

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

W.P.No.

OF 2020

K. SUTHAN, M/39,
Son of S. Kasi Nadar,
No. 48/96, 1st Floor,
V.S. Mudali Street,
Saidapet,
Chennai- 600 015.

... Petitioner

-Vs-

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
North Block, New Delhi – 110 001.

2. The Secretary to Government,
Government of India,
Ministry of Information and
Technology Department,
North Block,
New Delhi – 110 001.

3. The Chief Secretary to the Government,
Government of Tamilnadu,
Fort St. George, Secretariat,
Chennai – 600 009.

4. The Secretary to Government,
Government of India,
Ministry of Information and Technology Department,
Fort St. George, Secretariat,
Chennai – 600 009.

5. The Director General of Police,
Dr. Rathakrishnan Road,
Mylapore, Chennai- 600 004.

6. M/s. You Tube,
Rep.by its Chief Executive Officer,
FIFC, Level-7,
Registered office at Units 701,
Plot No.C-54/55,
G-Block, Bandra Kurla Complex Road,
Bandra East,Mumbai,
Maharashtra – 400 051.

7. M/s. Face Book India Online Service Private Ltd,
Rep.by its Chief Executive Officer,
Registered office at Unit.No.1203 & 1204,
Level – 12, Building No.20,
Raheja Mines Space,
Cyberabad, Madhapur,
High Tech City, Hyderabad,

Telangana State – 500 081.

8. M/s. Instagram,
Rep.by its Chief Executive Officer,
Registered office at Unit.No.1203 & 1204,
Level – 12, Building No.20,
Raheja Mines Space,
Cyberabad, Madhapur,
High Tech City, Hyderabad,
Telangana State – 500 081.

9. M/s. Disney+ Hotstar,
Rep.by its Chief Executive Officer,
Registered office at 26th Floor,
Urmi Estate, Ganapatra Ladam Marg,
Lower Parel West,
Mumbai, Maharashtra – 400 013.

10. M/s. Big Flix Private Ltd,
Rep.by its Chief Executive Officer,
Registered office at 49/50,
4th Floor, Maruti Chambers,
Veera Desai, West Mumbai,
Extn Road, Andheri.

11. M/s. Voot,
Rep.by its Chief Executive Officer,
Registered office at Zion Biz World,
“A” Vile Park (East),
Mumbai, India – 400 057.

12. M/s. Sony Pictures Networks India Private Ltd, (Sony LIV)
Rep.by its Chief Executive Officer,
Registered office at No. 31/1,
Old No. 12, Shaffee Mohamed Road,
Thousand Lights,
Chennai – 600 006.

13. M/s.MX Player,
Rep.by its Chief Executive Officer,
Registered office at 2nd Floor,
Kana Kia wall Street,
Andheri, Kurla Road,
Chakala Hanuman Nagar,
Andheri East, Mumbai,
India – 400 093.

14. M/s. Zee5,
Rep.by its Chief Executive Officer,
Registered office at 18th floor,
A-Wing Marathon Futurex,
Lower Parel, Mumbai,
India – 400 013.

15. M/s. Netflix Entertainment Services India,
Rep.by its Chief Executive Officer,
Registered office at Level 7,
4th North Avenue,

Bandra Kurla Complex, Bandra East,
Mumbai, India – 400 051.
16. The Managing Director,
M/s. Behind Woods,
No.118E, Velachery Main Road,
Little Mount, Guindy, Chennai – 600 032.

17. The Managing Director,
M/s. Cine Ulagam,
No. 16, 1st Floor, Rajaji Street,
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18. The Managing Director,
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Nance Salai, Chennai – 600 002.

19. The Managing Director,
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20. The Managing Director,
M/s. India Glitz,
No. 5, TM Durga Main Street, Lloys Road,
Krishnapuram, Royapettah,
Chennai – 600 002.

... Respondents

AFFIDAVIT OF K. SUTHAN

I, K. Suthan, Son of Kasi Nadar, Hindu, aged about 39 years, having office at No. 48/96, 1st Floor, V.S. Mudali, Saidapet, Chennai –600 015, do solemnly affirm and sincerely state as follows:

1. I am the petitioner herein and I am fully acquainted with the facts of the case. I submit that I have not filled any other writ petition for the relief sought for in this writ petition.

