

Submission and recommendations of the Panel
Setup to aid in the resolution of the current crisis at

FTII,Pune

To,
Shri Arun Jaitley,
Hon. Minister of Information & Broadcasting,
Government of India,
New Delhi

03/07/2015

We, the alumni of FTII, practitioners of the art of cinema and the representatives of the students, would like to humbly submit to you after discussions with the Joint Secretary (Films), Director of FTII and others from the ministry, the following points for your serious consideration:

1. A threat to the lives and physical well-being of the students in the campus and around Pune by provocative and intimidating statements made by some members of the newly appointed Society. We have enclosed reports that have been brought to our notice. In addition professional integrity of one of the members of the new Society has been questioned by the court of law. A copy of the court order is also enclosed.
2. As per the present norms of the Society, the Chairperson is also the Chairperson of the Governing and Academic Councils. For an academic institution of this unique nature, the Chairperson and members of the Society need to be of national and international repute, as has always been the practise.
3. The Institute conducts courses in the entire spectrum of filmmaking but the composition of the new Society is skewed with five actors appointed. The Society of FTII, we believe, has to be far more wide ranging and inclusive.
4. Some eminent members have already stated their unwillingness to be a part of this new Society, thereby further diminishing its effectiveness.
5. The recent announcement by the Hon. Minister of upgrading the institute into an 'Institute of National Importance/ Central University' is imminent and requires great attention.

In the light of all the above, we request that a new committee consisting of approximately five persons is formed to look into the above issues, suggest guidelines and assist in the process of transition into an 'Institution of National Importance.' We would like to suggest that the outgoing Chairman and Vice Chairman with their knowledge and understanding of the academics, the industry and the institute are included in this committee.

Till such time you may kindly consider keeping the newly formed Society in a passive state.

Cc: ChiefSecretary, Ministry of I&B, Govt. Of India

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To,
Shri Arun Jaitley
Hon. Minister of Information & Broadcasting,
Government of India

03/07/2015

We, the alumni of FTII, practitioners of the art of cinema and the representatives of the students, would like to humbly submit to you that we are very concerned with the recent developments in the governance of the Film and Television Institute of India (FTII), an institute of international and national repute. As you may be aware, this institute, since its inception in 1961, has enriched the Indian film industry, both technically and aesthetically, through the contribution of its graduates. We submit the following points and recommendations for your consideration:

1. FTII Society:

In the past, the apex body, which comprised of filmmakers and academicians of national and international repute, have provided the vision and academic rigour essential for the art and pedagogy of cinema. Generations of students have been inspired by these individuals to enrich Indian cinematic practice.

We are afraid, that the newly constituted society does not measure up to this tradition of academic and intellectual excellence of this premier institution.

We recommend that the newly formed society shall not be operationalised. In the interim, an expert committee to suggest norms and guidelines for the setting up of a society shall be formulated and in this committee the Chairman and Vice Chairman of the outgoing Governing Council shall be included.

2. Institute of National Importance:

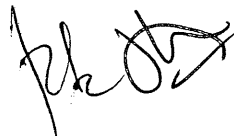
The Hon. Minister's announcement in the Parliament to make this Institute an 'Institute of National Importance' brought great cheer to the entire cinema community. At this critical and exciting juncture of technological and aesthetic transformation, FTII is in acute need of upgradation. Granting the status of national importance will ensure that this transition is effected. To realise this transition a perceptive leadership is required.

With due respect to the members of the newly constituted society we surmise that they do not have the necessary experience and academic expertise to spearhead this transition. We request the government to expedite the process of upgradation and provide able leadership. The Film and Television Institute of India has unique needs. We suggest that the government appoints a core committee, comprising of eminent film practitioners with pedagogical concerns and stakeholders from across India to formulate and oversee the setting up of the 'Institute of National Importance.'











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3. Appointment of the Director:

The term of the current director is due to end soon. As is the practice in other academic institutions, we request you to set up a search committee to identify the new director following a process of due diligence and transparency. The tradition of identifying a person with proper academic credentials and experience in cinema should be the overriding criteria. Involvement and consultation with senior filmmakers is of utmost importance. In the interim, we suggest that the term of the current director is extended to oversee this transition.

In addition, it has also come to our knowledge that some of the members of the newly formed society have issued intimidating statements to the students. Such irresponsible statements from society members send out wrong messages to the civil society which in turn makes the atmosphere in the Institute non conducive for academic and creative learning. We request you to take these untoward statements into consideration, for incidents like these have taken place in the past which led to physical violence. In light of the above, we fear the life and the dignity of students in the campus. This calls for the Government's immediate intervention to normalise the situation.

These suggestions and recommendations are made in the spirit and best interest of maintaining high academic standards and nurturing a vibrant film culture in this nation.

Enclosures:

1. List of former chairmen of the FTII board.

CC to Joint Secretary (Films), Ministry of I&B, Govt. Of India

JINA PAUL	J-Pal	REHA KAUR	Reha Kaur
Resu Kulkarni	Resu Kulkarni	HARISHANKARNAACHIMUTW	Harishankar Naachimutw
Ganesh Kasaravalli	Ganesh Kasaravalli	VIKAS	Vikas
Dharan Gulati	Dharan Gulati	URS	Urs
PARSHI KAMDAR	Parshi Kamdar		
Faneela Mehta	Faneela Mehta		
PRATEEK VAS	Prateek Vas		



Students' Association
Film and Television Institute of India,
Law College Road,
Pune: 411004

03/07/2015

To,
Shri Arun Jaitley
Hon. Minister of Information & Broadcasting,
Government of India

In reference to the letter, dated 14/6/2015.

The students of the Film and Television Institute of India (FTII) would like to bring to your kind notice our concerns about the following members:-

1. Mr. Gajendra Chauhan:

The stature of previous Chairpersons is a clear testament to the kind of academic experience and rigor of practice that they epitomised (*annexure 1*). Unfortunately, Mr. Chauhan's academic inexperience and body of work does not meet the requirements needed to head and steer an internationally renowned Institution in the field of Film and Television education.

