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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 26th September, 2023

+ **W.P.(C) 445/2023**

AKSHAT BALDWA & ORS.

..... Petitioners

Through: Mr. Rahul Bajaj, Adv. (M:
9890281068)

versus

YASH RAJ FILMS & ORS.

..... Respondents

Through: Mr. Abhishek Malhotra, Advocate
for R-1. (M: 9811564568)

Mr. Ravi Prakash (CGSC) with Mr.
Farman Ali, Mr. Aman Rewaria,
Ms. Astu Khandelwal & Mr.
Yasharth Shukla, Advs. for R-2 & 3.
(M: 9469448888)

Ms Sneha Jain, Mr Devvrat Joshi, &
Mr Angad S Makkar, Advs. for R-4.
(M: 9897896284)

Mr. Nitin Sharma, Ms. Deepika
Pokharia and Mr. Kuber Mahajan,
Advs. for R-5. (M: 9958393111)

Mr. Pranav Sarthi, Mr. Gaurav
Vutts, Ms Ayushi Chaurasia, Advs.
for R-6. (M: 8826457307)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been preferred by four Petitioners, out of whom, Petitioner Nos.1, 2 and 4 are visually impaired and Petitioner No.3 is



hearing impaired. The Court vide paragraph 26 of order dated 6th April 2023 directed as under:

“26. Insofar as the hearing of this matter before this Court is concerned, Mr. Bajaj may provide the details of the sign language interpreter/s whose services can be engaged for the hearing on the next date. The Registrar General may on the administrative side consider if the said interpreter could be arranged for the next date of hearing in this matter.”

3. In terms of the above order, the Court had directed that sign language interpreters ought to be engaged, to enable Petitioner No.3 who is hearing impaired, to understand the court proceedings. Accordingly, the Registrar General of this Court has engaged the services of two sign language interpreters, who are simultaneously interpreting the court proceedings for the convenience of the said Petitioner, who is appearing in person.

4. Mr. Bajaj, Id. counsel for the Petitioners, who is himself visually impaired submits that three other similarly placed persons have joined the proceedings today in order to understand the manner in which the hearing impaired persons can attend the Court proceedings.

5. In view thereof, it is directed the said sign language interpreters shall continue to be engaged for all further hearings in this matter.

6. Initially, this writ petition was filed in respect of the movie ‘Pathaan’. On the last date of hearing, the Court after hearing submissions made by the Id. Counsels for the parties, had considered the legal position in respect of the rights of persons with disabilities (RPwD). The Court had also considered the decisions of the Hon’ble Supreme Court in ***Rajive Raturi v. Union of India***, [(2018) 2 SCC 413] and ***Vikash Kumar v. UPSC and Ors.***



[2021 SCC Online SC 84]. Accordingly, vide order dated 6th April, 2023, the Court passed the following directions:

“19. A perusal of the above provision would show that public services and facilities has been defined in a very broad manner and include leisure or recreational facilities as well. In view thereof, this Court is of the opinion that while the directions in respect of the movie ‘Pathaan’ have been implemented, a broad stakeholder consultation would be required in order to ensure that the RPWD Act as also the circular issued on 1st October, 2019 are implemented both in letter and spirit.

20. Accordingly, it is directed that the Ministry of Information and Broadcasting along with the other relevant Ministries may hold a stakeholder consultation with the following sets of stakeholders:

- i. Film producers both in national and regional languages.*
- ii. OTT platforms which are operating in India.*
- iii. Television Broadcasters- Indian Broadcasting & Digital Foundation (IBDF)/News Broadcasters & Digital Association (NBDA)*
- iv. Association of theatre owners*
- v. Organizations for disabled persons.*
- vi. Film Distributors*
- vii. Service providers who run the delivery platforms in theatres such as XL Cinema.*
- viii. Bureau of Indian Standards*
- ix. Manufacturers of hardware and*
- x. Software developers of accessibility features.*
- xi. Any other stakeholders as the Ministry may consider appropriate.*



21. *In the stakeholder consultation, discussions would be held in respect of the manner in which the provisions of the RPWD Act and Rules as also the circular which has been issued on 1st October, 2019 can be implemented. The Ministry is free to frame guidelines in this regard and the draft guidelines may be placed on record before the Court by the next date of hearing.*