2. I submit that I am filing this writ petition in public interest and not for any personal gain. No person has instigated nor funded me to file this writ petition. I am spending out of my own pocket for the expenses incurred for filing this writ petition. I submit that if this Hon'ble Court finds that no public interest is involved or imposes any costs against me, I am ready to pay the same. I further submit that I am an income tax assessee and I am having Savings Bank Account in Indian Bank, High Court Branch A/c.No. 819280307. I have sufficient means to file the writ petition. I am a practicing Advocate at High Court, Madras as well as other subordinate courts for the past 13 years and holding office at No.48/96, 1st Floor,

V.S.Mudali, Saidapet, Chennai –600 015 and I am having sufficient means to file this writ petition, since I am earning a sum of Rs.50,000/- (Rupees Fifty Thousand only)/- per month.

3. I state that now a day's Social Networking Sites are being accessed by the every internet users. Let us see what is Social Networking Sites, they are online platforms that allow people to create a personal profile with pictures and other willingly shared information. These services are commercial ventures that allow someone to create a personal identity, keep in close connection with their chosen network of people, and also be able to view others that may be included in their friend's network. By referring to Social Networking Sites as commercial ventures, this implies that these sites use the information provided by their users in order to advertise certain products or ideas to many people in a short period of time. Users forward media content to their social network through their own page, which spreads through the extended network of someone else's profile.

4. I state that Social media creates a participatory culture a form of culture that allows people to actively engage with one another while being able to express themselves creatively. People who take part in social media believe that they are positively influencing a greater cause while maintaining and improving social connections. This type of communication is able to occur any day at any time from the comfort of one's digital device. More specifically, smart phones are the prime source of mobile communication that always has an Internet connection, and offers applications that allow people to engage in social media 24/7. Young adults in particular are estimated to spend eleven to twelve hours a day using social media. Social media may only be one facet of the Internet but through observing behavior on these platforms, one can learn a myriad of information about the dynamics of human behavior.

5. I state that for the past 6 months, the entire world is under the Pandemic by Novel Corona Virus and the said Virus killed lakhs of human lives all over the world. In view of the Pandemic situation the entire world is under lockdown to control the said disease and its impact. Likewise lockdown was introduced in India in the month of March 2020 and the same was extended periodically by both Central and State Governments from time to time till this date. In view of the said lockdown now Schools, Industries, Service Sectors, Software Companies are now closed and people

are started working from home through online, even courts are also been rendering justice through virtual courts. Accordingly the Schools are also been permitted to convene online classes to their students considering the welfare of the students.

Therefore usage of internet is enormously increased and using cellphones, laptops and other electronic gadgets had become essential.

6. I state that today the usage of Social Networking Sites are increasing day by day and 5 year old child to 80 year old senior citizens are using smart phone and it is very well known to all and the American based three companies namely YouTube has 265 million active users and more than 1500 and plus YouTube channels are available with 1 million viewers in India and with regard to the TWITTER more than 13.5 million users are using and Face book has 241 millions of users and India stands first in the world in using the Face book while so the using of the social media is increasing day by day and the news, messages, videos, documents and information including personal videos which reach very fast when compared to other modes which are available in our country and the social media creates a direct impact wherever we stand in the society and all the information's private or public instantly transferred through the said medium.

7. I state that apart from the above now a new trend has started among the social medias like Youtube Channels one of the video platform by YouTube, which provides a facility of creating a own Channel by a subscriber of YouTube, further the person owning a YouTube Channel can upload Videos in the YouTube platform as they like, which can be viewed by all the subscribers as well the persons who are using YouTube platform. Now the YouTube channels are enormously increased because of its celebrity fame and billons of videos are being watched through YouTube every single day. A registered account is sufficient to start a channel, which providing a platform of uploading videos in the said social media such as YouTube, Facebook, Instagram, Disney +Hotstar, Big Flix, Voot, Sony LIV, MX Player, Zee5, and Netflix etc., which means anyone can float anything in the social media, there is no restriction or censor for their contents and there is no regulations at all by the Government.