2. Ms. Anagha Ghaisas:

- a) The comments made by her in mainstream media in wake of the protests leave us fearful of the ambiguous nature of the '*new thought process*' that she wants to bring in at FTII. Her extreme position vis-à-vis the students, has caused a great deal of anxiety about her presence in the apex body. (*annexure 3*)
- b) Her professional integrity has been questioned by the court of law. In view of the court verdict, her nomination as an 'eminent persons of the art' is untenable. (*annexure 2*)

3. Dr. Narendra Pathak:

- a) Dr. Pathak was the head of the organisation whose members physically assaulted the FTII students following a film screening and cultural programme at the National Film Archive of India (NFAI), Pune. The court case regarding the incident is still going on. In view of this, his presence on the FTII society has caused extreme anguish amongst the students who fear for their physical safety. (*annexure 3*)
- b) In the background of the physical violence against the students, Dr. Pathak's statements regarding "*students ko sabak sikhana hoga;*" (*annexure 3*) is perceived as an open threat to the physical safety of the students as well as cast doubts about his

commitment towards upholding the tenets of freedom of expression and thought. Such a person is not conducive to the spirit of learning.

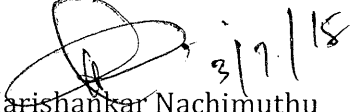
4. Rahul Solapurkar:

Inspite of his fairly large body of work, his warning on “introducing a new line of thought that is beneficial for the nation and the students,” is worrisome. Such statements made by future decision-makers at institutes of higher learning, is hurtful. (*annexure 3*)

This insinuation that we citizens of the nation are behaving in an “anti-national” manner have deeply hurt our sentiments and we seek your immediate intervention in ensuring the students of a peaceful, non-violent and creative ambience to work with.

Annexures –

1. List of former chairmen of the FTII board.
2. Court Order against Ms Anagha Ghaisas.
3. Statements in the print media made by some of the Society members.


Harishankar Nachimuthu
President
Students' Association, FTII

CC to Joint Secretary (Films), Ministry of I&B, Govt. Of India

LIST OF PRESIDENT / CHAIRMAN OF FTII SOCIETY

Sr. No.	Name of the Chairman	Period
1.	Shri A.J. Kidwai	01.10.1974 - 30.09.1977
2.	Shri S.M.H. Burney	25.11.1975 - 30.09.1977
3.	Shri R.K. Laxman	01.10.1977 - 30.09.1980
4.	Shri Shyam Benegal	05.02.1981 - 30.09.1983
5.	Shri Mrinal Sen	09.04.1984 - 30.09.1986
6.	Shri Suresh Mathur	01.10.1986 - 31.08.1987
7.	Shri Adoor Gopalkrishnan	01.09.1987 - 30.09.1989
8.	Shri Shyam Benegal	16.09.1989 - 30.09.1992
9.	Shri Adoor Gopalkrishnan	21.10.1992 - 30.09.1995
10.	Shri Mahesh Bhatt	20.10.1995 - 30.09.1998
11.	Shri Girish Karnad	16.02.1999 - 10.10.2001
12.	Shri Vinod Khanna	11.10.2001 - 15.02.2002
13.	Shri Vinod Khanna	04.03.2002 - 03.03.2005
14.	Dr. U.R. Ananthamurthy	04.03.2005 - 03.03.2008
15.	Dr. U.R. Ananthamurthy	04.03.2008 - 03.03.2011
16.	Shri Saeed Mirza	04.03.2011 - 03.03.2014

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My Flag, My Life!

Motivating Young India for a Career in the Armed Forces



A Documentary Film on



National Defence Academy, Pune

Produced by :
Creations Entertainment

Presented by :
Mhaiskar Foundation

My Flag, My Life!

Produced by :

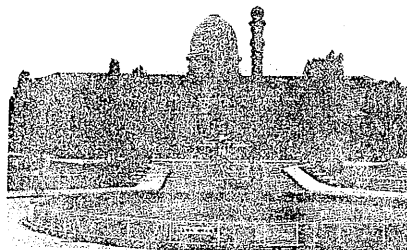


Presented by :



