is stated provides for a three-level complaint redressal structure as under:

- “(i) Level I – A self regulation by broadcaster,*
- (ii) Level II – Self regulation by the self regulating bodies of the broadcasters, and*
- (iii) Level III – Oversight mechanism by the Central Government.”*

It is also stated that an Inter-Departmental Committee (IDC) was constituted by the Central Government *vide* an order dated 14.07.2021, under the chairmanship of the Additional Secretary, Ministry of Information and Broadcasting, comprising of officers drawn from authorized Ministries of Central Government, which includes Ministry of Women & Child Development, Home Affairs, Electronics & Information Technology, External Affairs and Defence. Representatives from Press Council of India (PCI), Bar Council of India (BCI), Federation of Indian Chambers of Commerce and Industry (FICCI) and Confederation of Indian Industry (CII), have also been included in the IDC as Domain Experts.

It is stated that it is the IDC, which hears complaints or grievances regarding violations of the Programme Code as also the Advertising Code, as defined under Rules 6 and 7 of the Cable Television Networks Rules, 1994 and makes appropriate recommendations to the Central Government.

It is stated that the Central Government, taking into consideration the recommendations of the committee, can issue appropriate directions under Section 20 (3) of the Act of 1995 for compliance by broadcasters. The action against TV channels may include warnings or advisories, running apology scrolls on their channels and even taking the channels off-air temporarily for varying periods depending upon the gravity of the violations.

5. Admittedly, the programmes being telecast on private satellite TV channels are regulated by the Act of 1995 and the Rules of 1994. The Act does not contain any pre-censorship of programmes telecast on private TV channels.

6. Section 5 of the Act of 1995 prohibits a person from transmitting or re-transmitting through cable service any programme unless such programme is in conformity with the prescribed Programme Code.

7. At this stage, it would be pertinent to mention that Rule 6 of the 1994 Rules, contains the Programme Code, which *inter alia* envisages that no programme should be carried in the cable service which offends good taste or decency, contains anything obscene, defamatory, denigrates women, or is not suitable for unrestricted public exhibition.

8. Chapter III of the Act deals with the power of seizure and confiscation by the authorized officer, if he has reason to think that provisions, *inter alia* Section 5 and Section 6 have been or are being contravened by any cable operator. Whereas, Section 16 envisages punishment on account of contravention of any of the provisions of the said Act.

9. The Act of 1995 also prescribes that the Central Government if it thinks it is necessary or expedient so to do in public interest, may prohibit the operation of any Cable Television Network in such area as it may, by notification in the Official Gazette, specify.

Section 20 (2) (iv) of the Act of 1995 further vests the Central Government, with the power to regulate or prohibit the transmission or re-transmission of any channel or programme *inter alia*, if it is against public order, decency or morality.

Section 20 (3) of the Act of 1995 further vests with the Central Government, the power to regulate or prohibit the programme transmission or re-transmission of a programme in any channel if it is not conformity with the prescribed Programme Code referred to in Section 5 of the Act.

10. By virtue of notification dated 17.06.2021, the Ministry of Information and Broadcasting notified the Rules called the Cable Television Networks (Amendment) Rules, 2021, whereby Rule 15 was inserted to ensure observance and adherence to the Programme Code and the Advertising Code by the broadcaster and to address the grievance or complaint, if any, relating

thereto. As was the stand of the respondents, it can be seen that Rule 15 prescribes a three-level complaint redressal structure which has already been referred to in the preceding paragraphs.

Rule 16 envisages the filing of the complaint by any person, who is aggrieved by the content of a programme of a channel, which has not been in conformity with the Programme Code, with the broadcaster in writing. The broadcaster, in terms of Rule 16 (2), is obliged to generate and issue an acknowledgement to the complainant for his information and record, and a decision is to be rendered within a period of 15 days of the receipt of the complaint.

An appeal is envisaged in terms of Rule 16 (3)(b) to the self-regulating body of which the broadcaster is the member. Self-regulating body is obliged to dispose of the appeal within 60 days of the receipt of the appeal and convey its decision in the form of a guidance or advisory to the broadcaster with information to the complainant, within a period of 15 days thereafter.

A further appeal is envisaged in terms of Rule 16 (3)(d) to the Central Government for its consideration under the Oversight Mechanism referred to in Rule 19.