8. I state that there is no doubt at all that there are so many information are available under the said Social Medias in addition to that some unwanted 18+ contents, abusive videos are being uploaded by miscreants, which will definitely lead the youngsters and the students into wrong path and it is also influential in committing sexual offences in the present days. Prior to the pandemic situation is different, now the scenario has changed and students are attending online classes through Smart phones and other Electronic Gadgets, it is needless to state that there are frequent advertisements have also been scrolled by the Social Medias, whenever we opened an App whatever it may be. It has also been synchronized in the YouTube App once we clicked a Video, the related videos are automatically listed in the screen, which persuade the viewers to click those videos also. Therefore there is an imminent possibility of accessing the above Social Medias and its vulnerable contents by the students, further it is very much essential to note here that, allowing such kind of videos / photographs or information without any censor or without framing guidelines for uploads in social Media would spoil the future of the student of our country.

9. I state that there are several 18+ contents are being uploaded day by day without any regulations or Censor which will fade away the future of school and college students, who are now attending the classes regularly through online. It is pertinent to state here that Films which have been made with huge money are being released after getting censor certificate from Central Board of Film Certification. Moreover going movies is depending upon the interest of the viewer, they may go or may not, it depends upon the movie. Now viewing using online is inevitable, it cannot be denied that now a day's social Medias are playing greater role and brining everything around the world. Even a Child is very much interested in using mobile phones for playing games. But some of abusive, adultery, misleading contents are embarrassing, the parents and elders got worried about the future of the children, further definitely it will leads to social dilapidation. Therefore it is very much essential to regulate the Social Medias like YouTube, Facebook, Instagram, Disney + Hotstar, Big Flix, Voot, Sony LIV, MX Player, Zee F5, and Netflix etc., in various OTT platforms by forming a board such as Central Board of Film Television to censor the contents being uploaded in the Social Medias by framing certain law for publishing or transmitting of material/videos/information containing Abusive or Adultery contents through the above said social medias.

10. I state that it may be appealed by the Social Medias that they are removing such abusive and objected contents from their Medias. Such removals are being done once it was viewed by millions of people and only after receiving objections by the influenced persons, so the said practice is not a remedy to safeguard the social credibility, on the other hand it is leading embarrassing situation also spreading violent articles, news, videos through social media platform with intention to endanger the harmony of the country, but the companies owned are not able to stop such broad casting or not taking stringent action to terminate such Violators.

11. I state that being one of the family head and an Advocate I am having social responsibility and very much interested about the future of not only my child but also the children and youngsters of this nation. Therefore it is just and necessary to form a Board / Regulatory Authority to Censor the contents being uploaded in the Social Medias more specifically by Social Medias like YouTube Channels, Facebook, Instagram and OTT Platforms (Disney + Hotstar, Big Flix, Voot, Sony LIV, MX Player, Zee5, and Netflix etc.) in the form of Web series, Videos or in any other form. More particularly some of the YouTube Channels like Behindwoods, India glitz, Tamil Little Talks, Galatta Media, Cine Ulagam etc., are uploading video contents like Celebrity Interviews, Reality Shows etc., which contains abusive conversations, obscene topics, which cannot be codified in words.

12. I state that in a very recent day a marriage of the Celebrity namely Mrs.Vanitha, who got married a person namely one Mr.Peter Paul has been telecasted in a YouTube Channel, she had married the said person without even getting divorce legally, further the acts of the said marriage videos are vulgar and which definitely create a bad impact in our society, in continuation to the same there are several scuffles and quarrels arose between the said celebrity Mrs.Vanitha, Surya Devi, Actress Kasthuri, Actress Mrs. Lakshmi Ramakrishnan, Ravindran, comedy actor Nangil Vijayan and Mrs.Rajeshwari Priya, those persons are using filthy languages and abusive words which cannot be tolerable and the same were also been uploaded in the YouTube Channels, more than 10 lakhs viewers watched those videos. It is definite that at least 25% percentage of the viewers might be students and children. Likewise another YouTube Channel namely Karuppar Koottam, wherein Lord Muruga wrongly portrayed, though it has

been informed by the YouTube officials that the videos uploaded by Karuppar Kootam was removed from the YouTube Channel still it is existing and any one can view those videos. Further our great leaders and freedom fighters were also been wrongly portrayed and abused by such miscreants by uploading such videos by using the social media portals.