22. *The Ministry of Information and Broadcasting may also bear in mind the draft 'Accessibility Standards for Television Programmes for Hearing Impaired' which have been put up for stakeholder consultation vide notice dated 3rd November, 2021, while suggesting the framework of the future guidelines. The Bureau of Indian Standards has published standards on accessibility of ICT products and services (IS17802) which should also be contemplated while considering the framework of the draft proposed guidelines.*

23. *Let the stakeholder consultation be concluded by the end of August, 2023 and the status report be filed by 10th September, 2023."*

7. In terms of the aforementioned order a status report was to be filed by the Ministry of Information and Broadcasting (Ministry of I&B) after conducting stakeholder consultation.

8. Today, Mr. Ravi Prakash, Id. CGSC has placed on record a status report, which has been signed by Mr. Surajit Indu, Under Secretary, Ministry of I&B. As per the said report, the Ministry of I&B is stated to have taken various steps and actions pursuant to the order dated 6th April, 2023. It is stated in the said status report that in May, 2023, expressions of interests were invited from various consulting agencies for '*Providing advanced technology solutions for accessibility in films for persons with*



disabilities, including hearing and visual impairment.’ In addition, in June and July, 2023, stakeholder consultations were held in Mumbai. Some of the concerns raised by stakeholders, in the said meeting are as under:

“9. Representations of exhibitors and the film industry were made with their association's presence in the workshop. The major concerns raised during the workshop were:-

Creativity loss: The associations raised concerns about conveying the exact essence of the creative content in the films through subtitles, which hurts the creative sentiments of the filmmakers and producers, as these solutions are unable to convey the exact creative message for the DHH audience.

Cost of Implementation: The associations had raised their concerns on the cost implications of introducing these additional components to the films if the Government mandates and the budgetary overhead on producers, especially for low-budget films released in India.

High Intrusion cinema viewing for all: The associations also had a view on introducing sign language in the films where they suggested screening these video-in-video sign language shows as special shows in a week as they may interfere with the view of the general audience if screened together.

Implementation in a Phased manner: The associations proposed CBFC to implement these technological interventions starting with Small films and based on the success, scale it to Medium and High budget films in a phased manner spread across a timeline of two years.

Standardization in formats of films: It was proposed to introduce a standardization process similar to the Digital Cinema Package or DCP format for collecting digital files used to store and convey digital cinema audio and have a standard format for



video and audio tracks in films like Hollywood. This shall then be used by technological agencies to provide low-cost solutions.”

9. In addition, it is submitted by Mr. Ravi Prakash, Id. CGSC that the Film Federation of India (FFI) and the South Indian Film Chambers of Commerce (SIFCC) also raised certain practical concerns, which are set out below:

“4. The Film Federation of India & the South Indian Film Chamber of Commerce in their representation made before HMIB acknowledge that accessibility to the people with Disabilities is broadly acceptable. However, the associations have raised the some practical concerns:

- a) For providing access to 0.01% of the audience, 99.99% of remaining audience would have to sacrifice their unfettered right of seamless viewing the film or creating additional disturbance and hindrance to the frame/screen.*
- b) In most of the developed countries the accessibility standards to theatres for people with disabilities is limited to one or two theatres in only some main cities, with a limited screening of one show per week.*
- c) Movie theatres must provide closed captioning display devices to persons who are deaf or hard of hearing. For blind person, theatres must provide an audio description track. But the implementation of these technologies and installation of equipment's at cinema halls would incur great cost and additional liability to already debt stricken film exhibitors.*
- d) The additional cost of captioning and audio description cannot be borne by all film*



producers, therefore can be only applicable for big budget films. The other option is that the government should subsidize the additional costs incurred for this subtitling.”

10. Mr. Ravi Prakash, Id. CGSC, thus submits that the stakeholder consultation is going on in earnest and the Ministry of I&B would be able to resolve the issue soon.

11. A perusal of the concerns raised by the film industry would show that the concerns could be easily addressed, if some flexibility is shown by the industry.

