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West Bengal Act XXX of 1974¹

THE WEST BENGAL (COMPULSORY CENSORSHIP OF FILM PUBLICITY MATERIALS) ACT, 1974.

AMENDED West Ben. Act IX of 1988.

[17th May, 1974.]

An Act to provide for compulsory censorship of publicity materials relating to films.

WHEREAS it is expedient to provide for compulsory censorship of publicity materials relating to films;

It is hereby enacted in the Twenty-fifth Year of the Republic of India, by the Legislature of West Bengal, as follows:—

1. (1) This Act may be called the West Bengal (Compulsory Censorship of Film Publicity Materials) Act, 1974.

Short title, extent and commencement.

(2) It extends to the whole of West Bengal.

(3) It shall come into ²force in such areas and on such dates as the State Government may, by notification, appoint and different dates may be appointed for different areas.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(a) "Board" means the West Bengal Board of Censorship constituted under section 3;

(b) "distributor" means a person who distributes film for the purpose of exhibition in cinema houses on commission;

(c) "exhibitor" means a person who holds a licence under the West Bengal Cinemas (Regulation) Act, 1954;

(d) "notification" means a notification published in the *Official Gazette*;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "producer" means a person who produces and is the owner of a film intended for public display;

West Ben.
Act XXXIX
of 1954.

¹For Statement of Objects and Reasons, see the *Calcutta Gazette, Extraordinary*, Part IV, of the 10th April, 1974, page 840(a); for proceedings of the West Bengal Legislative Assembly, see the proceedings of the meeting of that Assembly held on the 22nd April, 1974.

²The Act came into force, with effect from the 1st November, 1975, vide notification No. 30760-IPR, dated the 29th September, 1975, published in the *Calcutta Gazette, Extraordinary*, Part I.

The West Bengal (Compulsory Censorship of Film Publicity Materials) Act, 1974.

[West Ben. Act

(Sections 3, 4.)

- (g) "publicity material" means any material for giving publicity of a film which is produced in India or any country outside India and includes—
- (i) hoarding, showcard, insert, press design and enlargement,
 - (ii) poster,
 - (iii) still photo,
 - (iv) cinema slide,
 - (v) cinema still for publication in newspapers and periodicals, and
 - (vi) such other material as may be prescribed.

Board of
Censorship.

3. (1) For the purpose of granting Certificate of Censorship in respect of publicity material, the State Government may, by notification, constitute a Board to be called the West Bengal Board of Censorship which shall consist of a Chairman and not more than five other members appointed by the State Government.

(2) The Censor Officer appointed under sub-section (1) of section 4 shall be the Member-Secretary to the Board.

(3) The Chairman and the members of the Board shall hold office for such term as may be prescribed.

(4) The Chairman of the Board shall receive such remuneration as may be determined by the State Government and the members of the Board, other than the Censor Officer, shall receive such allowances or fees for attending meetings of the Board as may be prescribed.

(5) The meetings of the Board shall be held at such place and time and in such manner as may be prescribed.

Censor
Officer and
other staff.

4. (1) For carrying out the purposes of this Act the State Government shall appoint one Censor Officer and may also appoint such number of Assistant Censor Officers, Inspectors and Sub-Inspectors as the State Government may think fit to assist the Censor Officer.

(2) The Censor Officer, Assistant Censor Officers, Inspectors and Sub-Inspectors shall be appointed by the State Government in the Information and Public Relations Department.

(3) The Censor Officer, Assistant Censor Officers, Inspectors and Sub-Inspectors shall receive such salaries and allowances as may be determined by the State Government.

XXX of 1974.]

(Sections 5, 6.)

(4) The Censor Officer, and the Assistant Censor Officers, Inspectors and Sub-Inspectors when so authorised by the Board, may inspect any cinema house and may call for any document relating to any publicity material from any distributor, producer or exhibitor for inspection.

(5) The Censor Officer, Assistant Censor Officers, Inspectors and Sub-Inspectors shall perform such other functions as may be prescribed.

5. (1) If any distributor, producer or exhibitor wants to display in the lobby of a cinema house or outside the cinema house or in any public place any publicity material, he shall make an application to the Board in such form as may be prescribed, for a Certificate of Censorship and shall submit such material along with the application in such manner as may be prescribed.

Application for certificate of censorship.

(2) The distributor, the producer or the exhibitor, as the case may be, shall, while making the application under sub-section (1), pay such fee as may be prescribed.

¹(3) Every distributor, producer or exhibitor shall, before he makes any application to the Board under sub-section (1), get himself enrolled as distributor, producer or exhibitor, as the case may be, in such manner as may be prescribed.

6. (1) The Censor Officer shall examine the publicity material submitted under section 5 and place the publicity material together with his recommendations, if any, before the Board for its consideration.

Grant of Certificate of Censorship.