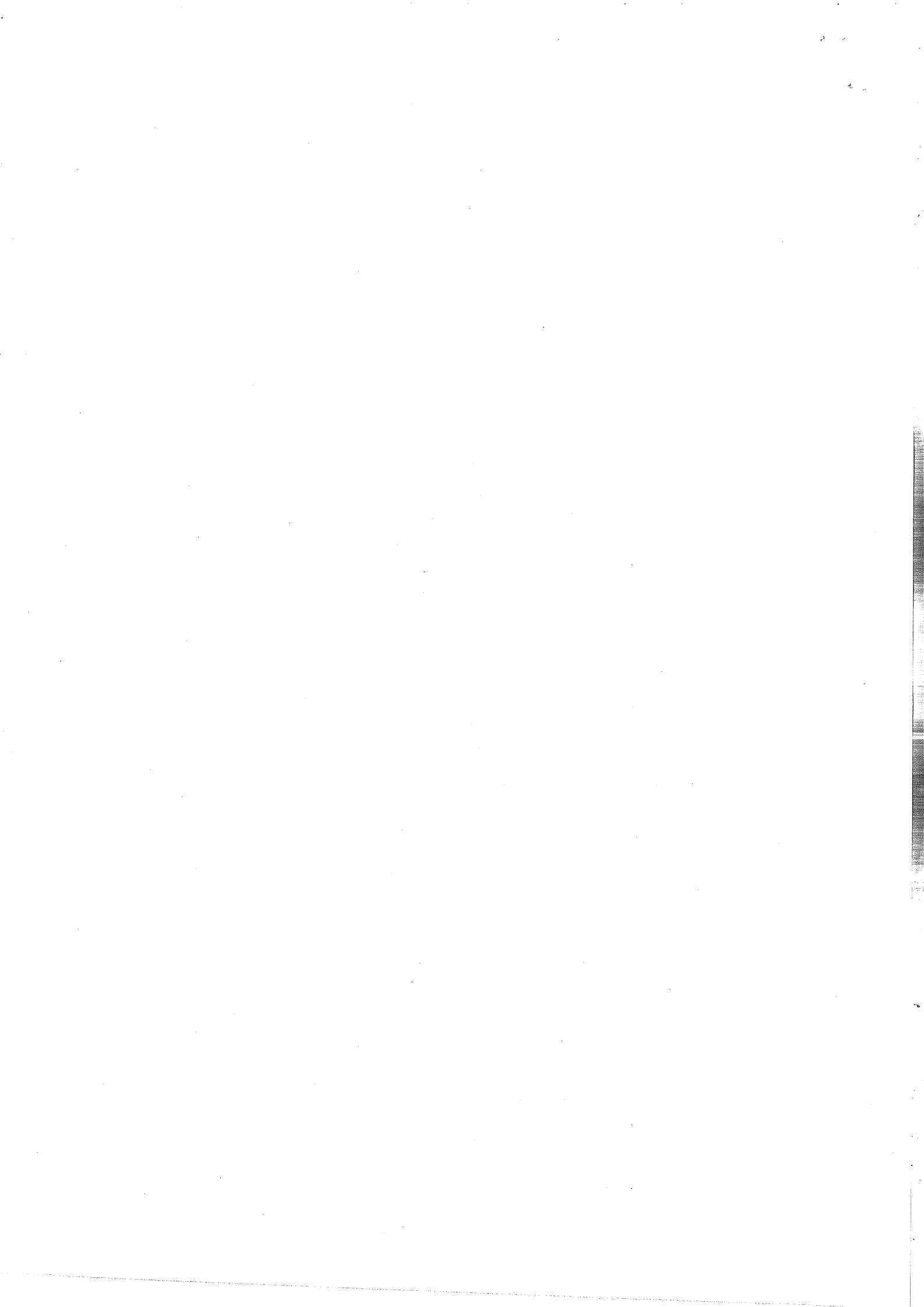
CREATIONS ENTERTAINMENT

Tel : (020) 2543 2112 Mobile : 94220 09702 E-mail : anagha_ghaisas@rediffmail.com



- * Concept : Anagha Ghaisas
- * Script : Ambarnath Sinha
- * Lyrics & Music : Ajay Parad
- * Editing : Sanjay Dabke, Jameel Shaikh
- * Production In-charge : Sachin Temghare
- * Direction : Sanjay Dabke, Anagha Ghaisas
- * Design : Numero Uno Communications
- * CD Rom Replication : Digital Strategies

MRP : Rs. 95/-



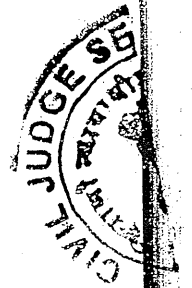
:: JUDGMENT ::**(Pronounced on 15th November 2014)**

1] This is suit for recovery of Rs. 4,50,000/- .

Plaintiff's case is as under:-

2] Plaintiff is reputed producer and director. Plaintiff won the Best Biological Film Award and 'Rasayatra' award in the year 1990-1995 respectively. Plaintiff's film also won the international jury's mention at Brussels Festival. Defendant approached plaintiff at the end of 2007 and requested to direct a biological video on veteran National Congress Party Leader Sharad Pawar. Defendant informed plaintiff that video would be the production of Creation Entertainment. Plaintiff gave treatment note and his detailed fees copy but the said proposal not succeeded up to May 2008. Defendant contacted plaintiff with request to direct a 60 minute long motivation video film on National Defence Academy, (N.D.A) Khadakwasla. Plaintiff was informed that defendant was busy in process of raising finance requisite for said film.

3] On 28-08-2008 plaintiff covered video of interaction of Shri Ajit Soman with final year cadets of NDA. Except of introductory part Ajit Soman did not wrote any script. Plaintiff had given short summary of programme of shooting and as per directions of defendant shooting was conducted of various events at NDA over period of 8 months without script. Plaintiff



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Plaintiff - 3/15 1/15 1/15

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10-12-14

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Reg. Civ. Suit No 4701/2012

Instituted on 27/07/2009
Registered on 27/07/2009
Decided on 15/11/2014
Duration 05Y 4 M 12 D

In The Court of 35th Jt. Civil Judge Junior Division Pune, At
Pune.

(Presided Over by Shailesh U. Kanthe)

Reg. Civ. Suit No 4701/2012.
Exh. No.95

Shri. Nandan Prabhakar Kudhyadi,
Age: 56, Occu: Professor and
Producer-Director,
R/o.:- 4- Kanchan Apartment,
Girija Society, Paud Road, Pune-38.

} **Plaintiff**

VERSUS

Ms. Anagha Ashok Ghaisas,
Age : 42, Occu: Sole proprietor of
Creations Entertainment,
R/o. : Shree Apartment, Behind
Balshikshan School, Dhamanka Path,
Mayur Colony, Pune -39.

} **Defendant**

SUIT FOR RECOVERY RS.4,45,000/-

APPEARANCE :-

Learned Advocate Shri R.B. Jagtap for Plaintiff.

Learned Advocate Shri M.P. Patil for Defendant.

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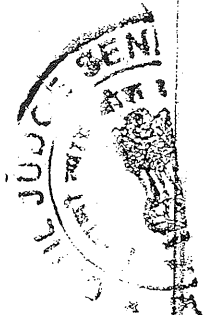
carried out the shooting with all possible efforts to complete the schedule. Apart from shooting at NDA plaintiff accompanied defendants and cured to various out stations, locations at New Delhi, Suragad, Air-force Ganganagar etc. Commander Mehata had shown willingness to guide and give necessary assistance as Co-ordinating Officer for project of documentary film.

4] Plaintiff carried out the shooting as per request and instructions of the defendants. Plaintiff took all possible efforts without even the production assistance to help the defendant in executing the production. Plaintiff directed video shooting undertaken at NDA camp rover sailing, flying including the final term ending exercise and passing out parade. Even also at Torana camp and the programme of Trishsul and Varuna exercise for naval cadets abroad INS Vidhaygiri at sea. The plaintiff aslo completed the shooting of "Josh" runs covering over 32 K.M at night and also obstacles codes following the next day until late in the afternoon.

5] Plaintiff also went to Hindon and shoot attack Helicopter interviewed Air commodore Sinha. Plaintiff's also shoot four hours headquarter in Ganganagar at firing range at Suragad station IMG fighter fitter plains were shot as well as interviewed of plight. Plaintiff took 53 days to complete the shooting as per summary by the defendant. Plaintiff being a faculty professor in FLAME School of communications was

compelled and had taken leave of 53 days. In November 2008 plaintiff was also required to remain present at the time of editing to identify the shots.