12. Under Section 42 of the Act, Rights of Persons with Disabilities Act, 2016 making available tools to provide access to information and communication technology to persons with disabilities is mandatory in law and not providing the same would also constitute an offence under Section 89 and 90 of the said Act. The law having been brought into force almost six to seven years ago, the fact that persons with disabilities are unable to enjoy even basic forms of entertainment such as watching films in cinema halls, is a cause for concern. Moreover, the stand of the Film Federation of India (FFI) and the South Indian Film Chambers of Commerce (SIFCC) that the viewing experience of the vast majority ought not to be sacrificed for the sake of persons with disabilities shows a lack of sensitivity towards persons with disabilities, which is unacceptable, inasmuch as the provisions of the Rights of Persons with Disabilities Act, 2016 which is the law, has to be given effect to.

13. In the present case, the purpose for directing the stakeholder consultations was to ensure that the concerns of stakeholders are duly



addressed before mandatory guidelines are issued by the Ministry of I&B. However, it appears that some of the parties have expressed concerns, which in the opinion of this Court, may not be valid concerns. Moreover, after having understood the cost implications, for making the movie PATHAAN technically compliant for enabling persons with disabilities to enjoy the movie on OTT platforms, cost also does not appear to be a detrimental factor.

14. Accordingly, the following parties are directed to be impleaded in this petition:

- (i) The Film Federation of India, B-3, Everest Tardeo Road, Tardeo, Mumbai, Maharashtra - 400034 IN;
- (ii) M/s The South Indian Film Chamber of Commerce, 605, Anna Salai, T R Sundaram Avenue, Chennai, Tamil Nadu – 600006;
- iii) Central Board of Film Certification, Films Division Complex, Phase- I Building, 9th Floor, Dr. G. Deshmukh Marg Mumbai - 400026

15. The said entities are, accordingly, impleaded as Respondent Nos.7, 8 and 9. The amended memo of parties be filed within 2 weeks.

16. It is also expressed by a number of parties who are present before the Court that none of the theatre owners or the associations participated in the stakeholder meeting. Accordingly, ***Indian People's Theatre Association, Siddharth Nagar, Vakola, Santa Cruz East, Mumbai – 400055*** is impleaded as Respondent No.10.

17. The Registry to issue court notice to all these bodies. The Ministry of I&B shall convey today's order to these newly impleaded Respondents. If the said Respondents wish to place any submission before the Court, they



shall do so within a period of two weeks.

18. An application being ***I.A.50042/2023*** has been filed on behalf of Brajma Intelligent System Private Limited (*hereinafter, 'Brajma System'*) seeking impleadment in this matter. As per the application, the said Applicant is stated to be providing tools in the form of a mobile application for persons, who are visually impaired, to enjoy the movie experience in cinema halls..

19. Insofar as the said applicant in ***I.A.50042/2023*** is concerned, the letter dated 3rd August, 2023 issued by the Central Board of Film Certification, which has been placed on record reveals that Brajma System is one of the short listed technology providers for the purpose of further meetings with the stakeholders.

20. Accordingly, Brahma System is permitted to intervene in this matter and assist the Court. The documents filed with the said application shall be considered for the purpose of adjudication of this case.

21. The Ministry of I&B shall give publicity to this order on its website so as to ensure that if any other stakeholders wish to make their submissions, they are free to do so.

22. The concerned Joint Secretary of the Ministry of I&B shall remain present in Court on the next date of hearing to assist the Court.

23. It is directed that the fee charged by the sign language interpreters to the tune of Rs.3,000/- each be paid directly to their bank accounts by the Registrar General of this Court. The details of the court interpreters are set out below:

Name: Shivoy Sharma

Account number: 520101243698808



*Bank : Union Bank of India
Branch : New Delhi Pashchim Vihar
IFSC Code : UBIN0904767
MICR Code : 110017018
PAN: GEHPS7981P*

*Name: Saurav Roychowdhury
A/C No: 20161795888
Bank: SBI
Branch: ILBS Vasant Kunj Branch
IFSC : SBIN0031668
PAN : CHPPR7605L*

24. List on 2nd November, 2023 at 3:30 p.m.
25. This shall be treated as a part-heard matter.

**PRATHIBA M. SINGH
JUDGE**

SEPTEMBER 26, 2023/dk/kt