13. I state that apart from the above several vulgar/sexual videos under the head of "**SHORT FILMS**" are being uploaded in several Social Medias, which are nothing but tutoring the techniques to the youngsters how to abuse a opposite gender, such type of videos are highly influencing the crime against women and children. The very intention of the said persons is to get more views and to get Advertisements to earn money by using this Online Platform, their only intention is to grab money they are not thinking about the future of youngsters and students. Therefore it is just and necessary to regulate such videos and a board/regulatory body has to be formed to regulate the same.

14. I state that in view of such attitude opening YouTube channels are now spreading curiously among the general public without any restrictions and contents being uploaded in the YouTube are obscene, therefore it is just and necessary to restrict the opening of YouTube Channels by forming a regulations such as granting of license/Permission by the Board /Authority formed by the Government of India.

15. I state that it is just and necessary to take appropriate action to form a Board/Regulatory Authority to Censor the contents being uploaded in the Social Medias more specifically by Social Media Channels like Facebook, Instagram and OTT Platforms (Disney + Hot star, Big Flix, Voot, Sony LIV, MX Player, Zee5, and Netflix etc.) in the form of Web series, Videos or in any other form prior to uploading or telecasting the contents in the above social medias and to restrict the opening of YouTube Channels by forming a regulations such as granting of license / permission by the Board / Authority formed by the Government of India. In this regard I have also submit a representation dated 22.07.2020 to the respondents herein, Subsequently I have send the email to the all respondents office mail id dated 23.07.2020 and the same was very much received on 23.07.2020, but the same evoked no response, therefore I have been left with no other

alternative remedy except to approach this Hon'ble Court by invoking Article 226 of Constitution of India for appropriate relief.

16. I state that the use of social media is an integral part of daily life. Therefore it plays vital role in the society, it attracts not only youngsters, but all sorts of people in the society, the messages through Social Medias are reaching the public rapidly than any other Medium.

Therefore, the contents of the said Medium, which would create impact among the general public easily should be under the scanner, or else any one can spread /upload any message/videos as they wish and would distract the public as they want, further it would endanger the national harmony. Further the persons who are holding YouTube Channels are uploading vulnerable, obscene, violent and misleading videos without even considering the impact among the students and children, their only intention is to increase the views of their videos and to attract subscribers, further they are also getting handful of earning through advertisements.

In these circumstances, it is humbly prayed that this Hon'ble Court may be pleased to grant an order of Interim Direction, directing the respondents 6 to 20, not to upload/telecast any Videos till formation of a Board/Regulatory Authority like as Central Board of Film Certificate (CBFC) to censor the contents being uploaded in their respective sites pending disposal of the above writ petition and thus render justice.

It is humbly prayed that this Hon'ble Court may be pleased to grant an order of Interim Injunction, restraining the 6th respondent from in manner permitting its subscribers to create a new YouTube Channel or use the existing YouTube Channel pending disposal of the above writ petition and thus render justice.

It is therefore prayed that this Hon'ble Court may be pleased to issue a **Writ of Mandamus** or any other order or direction in the nature of writ, directing the respondents 1 to 4 herein to form a Board/Regulatory Authority such as Central Board of Film Certificate (CBFC) to censor the contents being uploaded in the Social Medias sites of the Respondents 6 to 20 in the form of Short Films, Interviews, Reality Shows, Web series, Videos or in any other form, consequently restrict the opening of YouTube Channels in the 5th respondent Site by forming a regulations such as

granting of license/permission by the Board/Authority within a time frame stipulated by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Solemnly affirmed at Chennai)(
On this the 27th day of July 2020)(
And signed his name in my presence)(
BEFORE ME

ADVOCATE ::: CHENNAI
MEMORANDUM OF WRIT PETITION
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950)