6] Plaintiff also wrote first draft commentary at the request of defendants and assurance that plaintiff would be compensated for the same. So as to structure the sequence from raw footage shots. Plaintiff even supervised and completed the work of editing in absence of main editor Sanjay Dabake who was abroad on 30-01-2009 with his associates Shri Mahesh Phundkar and Shri Jammal Shaikh. Defendant thereafter hired Shri Ashok Gopal to rework the draft commentary prepared by the plaintiff. The plaintiff received his initial work on 04-02-2009. Due to mismatch plaintiff reworked on the same as per fine tune edited sequences also as per wording with editor Mahesh Phundkar. Defendant requested plaintiff to record the commentary in the voice of Vijay Marur. Plaintiff sent the final commentary on 17.2.2009 in reply Marur asked for the fees.



7] In the mid of the year 2009 major part of shooting and editing was over at the satisfaction of defendant. Defendant asked plaintiff to consider making a short promotional film on "IRB"(Ideal Road Builders) and for which plaintiff and defendant visited one of the completed site of "IRB"(tunnel further down to Katraj Ghat) on 10.2.2009.They both also visited IRB House Head Quarter Office at Pawai on 17.2.2009. plaintiff

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selected one of the rooms for shooting the interview of Shri Dattatraya P. Mhaiskar and suggested the special lighting and projection arrangements. Defendant reported progress of the work and showed the edited version of the film on laptop, even defendant praised the plaintiff for talented work in front of Mhaiskar, who appreciated the work and congratulated the both.

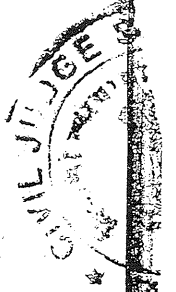
8] When plaintiff asked for additional payment on the new film of IRB then defendant became evasive and started complaining about the plaintiff's work. Defendant discontinued the basic facilities provided for completion of remaining part of fine cut editing. Defendant also started complaining about sending a car to fetch the plaintiff from Flame Campus or to drop him there from N.D.A. Defendant told plaintiff that she had send more than 70 times car to plaintiff. Defendant complained about plaintiff's shooting more shots than the requisite.

9] After the shooting schedule plaintiff requested the defendant for the payment on or about 25.2.2009. Defendant totally refused to accept the charges for all the professional work and assistance given by plaintiff. Defendant claimed large number of more than 100 tapes were shot and that Rs.1,75,000/-- was already paid to plaintiff. Which was Deposited at the plaintiff's production company. Defendant was ready to

pay Rs,85,000/- to plaintiff for his entire effort and work,which was very meager and less amount so plaintiff refused to accept as discrepancy in the agreement. Plaintiff requested the defendant to make complete payment for the work.

10] On 1-03-2009 plaintiff completed the final work. On 02-03-2009 defendant told plaintiff that final commentary was not up to the mark and the main editor is contacting a profession from Mumbai for the same. She will contact wing commander Rakesh Sharma to be presenter for the film. On next day evening defendant informed the plaintiff that his services are no more required as she was not happy with the work. plaintiff asked Rs. 4,50,000/- towards the charges of services render to the defendant as per reference to E-mail in November 2008 which was initially agreed after discussion with the defendant. Thereafter shooting, 15 more days of editing than initially planned and several drafts of the commentary for which the charges have been increased and the amount comes to Rs.5,80,000/-.

11] Plaintiff has send a notice to defendant through his Advocate on 07-04-2009 claiming the amount but defendant refused to reply it and refused to pay the same. Plaintiff has also served a reminder notice on 10-06-2009 to defendants. As per the agreed amount of 5,80,000/- plaintiff has received 1,75,000/- for the defendant an thus filed the suit for Rs.



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4,05,000/- as balance amount and Rs. 40,000/- towards interest from 03-03-2009 till the date of final realization of the amount @ 24% p.a.

Defendant's case is as under:-

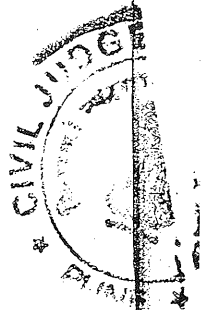
12] Defendant appeared in the suit and had filed her detailed written Statement at Exh.37 contending that totally false suit is filed against the defendant and denied all the allegations in toto. It is the case of defendant that Copy-rights Acts jurisdiction totally vests with Hon'ble District Court plaintiff is modifying his claim by taking self contradictory contentions. Defendant being producer and proprietor have all rights in respect of film. Plaintiff has no legal right in the film. No agreement for the employment of the plaintiff was ever executed. In the process of film making taking shots does not amount to direction of the film. Moreover, plaintiff's started unilaterally dealing with the persons mentioned in the plaint. Defendant never authorized the plaintiff to write a script and commentary for the film and alleged script was not used for the film. Due to adamant and non-cooperative behaviour of the plaintiff other members of the team refused to work with him.

13] Plaintiff also took aimless, directionless unnecessary and irrelevant shots which caused defendants in to tremendous loss due to increase of unnecessary costs. Film was not done

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with the directorship of the plaintiff. Defendant is not entitled for refund and compensation of plaintiff. Plaintiff came to be introduced to the defendants and the defendant had no idea about his antecedents and nature of working. Defendant had engaged veteran script writer Shri Ajit Soman for writing script of the film but unfortunately it didn't worked. Defendant started searching for alternative. Plaintiff represented that until script get finalized he would like to shoot some events which are peculiar in the activities at N.D.A training. Plaintiff started taking shots even script and commentary was not ready and no preparations were ready to enable the plaintiff to direct the film.

14] Plaintiff was never authorized to modify any script or interfere in the work or script of others. Due to plaintiff script writer Mr. Ashok Gopal refused to work for the film. The shots which plaintiff collected were four times more than requirement. Defendant engaged renowned script writer Ambernath Sinha who wrote the script of the film. Mr. Sanjay Dabake with the assistance of Defendant was required to take of the job of director. Subsequently, Sqdn. Ldr. Rakesh Sharma accepted the role of presenter and further shooting was done as per the script. Plaintiff could not perform his duty of director nor the defendant has used his alleged script and other contribution etc.



