



LEGISLATIVE ASSEMBLY OF GOA

The Goa Exhibition of Films on Television
Screen through Video Cassette Recorders
and Cable Television Network
(Regulation) Bill, 1993

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(Bill No. 2 of 1993)

(By Shri Surendra V. Sirsat)

M. L. A.

(To be introduced in the Legislative Assembly of Goa)

Secretariat

GOA LEGISLATURE DEPARTMENT
ASSEMBLY HALL, PANAJI

MARCH, 1993

July

The Goa Exhibition of Films on Television Screen through
Video Cassette Recorders and Cable Television
Network (Regulation) Bill, 1993

(Bill No. 1 of 1993)

A

BILL

To provide for regulation of exhibition of films on Television Screen through Video Cassette Recorders and through Cable Television Network in the State of Goa and for matters incidental or ancillary thereto;

Be it enacted by the Legislative Assembly of the State of Goa in the Forty-Fourth year of the Republic of India as follows:—

1. *Short title and commencement.*— (1) This Act may be called — The Goa Exhibition of films on Television Screen through Video Cassette Recorders and Cable Television Network (Regulation) Act, 1993.

(2) It extends to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(1) “cinematograph” includes any apparatus for the representation of moving pictures or series of pictures;

(2) “Cable Television Network” means a system of transmission of film through cable to a Television;

(3) “film” means a cinematograph film recorded on video cassette tape;

(4) “Government” means the Government of Goa;

(5) “Licensing authority” means Collector of district;

(6) “Place” includes a house, building, tent and any description of transport, whether by water, land or air.

- (7) "Video Cassette Recorder" means a cinematograph for the purpose of giving cinematograph exhibition of film recorded on Video cassette tape;
- (8) "Video Library" means a place by whatever name called where, the business of selling, letting to hire, distribution, exchange or putting into circulation in any manner whatsoever, of film for purposes of exhibition is carried on.

3. *Exhibition of film to be licenced.* — (1) (a) Save as otherwise provided in this Act no person shall give an exhibition of film on Television screen through Video Cassette Recorder—

- (i) except under and in accordance with a licence granted under section 6 read with section 5 of this Act; and
- (ii) elsewhere than in a place for which permission has been granted under section 7 read with section 5 of this Act.

(b) Where, in respect of any place, a licence has been granted under this Act for exhibition of film on Television screen through Video Cassette Recorder, no business other than the exhibition of film on Television screen through Video Cassette Recorder shall be carried on in such place, by any person and at any time.

(2) Save as otherwise provided in this Act, no person shall give an exhibition of film through the Cable Television Network except and in accordance with a licence granted under section 6 read with section 5 of this Act."

(3) Nothing contained in clause (a) of sub-section (1) shall apply to any exhibition of film on Television screen through Video Cassette Recorder for domestic purposes to the family members of the household only.

(4) No person shall be eligible for applying for a licence under this section, if he has been convicted of an offence under Goa, Daman & Diu Entertainment Tax Act, 1964 unless period of two years has elapsed since his conviction.

4. *Keeping of Video Library to be licenced.* — (1) Save as otherwise provided in this Act, no person shall keep any Video Library except under, and in accordance with a licence granted under this Act.

(2) Where a person keeps more than one Video Library whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each such Video Library.

(3) Every licence for keeping a Video Library shall, save as otherwise provided in this Act, expire on the last day of the year in which it was granted but may be renewed from year to year.

5. *Grant and refusal of licence.*— (1) Every application for a licence or permission under this Act shall be in writing and contain:—

- (a) the name of the applicant;
- (b) the place at which the exhibition is to be given or the Cable Television Network is to be operated or the Video Library is to be kept;
- (c) the number of seats to be installed, in the case of exhibition of film;
- (d) the number of connections to be given through cables; and;
- (e) such other particulars as may be prescribed, and shall be made to the licensing authority.

(2) Every licence or permission under this Act shall be granted in such form and subject to such terms, conditions and restrictions and on payment of such fee not exceeding one thousand rupees as may be prescribed.

