

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.2594 OF 2004.

KARAN JOHAR

Appellant (s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

[With office report]

WITH

Civil Appeal NO.2596 of 2004.

Date: 15/11/2006 This Appeal was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.K. THAKKER

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

For Appellant(s)

Mr. Karan Singh, Adv.

Mr. Vikas Singh, Adv.

Mr. Hari Shankar K., Adv.

For Respondent(s)

Mr. R. Mohan, ASG

Mr. S. Wasim A Qadri, Adv.

Mr. V.K. Verma, Adv.

Mr. P. Parmeswaran, Adv.

Mr. B. Dutta, ASG

Mr. S. Wasim A Qadri, Adv.

Ms. Sushma Suri, Adv.

Respondent No.3-in-person

(Not Present)

UPON hearing counsel the Court made the following

O R D E R

The civil appeals are disposed of in terms of the signed order, leaving

questions of law to be raised and determined later in an appropriate case.

(Subhash Chander)

Court Master

(V.P. Tyagi)

Assistant Registrar

[Signed Order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2594 OF 2004

Karan Johar

.....Appellant

Versus

Union of India & ors.

.....Respondents

WITH

CIVIL APPEAL NO.2596 OF 2004

O R D E R

By the judgment and order dated 24th July 2003, a Division

Bench of the High Court issued directions in respect of the film 'Kabhi

Khushi Kabhi Gham'. The directions were issued in the writ petition

that had been filed by respondent no.3-herein before the High Court in

public interest, inter alia, contending that the dramatisation of the

National Anthem is against the constitutional philosophy. In the

aforesaid film, a scene was depicted in which public did not stand at the

start of the National Anthem. The High Court observed that the

National Anthem which is the glory of the country and portrays the unity

of the country cannot be shown in a variety show or as cultural

programme of a school as an item. The picture depicted singing of the

National Anthem by a student in a school function held in a foreign

country. The directions that were issued by the Bench were as under :

"(a) The film 'Kabhi Khushi Kabhi Gham' shall not be shown in any theatre unless the screen which depicts the national anthem is deleted.

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(b) Respondents 4 and 5 shall immediately withdraw the film from all cinema halls and the theatre owners are restrained from

showing the film in the present form.

(c) The respondent No.3 shall withdraw the certificate unless the deletion is affected and deleted feature film is shown to the members of the Board as required under the Act and the Rules.

(d) The aforesaid film shall not be telecast in national channel and also in any satellite channel without deletion.

(e) If any video cassette/VCD/DVD is sold in the market without deletion of the national anthem the appropriate authority shall take action against the said persons as permissible in law as it would amount to dealing with an uncensored film.

(f) No cable operator shall show the movie as long as the national anthem is not deleted as that would tantamount to showing of an uncensored film."

The impugned judgment and order of the High Court was challenged by

the producer in this Court in Civil Appeal lNo.2594 of 2004. The said

appeal along with Civil Appeal No.2596 of 2004 were disposed of on 19th

April 2004 in the judgment in the case of Karan Johar v. Union of India

& Ors. reported in 2004(5) SCC 127. The appeals were allowed noticing

that in view of the instructions issued by the Government of India, the

National Anthem which is exhibited in the course of exhibition of

newsreel or documentary or in a film, the audience is not expected to

stand as the same interrupts the exhibition of the film and would create disorder and confusion, rather than add to the dignity of the National Anthem.

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On a review petition filed by respondent no.3, original writ petitioner before the High Court, the aforesaid order dated 19th April 2004 was recalled except on the question of certification of the film, in terms of the orders passed on Review Petition Nos.1293-1294 of 2004 on 21st October 2005 noticing that the questions of law arising for decision have far reaching implications and need to be noticed and considered by this Court. To consider the question of law, as noticed in the order dated 21st October 2005, the appeals are listed before this Court for hearing. The Registry has reported that notice of hearing has been issued to respondent no.3. But none is present. In this view, leaving the questions of law open, we will dispose of the appeals having regard to the fact that the certification of the film has been maintained and to that extent the order dated 19th April 2004 has not been recalled.

Thus the appeals are disposed of leaving questions of law to be raised and determined later in an appropriate case.

Sd/-

.....CJI.

[Y.K. SABHARWAL]

Sd/-

.....J.

[C.K. THAKKER]

Sd/-

.....J.

[R.V. RAVEENDRAN]

New Delhi.

November 15, 2006.