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15] Moreover, defendant is entitled for refund of amount paid to the plaintiff as well as for the compensation for loss by the plaintiff to the defendant. The plaintiff's behaviour, attitude of taking disadvantage of the situation prevented the defendant from engaging him further in her work. As such there was no question of taking any services of the plaintiff. Defendant never instructed plaintiff or cameraman to take extra footage to make shooting schedule worthwhile. Defendant never plan the schedule as per her requirement. Therefore, all the contentions regarding payment of charges of plaintiff and alleged the refusal to accept charges etc, are totally false. On the contrary plaintiff's remuneration was fixed at Rs. 1,50,000/- and there was no question of payment of any charges more then, that to for the services which were either not required or not given by the plaintiff.

16] However, the defendant has already paid Rs. 25,000/- more to the plaintiff and the defendant is entitled to receive Rs.1,75,000/- back due to the failure of plaintiff to direct the film. Defendant never agreed to pay 85,000/- or any such charges as there was no any verbal or written agreement between plaintiff and defendant. Particulars of claim are not admitted by the defendant. Hence, defendant prayed to dismiss the suit with costs as it is not maintainable in the eye of law.

17] Considering the rival pleadings, submissions and

evidence of both the parties. Heard Ld. Adv.Shri Jagtap for plaintiff and Ld. Adv. Shri patil for defendant at length. My learned predecessor court had framed the issues for the determination vide exhibit-40 for which I have recorded my findings along with the reasons there as under.

Sr. No.	ISSUE	FINDINGS
1	Whether this court has the jurisdiction to try the suit.?	In the affirmative
2	Does plaintiff prove that the defendant owns him Rs.4,05,000/- towards that unpaid professional charges ?	In the affirmative
3	Does he further prove to have copyright over the files in question, as alleged ?	In the negative
4	Is he entitled to recover the amount and interest, as claimed ?	Yes @ 6% Per annum
5	Is he entitled to injunction, as sought for ?	In the negative
6	What order and decree ?	As per final order.

REASONS

18] In order to prove its claim plaintiff mainly relied upon the following documents.

- 1] Filmograph of plaintiff till 2008-Exh.3/1.
- 2] Certificate of 37th National Film Festival 1990-Exh.3/2.

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CIVIL JUDGE
MUMBAI

- 3] Certificate of 45th National Film Festival 1995-
Exh.3/3.
- 4] Notice dated 07-04-2009 issued to defendant-
Exh.3/4.
- 5] Acknowledgment and receipt of the notice-Exh.3/5
- 6] Copy of receipt of notice by UPC Exh.3/6.
- 7] Copy of acknowledgment of receipt of notice- Exh-
3/7
- 8] Copy of letter dated 29-04-2009 send by defendant
to plaintiff Advocate Exh.3/8.
- 9] Envelope of same letter Exh.3/9.
- 10] Copy of notice dated 10-06-2009 issued to
defendant Exh.3/10.
- 11] Copy of receipt and acknowledgment of the notice
Exh.3/11.
- 12] Copy of proposal note with the title doyen of
Indian Politics at Exh.3/12.
- 13] Copy of details of professional fees given by
plaintiff to defendant dated 4-12-2007 Exh.3/13.
- 14] Copy of pass book of plaintiff with the Bank of
India Kothrud reflecting transfer of Rs.25,000/-
defendant to plaintiff 3/14.
- 15] Accounts statements of plaintiff issued by
Shamrao Vitthal Co-operative bank pune Deccan
Gymkhana from 01-04-2008 to 13-03-2009

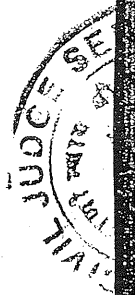
reflecting entry of 1,50,000/- by 3 entries of Rs.50,000/- each. Exh.3/15

- 16] Copy of commentary written by Ashok Gopal Exh.3/17.
- 17] Copy of modified commentary Exh.3/18.
- 18] Copy of programme of shooting at NDA Exh3/19.
- 19] Copy of E-mails between plaintiff's and defendants at Exh.74.
- 20] Calender of National Defence Academy At Exh.73
- 21] Letter regarding proposal for the TRG film at Exh.77.

Plaintiff examined himself i.e P.W.1 at Exh.43 and ts witness Ganesh Madhav Gadre at Exh.65. Defendant also relied upon the script at Exh.78 and adduced her evidence i.e D.W1 at Exh.71.

AS TO ISSUE NO.3 AND 5

19] Plaintiff has filed the suit for the recovery of amount of Rs. 4,45,000/- from the defendant and claimed the interest @24% thereon. Plaintiff also claimed prohibition against the defendant from spoiling, damaging, in any manner to the right of the authorship of plaintiff regarding motivational film on NDA, and injunction to its broadcasting and publishing and its realse in any manner. It is to be noted and taken into the consideration that during course of arguments Ld. Adv. for



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plaintiff submitted that so far as, copyright issue and its related injunction is not pressed and not prayed with this regard. It is also not claimed by plaintiff at this juncture. Plaintiff is also not claiming infringement rights. On record also there is no ivota of evidence as to copy right and subsequent injunction issues.

20] On the contrary Id. Adv. For defendant Shri Patil submitted that, section 62 of Indian Copyright Act 1957 vests jurisdiction to Hon'ble District Court to entertain such pleas. Therefore, plaintiff are not entitled to injunction in respect of Intellectual property right. Therefore, considering the submissions of both the Id. Advocates and the evidence on record I answered issue no. 3 and 5 in the negative.

AS TO ISSUE NO.2

21] Plaintiff examined himself at Exh.43 in which he reiterated his claim as to recovery of amount from the defendant as mentioned in the plaint. In the evidence it has come on record that Plaintiff has sent his detailed fees copy through E-mail vide Exh.74 for biographical video on veteran National Congress Party Leader Shri Sharad Pawar. It has come in the evidence that unfortunately this proposal did not proceed further upto May 2008. Defendant contacted plaintiff with request to direct a 60 minute long motivational video film on National Defence Academy Khadakwasla Pune. As per

plaintiff assurance Ajit Soman had accordingly written note 2-3 pages in Marathi of the script. Plaintiff along with defendant had 5 to 6 meeting with Shri Ajit Soman within period of 3 months. Plaintiff covered video of interaction of Ajit Soman with final year cadets of NDA on 28-08-2008.