6. *Restrictions on Powers of licensing authority.*—

(1) The licensing authority shall, in deciding whether to grant or refuse a licence for exhibition of film on television screen through Video Cassette Recorder or through Cable Television Network, have regard to the following matters, namely:—

- (a) the interest of the public generally;
- (b) the status, antecedents and previous experience of the applicant;

Explanation.— For the purpose of this clause the expression “antecedents” means the conduct of the applicant in relation to the payment of any tax or dues payable by him to the Govt.

- (c) the suitability of the place where the exhibition of film on Television screen through Video Cassette Recorder is proposed to be given;
- (d) the adequacy of existing places for the exhibition of film on Television screen through Video Cassette Recorder in the locality;
- (e) the benefit to any particular locality or localities to be afforded by the opening of a new place of exhibition of film on Television Screen through Video Cassette Recorder;
- (f) the possession by the applicant, of other places, if any, licensed under this Act, whether in the same locality or elsewhere, and whether at the time of applying for the licence or at any previous time; and shall also take into consideration any representations made by persons already giving exhibition of cinematograph film or film on Television Screen through Video Cassette Recorder or through Cable Television Network in or near the proposed locality or by any local authority or police authority within whose jurisdiction the place proposed to be licensed is situated or by any association interested in the giving of exhibition of cinematograph film or film on Television screen through Video Cassette Recorder or through Cable Television Network.

(2) The licensing authority shall, in deciding whether to grant or refuse to grant or renew or refuse to renew a license for keeping any Video Library, have regard to the interest of the public generally and such other matters as may be prescribed.

(3) The licensing authority shall not grant a licence under this Act unless it is satisfied —

- (a) that the rules made under this Act have been substantially complied with; and
- (b) in the case of an application for the grant of a licence for exhibition of film, that adequate precautions have been taken in the place, in respect of which the licence is to be granted, to provide for the safety, convenience and comfort of the persons attending exhibitions therein.

(4) The licensing authority may, by order in writing, refuse to grant a licence for exhibition of film on Television Screen through Video Cassette Recorder or through Cable Television Network or refuse to grant or renew a licence for keeping any Video Library, if such authority is satisfied that—

- a) The applicant has not complied with the provisions of this Act or the rules made thereunder in respect of the application for the grant of a licence; or
- b) The applicant has made wilful default in complying with or knowingly acted in contravention of, any requirement of this Act or the rules made thereunder or the terms and conditions of, and restrictions upon, any licence granted under this Act; or
- c) In the case of an applicant for a licence for exhibition of film, such applicant has been convicted of an offence under the Cinematograph Act, 1952 (Central Act XXXVII of 1952), or the Goa, Daman and Diu Entertainment Tax Act, 1964.

(5) The licensing authority may after consideration of the matters set forth in sub-section (1), limit the number of places in any area in respect of which licences to exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network under this Act may be granted.

(6) The licensing authority shall not grant a licence unless it is satisfied that adequate precautions have been taken in the place, in respect of which the licence has to be granted to provide for the safety, convenience and comfort of the persons attending exhibitions therein or, as the case may be, visiting the Video Library.

(7) In granting or refusing to grant a licence under this Act, the licensing authority may consult such authority or officer as may be prescribed.

(8) Subject to the foregoing provisions of this section, the licensing authority may grant licences under this Act to such persons and on such terms and conditions and subject to such restrictions as it may determine. When the licensing authority refuses to grant any licence, it shall do so by an order communicated to the applicant, giving the reasons in writing for such refusal.

(9) Every licence under this Act shall be personal to the person to whom it is granted and not transfer or assignment thereof, whether absolute or by way of security or otherwise shall be valid unless approved in writing by the licensing authority.

7. Licensing authority to permit construction and reconstruction of building; installation of machinery, etc., for exhibition of film.—

(1) Any persons who intends:—

- (a) to use any place for the exhibition of film on Television screen through Video Cassette Recorder, or
- (b) to use any site for constructing a building thereon for the exhibition of film on Television screen through Video Cassette Recorder, or
- (c) to construct or reconstruct any building for such exhibition of film, or
- (d) to install any machinery in any place where such exhibition of films are proposed to be given, shall make an application in writing to the licensing authority for permission thereof together with such particulars as may be prescribed.