Rules 17 and 18 deal with Self-Regulation.

Rule 17 of the Rules deals with establishment of a grievance or complaint redressal mechanism, for which an officer is to be appointed to deal

with complaints received by it and the decision is to be taken within the prescribed period.

Rule 18 prescribes one or more self-regulating body of broadcasters consisting of a minimum of forty members. The self-regulating body is headed by a retired judge of a Supreme Court or of a High Court or an independent eminent person from the field of media, broadcasting, entertainment, child rights, human rights or such other fields and further to have not more than six independent members from the prescribed fields.

Rule 19 prescribes an Oversight Mechanism by the Central Government.

Rule 20 prescribes the constitution of Inter-Departmental Committee by the Central Government, for hearing grievances and complaints regarding the violation of the Programme Code or the Advertising Code, as the case may be, arising out of appeals against decisions taken at Level I or Level II of the grievance redressal mechanism.

11. On a perusal of the provisions as have been dealt with hereinabove, it appears that the Cable Television Networks (Regulation) Act, 1995 and the Rules framed thereunder have prescribed a comprehensive mechanism for dealing with complaints which the petitioner has sought to highlight in the present PILs.

12. Admittedly, the petitioner has not availed any of the remedies that are prescribed under the Act of 1995 and the Rules of 1994, except by filing a complaint with the Ministry of Home Affairs, which was in turn forwarded to the Ministry of Information and Broadcasting, which has appropriately been then forwarded to BCCC, who *vide* communication dated 15.10.2019, had advised the petitioner to take remedial measures, including suggesting to the petitioner that he could file a complaint, which has not been done in the present case.

13. While the petitioner may feel strongly about content which is being aired by private respondent Nos.9 to 11, as containing scenes which are abhorrent or obscene to decency and morality and thus being in violation of the Programme Code, yet whether it is obscene and indecent has to be tested by the three-tier mechanism which has been prescribed under the Act of 1995 and the Rules of 1994.

14. What might appear to be obscene and indecent to the petitioner may not be so to a majority of citizenry in contemporary times. In **Aveek Sarkar vs. State of West Bengal and others**¹, the Apex Court examined as to whether the photographs of Boris Becker with his fiancée could be stated to be objectionable in the sense that it violated Section 292(1) of IPC, which envisaged that a picture or article would be deemed to be obscene:

“1. if it is lascivious.

¹ (2014) 4 SCC 257

2. *it appeals to the 'prurient interest'.*

3. *it tends to deprave and corrupt persons who are likely to read, see, or hear the matter alleged to be obscene."*

The Apex Court held:

"13. The Constitution Bench of this Court in the year 1965 in *Ranjit D. Udeshi* indicated that the concept of obscenity would change with the passage of time and what might have been "obscene" at one point of time would not be considered as obscene at a later period. The judgment refers to several examples of changing notion of obscenity and ultimately the Court observed as follows: (AIR p. 888, para 18)

"18. ... The world, is now able to tolerate much more than formerly, having become indurated by literature of different sorts. The attitude is not yet settled. ..."

This is what this Court has said in the year 1965.

18. We are, in this case, concerned with a situation of the year 1994, but we are in 2014 and while judging as to whether a particular photograph, an article or book is obscene, regard must be had to the contemporary mores and national standards and not the standard of a group of susceptible or sensitive persons."

15. Reference can also be made to the Constitution Bench judgment in **Ranjit D. Udeshi vs. State of Maharashtra**², which had emphasized that *"the test of obscenity must square with the freedom of speech and expression guaranteed under our constitution. This invites the Court to reach a decision on a constitutional issue of a most far-reaching character and it must be beware that it cannot lean too far away from the guaranteed freedom."*

² AIR 1965 SC 881

16. In our opinion, the petitioner ought to have taken resort to the mechanism which is prescribed under the Rules of 1995 to air his grievance before the competent authorities, which the petitioner has certainly not done. By enclosing a few photographs and by claiming that the same were obscene, it would not *per se* suffice to prevent the private respondents from screening their show. The petitioner can, if so advised, avail the statutory remedies.

17. We cannot convince ourselves to grant relief to the petitioner as was prayed for. The present writ petition (PILs) are found to be without any merit and are accordingly dismissed. No order as to costs.

Pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ.

RAVI CHEEMALAPATI, J.

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