22] Plaintiff has produced short summary of programme of shooting as per list Exh.3/19. Comdr. Mehta had shown willingness to guide give necessary assistance as co-ordinating officer for the project of the film at NDA. Plaintiff had carried on various activities and video shooting undertaken at NDA as per the directions of defendant. Plaintiff was compelled and had taken leave 53 days from the FLAME School of communication, to complete the shooting as per short summary by the defendant. Defendant also requested and suggested the plaintiff regarding the recording of commentary in the voice of Shri Vijay Marur. In evidence it is came on record that by middle of February month the major part of shooting and was over.

23] In spite of number of work done by plaintiff with regard to NDA film when plaintiff requested to make payment on or about 25-02-2009. thereafter, defendants refused the accept charges for all professional work and claim. plaintiff refused to accept the discrepancy in the agreement as per defendant and the requested defendant to make complete

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payment of work mutually agreed.

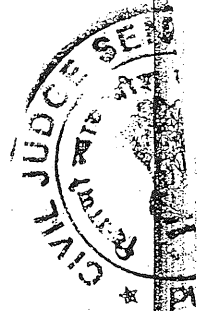
24] Plaintiff asked Rs.4,55,000/- towards charges and services render to defendant with reference to E-mail at Exh.74 which was initially agreed by defendant. Defendant claimed that budget approved by Mhaiskar trust was only Rs.13,50,000/- were as defendant earlier assured that total budget would 18,50,000/-. Plaintiff has also made 15 days more shooting and 15 days more editing then initially plan and several drafts of commentary for which the charges have been increased and total amount came to Rs.5,80,000/- but the defendant refused and ignored it. Plaintiff has also send notices to defendant through his Advocate On 07-04-2009 at Exh. 3/4 and reminder notice at Exh-3/10 in response defendant refused it nor replied the notices.

25] Plaintiff also relied on the evidence of P.W.2 Ganesh at Exh.65 on behalf of Mhaiskar Foundation who deposed that Mhaiskar Foundation knows defendant. And foundation had given financial assistance to the documentary "My Flag My Life" of defendant. Foundation had given Rs. 32 lakhs to defendant through cheque. They have maintained the account of the same. In cross-examination witness deposed that the amount of Rs. 32 lakhs was given for documentary, Dance Programme, Nature Awareness Programme etc. He was unable to tell that exactly how much separate amount was given to defendant for

documentary. He admitted that, Rs. 32 lack was only given to the documentary.

26] In cross-examination of plaintiff, it has come on record that there was no any written agreement of the film production and payment. Plaintiff also admitted that there was no any writing in between plaintiff and defendant regarding permitting for plaintiff to script writing. Plaintiff also do not remember the exact number of tapes he recorded. Plaintiff also admitted that Dabake had also done some work of direction. Defendant had also conducted and additional shooting. Plaintiff denied the story put up by the defendant in the cross-examination.

27] In cross-examination of defendant at Exh.71 it is came in evidence that film production is only her occupation. she had not taken education in film shooting, editing and directing. She doesn't know the difference between fiction and documentary. Defendant do not have technical knowledge regarding making of the film. In the year 2009-2010 she obtained donation of about 25 lakhs from Ideal Road Builders(IRB)They paid Rs.13 lakhs towards NDA film but she don't have separate receipt to show the same. She had also maintained accounts as to expenditure for NDA film and will produce the accounts. IRB had not issued any letter stating out of 25 lakhs the amount of 13 lakhs were to be utilized for NDA



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film. The said film was made out of only from the said amount of 13 lakhs. No other person, company, or authority and even defendant had not invested any amount personally for making of the film. She is unable to say anything that IRB had paid rupees 32 lakhs to her to make NDA film.

28] Defendant admitted that she engaged plaintiff for directing the NDA film and given the calendar exh-73 of NDA to plaintiff. Exh-73 is required for planning of shooting. She admitted calendar also contained her E-mail ID. Plaintiff had send E-mails she received it on 6th November, 2008. She admitted the e-mail copy at exh-74 but denied the professional fees Rs 4 lakhs 55 thousand quoted by plaintiff for the direction of film. She also admitted that she had negotiations with plaintiff regarding film on Sharad Pawar before NDA film. She also admitted that as the project of making a documentary of sharad pawar failed she took the project of NDA film. Moreover defendant had not refused the services rendered by the plaintiff on the project of film " My Flag My Life".

29] Defendant also admitted that plaintiff informed her fees for NDA film. She also admitted that she made available pass for plaintiff to admission to the premises of N.D.A plaintiff shot the NDA film by visiting different places, also plaintiff shot cross country run event of NDA she admitted the shooting programme filed at Exh.75. She also admitted that plaintiff

shoot the NDA film from 24-06-2008 to 03-03-2009 she also admitted that NDA had paid Rs.50,000/- and Rs.4,50,000/- to him. She admitted the letter at Exh.55 and copy at Exh.77. The C.D produced on record contain the name of plaintiff as director of the documentary. She has produced the script at Exh.78. She also admitted that said script was prepared on the basis of shooting already completed.

30] She also admitted that in March 2009 plaintiff stopped the work of documentary. she admitted that she don't have any document to show that she got the NDA film shot from other persons. She admitted the temporary pass issued by the NDA at Exh.79 and admitted that it is part of shots completed by plaintiff are in use in the documentary "My Flag My Life" she also admitted that she had not produced the account of expenditure of NDA film nor the separate account of expenditure regarding the amount of Rs.32, lakhs received from Ideal Road Builders or Mhaskar Foundation. Defendant had denied the suggestions put forth to her at the time of cross-examination.

31] Ld. Adv. for defendant Shri patil vehemently argued that defendant is the producer of the film. Defendant denied any agreement fixing the remuneration as per E-mail. It is the defense that agreed amount to be paid for plaintiff was Rs.1,50,000/- which were already paid and defendant also paid

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Rs.25,000/- to plaintiff. Therefore, no dispute is in between parties as there is no agreement. Plaintiff was taking excessive shots. Rs. 5,80,000/- is not mentioned in plaint plaintiff was always having dispute with crew members and defendant had received serious complaint regarding working with the plaintiff. Exh.74 E-mail was only with respect to the documentary of Sharad Pawar there were some changes to the next film. No such understanding is proved on record.