(2) The licensing authority shall thereupon after consulting such authority or officer as may be prescribed, grant or refuse permission and the provisions relating to licences for exhibition of film on Television screen through Video Cassette Recorder shall, so far as may be apply to permission under this section.

8. Power to issue direction.— (1) The Government may issue such orders and directions of a

general character as they may consider necessary, in respect of any matter relating to licences for the exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network or the keeping of Video Library, to licensing authorities; and every licensing authority shall give effect to such orders and directions.

(2) The licensing authority may, from time to time, issue directions to any licensee or licensee generally to whom licence for exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network is granted under this Act, requiring the licensee or licensees to exhibit in each show such slides or public interest as may be supplied by that authority:

Provided that no direction issued under this section shall require the licensee to exhibit more than three such slides at, or for more than four minutes in, any one show.

9. *Licensee to exhibit only certified films.*— (1) No person licensed under this Act to give an exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network shall exhibit or permit to be exhibited any film other than a film which has been certified as suitable for public exhibition by the authority constituted under section 3 of the cinematograph Act, 1952 (Central Act XXXVII of 1952), and which, when exhibited, displays the prescribed mark of that authority and has not been altered or tampered with in any way since such mark was affixed thereto.

(2) No person licensed under this Act for keeping a Video Library shall sell, let to hire, distribute, exchange or put into circulation in any manner whatsoever any film other than a film which has been certified as suitable for public exhibition by the authority constituted under section 3 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952), and which when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since mark was affixed thereto.

10. *Power of Government or licensing authority to suspend exhibition of film in certain cases.*—

(1) The Government in respect of the whole of the State or any part thereof, and the licensing authority

within his jurisdiction, may if they or he are or is of opinion that any film which is being or is about to be publicly exhibited is likely to cause a breach of the peace, by order, suspend the exhibition of such film on Television screen through Video Cassette Recorder or through Cable Television Network; and during such suspension no person shall exhibit such film or permit it to be exhibited in any place in the State or any part or district thereof, as the case may be.

(2) No order shall be issued under sub-section (1) until the person concerned has been given reasonable opportunity of showing cause against the order proposed to be issued in regard to him.

(3) Where an order under sub-section (1) has been issued by the licensing authority, a copy thereof, together with a statement of the reasons thereof shall forthwith be forwarded by him to the Government and the Government may on consideration of all the facts of the case either confirm or vary or discharge the order.

(4) An order issued under sub-section (1) shall remain in force for a period of two weeks from the date thereof, but the Government may, if they are of opinion that the order should continue in force, direct that the period of suspension shall be extended by such further period as they think fit:

Provided that the Government or the licensing authority may review their own order.

11. *Power to revoke or suspend licence.*— (1) Where the holder of a licence for exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network has been convicted of an offence under Section 7 of the Cinematograph Act, 1952 (Central Act XXXVII of 1952) or of an offence under this Act, the licence may be revoked or suspended by the licensing authority by an order in writing.

(2) If the licensing authority is satisfied, either on a reference made to it in this behalf or otherwise, that—

(a) A licence granted under this Act has been obtained by misrepresentation or fraud as to an essential fact, or

(b) The licensee has, without reasonable cause, failed to comply with any of the provisions of this Act or of the rules made thereunder, or any of the terms and conditions of, or restrictions upon, or subject to which the licence has been granted, then without prejudice to any other penalty to which the licensee may be liable under this Act, the licensing authority may, after giving the licensee an opportunity of showing cause, revoke or suspend the licence.

(3) Where the licensing authority revokes or suspends any licence under sub-section (2), it shall do so by an order communicated to the licensee giving the reasons in writing for such revocation or suspension.