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(SPECIAL ORIGINAL JURISDICTION)

W.P.No. OF 2020

K. SUTHAN, M/39,
Son of S. Kasi Nadar,
No. 48/96, 1st Floor,
V.S. Mudali Street,
Saidapet,
Chennai- 600 015.

... Petitioner

-Vs-

1. The Secretary to Government,
Government of India,
Ministry of Home Affairs,
North Block,
New Delhi – 110 001.
2. The Secretary to Government,
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Ministry of Information and
Technology Department,
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3. The Chief Secretary to the Government,
Government of Tamilnadu,
Fort St. George, Secretariat,
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4. The Secretary to Government,
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Ministry of Information and Technology Department,
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5. The Director General of Police,

Dr. Rathakrishnan Road,
Mylapore, Chennai- 600 004.

6. M/s. You Tube,
Rep.by its Chief Executive Officer,
FIFC, Level-7,
Registered office at Units 701,
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G-Block, Bandra Kurla Complex Road,
Bandra East, Mumbai,
Maharashtra – 400 051.

-2-

7. M/s. Face Book India Online Service Private Ltd,
Rep.by its Chief Executive Officer,
Registered office at Unit.No.1203 & 1204,
Level – 12, Building No.20,
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Cyberabad, Madhapur,
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Mumbai, Maharashtra – 400 013.

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Rep.by its Chief Executive Officer,
Registered office at 49/50,
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Veera Desai, West Mumbai,
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Rep.by its Chief Executive Officer,
Registered office at Zion Biz World,
“A” Vile Park (East),
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Rep.by its Chief Executive Officer,
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Lower Parel, Mumbai,
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Registered office at Level 7,
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M/s. Behind Woods,
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20. The Managing Director,
M/s. India Glitz,
No. 5, TM Durga Main Street, Lloys Road,
Krishnapuram, Royapettah,

WRIT PETITION

The petitioner above named states as follows:-

The address for service of all notices and processes on the petitioner is that of his Counsel **M/s. M. ELANGO VAN, S. Suganth Sam Abraham, R. Mani Muthu Velan and J. Dhanalakshmi**, Advocates, having office at No. 48/90, 1st Floor, V.S. Mudali Street, Saidapet, Chennai- 600 019.

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The address for service of all notices and processes on the respondents are as stated above.

For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a **Writ of Mandamus** or any other order or direction in the nature of writ, directing the respondents 1 to 4 herein to form a Board/Regulatory Authority such as Central Board of Film Certificate (CBFC) to censor the contents being uploaded in the Social Medias sites of the Respondents 6 to 20 in the form of Short Films, Interviews, Reality Shows, Web series, Videos or in any other form, consequently restrict the opening of YouTube Channels in the 5th respondent Site by forming a regulations such as granting of license/permission by the Board/Authority within a time frame stipulated by this Hon'ble Court and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.

Dated at Chennai on this the 27th day of July 2020.

Counsel for the Petitioner

MEMORANDUM OF WRIT MISCELLANEOUS PETITION
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950)

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Chennai – 600 002.

... Respondents/Respondents

PETITION FOR INTERIM DIRECTION

For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to grant an order of Interim Direction, directing the respondents 6 to 20, not to upload/telecast any Videos till formation of a Board/Regulatory Authority like as Central Board of Film Certificate (CBFC) to censor the contents being uploaded in their respective sites pending disposal of the above writ petition and thus render justice.

Dated at Chennai on this the 27th day of July 2020.

Counsel for the Petitioner/Petitioner
IN THE HIGH COURT OF JUDICATURE AT MADRAS
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North Block, New Delhi – 110 001.

And 19 others.

... Respondents

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It is certified that the above mentioned documents are true copies.

Dated at Chennai on this the 27th day of July 2020.

Counsel for the Petitioner

CHENNAI -DISTRICT

HIGH COURT: MADRAS

W.M.P.No. OF 2020

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M/s. M. ELANGO VAN, (4004/2011)

S.Suganth Sam Abraham, (227/2008)
R.Mani Muthu Velan (3885/2012)
and J.Dhanalakshmi (2097/2011)

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PETITIONER**