Section 65(B) of the Evidence Act is not followed properly as mere exhibiting document is not proof plaintiff has not obtained certificate as per section 65 (B) (4) of the Evidence Act. As there is no written agreement on record so defendant is not liable to pay any amount to plaintiff. It is not the case of plaintiff that as per the donation from Mhaskar Foundation the remuneration was fixed plaintiff failed to prove earlier film remuneration was also fixed to this film. Plaintiff and its witness are not relevant to prove how plaintiff is entitled to Rs. 4,80,000/-.

32] Ld. Advocate for defendant submitted that as per the citation of on *AIR 1987 Supreme Court 2179* as to variance of pleading and proof and submitted that plaintiff's claim is short of cogent evidence and hence it be dismissed. Ld. For defendant in his reply arguments also submitted that burden of proof entirely lies on plaintiff so defendant was not under any

obligation to produced his evidence Section 101 of Evidence Act states that plaintiff to prove that facts. Burden to prove as to agreement was on plaintiff plaintiff has not examined cameraman. Defendant never agreed to the E-mail when plaintiff's do not want to make a relief of copyright and its injunction therefore, mere statement is not necessary. Thus, submitted to dismiss the suit.

33] Ld. Adv. for Plaintiff Shri Jagtap argued that, status of plaintiff is not disputed by defendant. Direction of film is an Art. Even though there is no written agreement between the parties but defendant had no where denied as to fact that plaintiff has not directed the film.

34] In evidence it clear that defendant has admitted the transaction when the transaction between parties itself prove that work done is duly established by plaintiff with cogent evidence. Work nature is not changed, the canvass is enlarged. Basic shooting, logistics, direction of the film etc. is already done by plaintiff. Defendant in cross-examination had admitted the transaction, calender Exh.73, E-mail ID at Exh.74. E-mails of plaintiff are accepted by defendant so, when defendant has admitted the E-mail then there is a no need to prove the same vide section 65(B) of Evidence Act. On the contrary defendant had not produced his rebuttal evidence on record. Reference to IRB and Mhaiskar Foundation Donation is



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to be taken into consideration plaintiff examine witness Exh.65 a person who has financed the project and given Rs. 32 lakhs to the defendant.

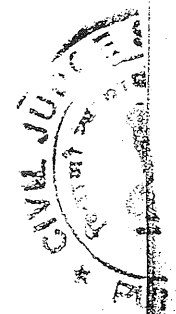
35] In the pleadings, trial and in the cross-examination the plea and defences taken by the defendant gives rise to the preponderances of probabilities of plaintiff's case much stronger. In cross-examination defendant admitted that she received 13 lakhs against NDA film she don't have receipt of the same. She was ready to produce the account in cross-examination but had failed to do the same and have not shown the account. So, when defendant had not produced the account. It is also to be noted that defendant had received the funds from N.D.A and Mhaiskar Foundation for the film. Therefore, inference is to be drawn that plaintiff has probable case when defendant is with holding to produce the best possible evidence on record. Ld. Adv. For plaintiff relied upon **2012 (O) BCI 1968 (Supreme Court) Union of India vs Ibrahim Uddin**. In which the Hon'ble Apex Court had laid ration as to party to produce best possible evidence for the just decision of the case.

36] It has clearly came in the evidence that plaintiff has directed the film and completed the C.D. Extra shooting is also made by plaintiff, were no specific denial by defendant in his written statement or in her evidence. Plaintiff has not played

any fraud upon defendant. In script also reference is made. Script is written in the basis of shooting. So, suit deserves to be decreed with costs.

37] In the light of above discussion and considering evidence on record. It can't be ignored and disbelieved that plaintiff has completed his work on N.D.A film. Documents on record shows that plaintiff had completed his work being a director of N.D.A film. So when services are rendered then in a common parlance they are to be remunerated. Considering the pre-ponderance of probabilities of plaintiff's case. Plaintiff has duly proved the transaction with defendant therefore, inference as to plaintiff completed the shooting for 53 days for NDA film is duly proved from the evidence on record.

38] It is the settled principle of law that admitted facts need not be proved as per Section 58 of the Indian Evidence Act. plaintiff is entitled for the recovery of amount of Rs.4,05,000/- from the defendant. It is crystal clear that from the evidence and from the pleadings defendant had no where denied that she had not availed the services of plaintiff for making the film on NDA on the contrary slight admissions on behalf of plaintiff doesn't wash the entire case of the plaintiff therefore I am of the view that plaintiff has duly established and succeed to prove his claim of Rs.4,05,000/- and for which I answered issue no.2 in affirmative.



See

AS TO ISSUE NO.4

39] It is the contention of plaintiff that he is entitled for future interest @ 24% per annum from the date of filing of the suit till the realization of decretal amount. In the prayer clause the plaintiff has claimed 24 % interest on said amount. The transaction between the plaintiff and defendant seems to be commercial one. The services rendered by the plaintiff to the defendant are to be considered because it is proved that defendant had availed the services of plaintiff. Therefore, plaintiff is entitled for future interest. As this is the money decree and as the transaction between plaintiff and defendant is a commercial nature and also it has come evidence that defendant had given some amount i.e Rs.1,75,000/- to plaintiff. Therefore, considering the transaction and relation between the parties and in view of Section 34 of Civil Procedure Code plaintiff is entitled for 6% of interest on the principal sum adjudged from the date of filing of suit till the realization of the said amount. Hence, I answered point 4 in the affirmative accordingly.

AS TO ISSUE NO.1

40] Plaintiff has filed the suit against unpaid charges on account of direction of film in which plaintiff has claimed infringement of copyright and also injunction in this behalf. Ld.

Adv. For defendant argued that plaintiff is claiming injunction in respect of intellectual property rights and considering Section 62 of Indian Copyright Act 1957 this court has no jurisdiction to entertain the suit. As also plaintiff claims permanent injunction. Therefore, no relief can be granted on the contrary Ld. Adv. for plaintiff argued that plaintiff has only filed suit simplicitor for recovery of money. So, they are not claiming Copyright or injunction any infringement under therefore, as far as ouster of jurisdiction is concerned principle of quantum merit is to be considered.