12. *Appeal*.— (1) Any person aggrieved by an order of the licensing authority refusing to grant or renew a licence or an order of revocation or suspension of a licence or a decision refusing to approve any transfer or assignment of licence under this Act may, within such time and on payment of such fee as may be prescribed appeal to the Administrative Tribunal or to such other authority as the Government may specify in this behalf. The Administrative Tribunal or such authority may make such orders as it may think fit.

(2) The appellate authority referred to in sub-section (1) may stay the execution of any such order, pending exercise of its powers under sub-section (1) in respect thereof.

13. *Powers of revision by Government*.— (1) The Government may, on their own motion or on application call for and examine the record of the appellate authority in respect of any proceeding under this Act, to satisfy themselves as to the legality of such proceeding or the correctness, legality or propriety of any order made thereunder; and if in any case it appears to the Government that any such proceeding order should be modified, annulled reversed or remitted for reconsideration, they may pass orders accordingly:

Provided that every application to the Government for the exercise of the powers under this section shall be preferred within such time as may be pres-

cribed and shall be accompanied by such fee as may be prescribed.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Government may stay the proceeding or the execution of the order pending the exercise of their power under sub-section (1) in respect thereof.

14. *Penalties.*— (1) Any person who contravenes or attempts to contravene or abets the contravention of the provisions of section 9 in so far as it relates to the exhibition of film through Video Cassette Recorder shall be punishable with imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

(2) Any person who contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act other than section 9 or any rule made thereunder or of the terms and conditions of, and restrictions upon, any licence granted under this Act in so far as it relates to the exhibition of film through Video Cassette Recorder shall be punishable with imprisonment which may extend to one year and shall also be liable to fine.

(3) Any person who contravenes or attempts to contravene or abets the contravention of any of the provisions of this Act other than section 9 or any rule made thereunder or of the terms and conditions of, and restrictions upon, any licence granted under this Act in so far as it relates to the exhibition of film through Cable Television Network, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to three years and also with fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees.

(4) Any person who contravenes or attempts to contravene or abets the contravention of the provisions of section 9 in so far as it relates to the exhibi-

bition of film through Cable Television Network shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year and also with fine which shall not be less than ten thousand rupees but which may extend to seventy five thousand rupees and in the case of a continuing offence with a further fine which may extend to five thousand rupees for each day during which the offence continues.

15. *Offences by companies.*— (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed, was in-charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this, Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purposes of this section,—
(a) “Company” means anybody corporate and include a firm or other association of individuals; and (b) “director” or in relation to a firm means a partner in the firm.

16. *Power to enter search and seize.*— (1) It shall be lawful for any police officer not below the rank of a Superintendent of Police or Deputy Superintendent of Police,—

(a) to enter, if necessary by force, whether by day or night, with such assistants as he

considers necessary, any premises, which he has reason to suspect, are being used for purposes connected with the exhibition of films on the Television screen through Video Cassette Recorder or through Cable Television Network or keeping a Video Library in contravention of the provisions of this Act;

- (b) to search the premises and persons whom he may find therein;
- (c) to take into custody and produce before a Judicial Magistrate such persons as are concerned or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the exhibition of film on Television Screen through Video Cassette Recorder or Cable Television Network or keeping a Video Library in contravention of the provisions of this Act;
- (d) to seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such exhibition of film or keeping a Video Library.

(2) All searches under this section shall be made in accordance with the provisions of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

17. *Confiscation of film.*— Films exhibited or kept in contravention of the provisions of this Act, the rules made thereunder or the terms and conditions of, and restrictions upon, a licence granted under this Act alongwith the Video Cassette Recorder and the machinery used in Television Network, if any, used in the exhibition of film shall be liable to confiscation by an order of the Court having jurisdiction.

18. *Power to try offence.*— No court inferior to that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

19. *Offence under this Act to be cognizable.*— Any offence punishable under this Act shall be a cognizable offence within the meaning of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974).

20. *Power to exempt.*— Notwithstanding anything contained in this Act, if the Government are satisfied that it is necessary or expedient in the public interest so to do, they may, by notification, exempt, subject to such conditions as they deem fit, any class of person from the provisions of this Act in so far as they relate to the exhibition of film on Television screen through Video Cassette Recorder or through Cable Television Network.