(2) If after examining the publicity material and the recommendations of the Censor Officer the Board considers that the publicity material is free from obscenity and is suitable for public display it shall grant a Certificate of Censorship in such form and in such manner as may be prescribed which shall be signed by the Censor Officer or in his absence by such Assistant Censor Officer as may be empowered in this behalf by the Board and the publicity material shall then be returned to the person who submitted it.

(3) No distributor, producer or exhibitor shall display any publicity material in respect of which a Certificate of Censorship has not been granted under this Act.

²(4) No distributor, producer or exhibitor shall display any publicity material without exhibiting thereon such mark of censorship in such manner as may be prescribed.

¹Sub-section (3) was inserted by s. 2 of the West Bengal (Compulsory Censorship of Film Publicity Materials) (Amendment) Act, 1988 (West Ben. Act IX of 1988).

²Sub-section (4) was inserted by s. 2, ibid.

(Sections 6A, 7 and 8.)

Removal of
publicity
materials in
certain
cases.

¹6A. (1) If any person displays any publicity material which has not been certified by the Board and signed by the Censor Officer under section 6, the Censor Officer or any officer authorised by him in this behalf shall serve a notice on such person requiring him to remove the publicity material within the period specified in the notice.

(2) If the publicity material is not removed within the period specified in the notice, the Censor Officer or the officer authorised under sub-section (1) shall remove the publicity material and may, if necessary, ask the police for assistance in removing the publicity material.

Appeal.

7. (1) Any person aggrieved by any decision of the Board may, within thirty days from the date of receipt of such decision, prefer an appeal to such authority as the State Government may prescribe and such authority may, after such inquiry as it considers necessary and after giving the appellant an opportunity for representing his views in the matter, make such order in relation thereto as it thinks fit.

(2) The decision of the authority referred to in sub-section (1) shall be final.

Penalty.

8. (1) If any person displays any publicity material which has not been certified by the Board and signed by the Censor Officer under section 6, he shall be punishable with imprisonment ²[which may extend to three years or with fine which may extend to five thousand rupees] or with both and in the case of a continuing offence with a further fine which may extend to ³[one thousand rupees] for each day during which the offence continues.

(2) If any person is convicted of an offence punishable under this section the convicting Court may further direct that the publicity material in respect of which the offence has been committed be forfeited to the State Government.

⁴(3) If any distributor, producer or exhibitor fails to maintain any prescribed register of film publicity materials in the manner prescribed, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

¹Section 6A was inserted by s. 4 of the West Bengal (Compulsory Censorship of Film Publicity Materials) (Amendment) Act, 1988 (West Ben. Act IX of 1988).

²The words within the square brackets were substituted for the words "which may extend to six months or with fine which may extend to one thousand rupees" by s. 5(1)(a) *ibid*.

³The words within the square brackets were substituted for the words "one hundred rupees" by s. 5(1)(b), *ibid*.

⁴Section 10(1)(b) of the Act.

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(Sections 8A, 9-13.)

(4) If any person fails to comply with the notice served on him under sub-section (1) of section 6A, he shall be punishable with imprisonment which may extend to six months or with fine which may extend to one thousand rupees or with both.

8A. (1) Where any publicity material which has not been certified by the Board and signed by the Censor Officer under section 6 is displayed, any police officer may enter any place in which he has reason to believe that the publicity material is kept, search it and seize the publicity material.

Power of seizure.

2 of 1974.

(2) All searches under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches.

9. No act or proceeding of the Board shall be deemed to be invalid by reason only of a vacancy in, or any defect in, the constitution of the Board.

Validation.

45 of 1860.

10. The members of the Board shall, when acting or purporting to act in pursuance of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members of the Board to be public servants.

11. No suit or other legal proceeding shall lie against the members of the Board and the person appointed under this Act in respect of anything which is in good faith done or intended to be done under this Act.

Bar to legal proceeding.

12. Offences under this Act shall be considered to be cognizable offences as defined in the Code of Criminal Procedure, 1973.

Offences under this Act considered cognizable.

13. (1) The State Government may, by notification, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely:—

- (a) the term of office of the Chairman and the members of the Board;
- (b) the allowances or fees of the members of the Board;
- (c) the place and time at which and the manner in which meetings of the Board shall be held;

¹See foot-note 4 at page 72, *ante*.

²Section 8A was inserted by s. 6 of the West Bengal (Compulsory Censorship of Film

*The West Bengal (Compulsory Censorship of Film Publicity
Materials) Act, 1974.*

[West Ben. Act XXX of 1974.]

(Section 13.)

- (d) the other functions of the Censor Officer, Assistant Censor Officers, Inspectors and Sub-Inspectors;
 - (e) the form of application for a Certificate of Censorship;
 - (f) the manner of submitting publicity materials;
 - (g) the fee to be paid for Certificate of Censorship;
 - (h) the form and the manner in which the Certificate of Censorship shall be granted;
 - (i) the authority to whom appeal shall be preferred under subsection (1) of section 7; and
 - (j) any other matter which may be or is required to be prescribed.
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