21. *Power to make rules.*— (1) Government may make rules for carrying out all or any of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for,—

- (a) (i) the form and the particulars to be furnished in an application for grant of licence under this Act;
- (ii) the guidelines to determine the suitability of the place for the purpose of clause (c) of sub-section (1) of section 6;
- (b) the form in which, and the terms, conditions and restrictions subject to which, a licence under section 3 or under section 4 may be granted, the fees to be paid in respect of such licence and the authority or officer which or who may be consulted in granting such licence;
- (c) the procedure to be followed by persons submitting applications for permission under section 7;
- (d) the documents and plans to be submitted together with such applications, and the fees to be paid on such applications;
- (e) the matter to be taken into consideration by the licensing authority before approving the site for the construction of the building, or the plans for the construction or reconstruction of the building or the installation of machinery;
- (f) the terms, conditions and restrictions subject to which the licensing authority may accord approval in respect of the matters referred to in clause (c).

- (g) the action to be taken in cases of contravention of the terms, conditions and restrictions subject to which such approval was accorded;
- (h) the procedure to be followed by the licensing authority before granting or refusing permission under section 7 and any other matter incidental thereto; and
- (i) the fee to be paid in respect of an appeal or application for revision.

(3) (a) All rules made under this Act shall be published in the Goa Government Gazette, and unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

- (b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) Every rule made or notification issued under this Act shall, as soon as possible after it is made or issued, be placed on the Table of the House of the Legislature, and if, before the expiry of the Session in which it is so placed or the next session, the House agrees in making any modifications in any such rule or notification or the House agrees that the rule or notification should not be made or issued the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

22. *Savings.*— (1) (i) Every person giving an exhibition of film on Television screen through Video Cassette Recorder, or

(ii) every person keeping any Video Library immediately before the date of publication of the Goa Exhibition of films on Television Screen through Video Cassette Recorder and Cable Television Network (Regulation) Act 1993 in the Goa Government Gazette, shall obtain a licence under this Act within a period of two months from the said date.

(2) If the person referred to in sub-section (1) fails to obtain the licence within the period mentioned in sub-section (1), he shall discontinue such exhibition and in the case of Video Library, he shall close such Video Library.

(3) The provisions of this Act, shall be in addition to, and not in derogation of, the Cinematograph Act, 1952 (Central Act XXXVII of 1952) and any other law for the time being in force; and nothing contained herein shall exempt any person from any proceeding by way of investigation or otherwise which might, apart from this Act, be instituted against him.

Statement of Objects and Reasons

At present there is no provision or law existing in Goa to regulate the business of exhibition of films on television screen through Video Cassette Recorder, as well as exhibition of films on Television screen through Cable Television Network. The business of keeping Video Cassette Libraries are in full swing. Similarly, the Cable Television Operators are piping through Cable Television Video Cassette programmes to their subscribers to be viewed by them in their respective houses by connecting row of houses through cables. The business of Video parlours are also in full swing in Goa. In the absence of the Legislation on the exhibition of films, through Cable Television Network, and the Video Cassette Recorder; the Govt. has to lose the revenue. It is therefore felt to regulate the exhibition of films through Video Cassette Recorder and the Cable Television Network system by issuing the licence, and to off-set the loss in the entertainment tax collections. There will also be check on Video Cassette Libraries for circulation, and on the exhibition of uncertified films and to prevent the circulation of B. P. films.

Memorandum regarding Delegated Legislation

Clause 21 of the Bill authorise Government to issue notification or to make rules as the case may be, for the purpose specified therein.

The powers delegated are normal and not of an exceptional character.

Financial Memorandum

It is not possible at this stage to estimate with any degree of accuracy the receipt of the revenue to the Govt. and the expenditure to be incurred as a result of the proposed Legislation.

Panaji
21st June,
16th February, 1993.

SURENDRA V. SIRSAT
M. L. A.

Assembly Hall
Panaji.
~~16th February~~, 1993.

ASHOK B. ULMAN
Secretary to the
Legislative Assembly of Goa.