41] As plaintiff has submitted that they are not claiming any relief under Copyright Act therefore, at this juncture this court has jurisdiction to entertain and try the recovery suit. Therefore, as plaintiff has waived his right as to copyright and its infringement and also considering the section 15 and 16 of the code of Civil Procedure therefore, this court has proper jurisdiction to entertain the suit. Hence, I answered to issue no.1 in affirmative accordingly.

AS TO ISSUE NO.6

42] The plaintiff has proved its suit claim with respect to recovery of amount. In view of explanation given to issue no. 1 to 5, suit deserves to be partly decreed therefore, in answer to issue no.6 I proceed to pass the following order.

/s/

ORDER

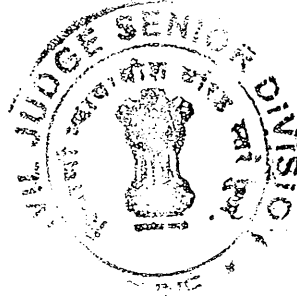
1. Suit is partly decreed with costs .
2. Defendant is hereby directed to pay Rs. 4,05,000/- (In words Rupees Four Lakhs Five Thousand only) to plaintiff within the period of 3 months from the date of this order.
3. Defendant is also directed to pay 6 % interest per annum on the amount of Rs.4,05,000/- from date of the suit till the actual realization of the decretal amount.
4. Decree be drawn up accordingly.

Pune
Date. 15.11.2014

(Shailesh U. Kanthe)
35th Joint Civil Judge Junior Division.
Pune.

15.11.2014

PS
(21/11/14)
न. करणार-
रुजू महाणार-



खरी नक्कल

अधिसूक्त
दिव्याजी न्यायालय
(बरीष्ठ स्तर), पुणे.

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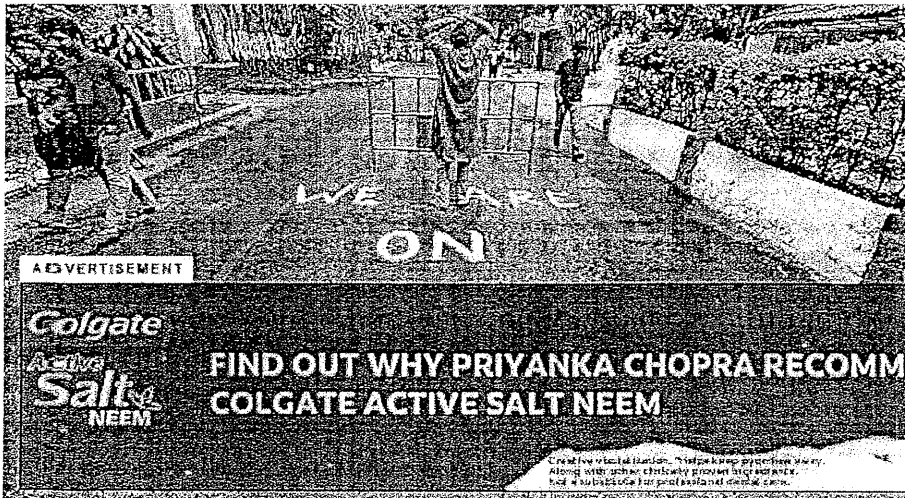
Not just chief, four more in FTII panel pass Sangh test

Anagha Ghaisas, who has a strong RSS background and whose husband was a long-serving Sangh pracharak, has made documentary films supporting Prime Minister Narendra Modi and about Ayodhya.

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On the third day of protests at FTII. (express Photo by: Sandeep Daundkar)

Written by Ardhra Nair | Pune | Published on: June 15, 2015 3:30 am

While protests continue over the appointment of Gajendra Chauhan as president of the FTII Society, four of the eight members nominated under 'Persons of Eminence' category to the society have saffron connections as well.

Anagha Ghaisas, who has a strong RSS background and whose husband was a long-serving Sangh pracharak, has made documentary films supporting Prime Minister Narendra Modi and about Ayodhya. Narendra Pathak had been the Maharashtra president of the ABVP for four years, Pranjal Saikia is an office-bearer of the RSS-linked Sanskar Bharati, while Rahul Solapurkar admitted he was in contention for a BJP ticket in last

Solapurkar admitted he was in contention for a BJP ticket in last year's state Assembly elections.

All four told The Indian Express that their vision was to make sure that students passing out of the Film and Television Institute of India have nationalistic feelings along with filmmaking skills.

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While Chauhan acted as Yudhishtir in the TV series Mahabharata and Ghaisas has made a few films, Pathak is a writer. Saikia is an NSD alumnus and an actor and Solapurkar has acted in Marathi and Hindi films.

On Ghaisas's desk at her office on Laxmi Road — where she trains poor students from Yeola district in handloom sari weaving — sits a photograph of RSS founder Keshav Baliram Hedgewar. "I am 100 per cent RSS and I am proud of it," she says.

Her husband Vinay Patrale, Ghaisas adds, had been a Sangh pracharak for 21 years, 17 of them spent in Gujarat.

Ghaisas started her career in films by making a documentary on Nanaji Deshmukh, a social activist and RSS veteran. Other than that, she has made films on the National Defence Academy called My Flag My Life, on the Ayodhya temple called Ram Mandir — Adaalat aur Aastha, and on Modi that she named Shri Narendra Modi — Gatha Asamanya Netrutva Ki (A Tale of Extraordinary Leadership).

She says she is in the process of making 26 films on the Northeast.

While Ghaisas admits meeting Modi "four years ago" before he became the PM, she adds, "This point of me being close to Modi and hence being chosen for this post is entirely baseless.

Modiji won't even know I have been chosen. Every government chooses people they believe will do the best work."

According to her, "Films are not just entertainment. A new thought process should start at FTII. Students should have

thought process should start at FTII. Students should have nationalistic feelings.”

Pathak, who has been the editor of a Marathi magazine for 14 years, told The Indian Express he had got to know of the appointment only two hours earlier via mail. Dismissing the protests, he says, “Whenever new people come with new vision, there is unrest. I want to address student protests and problems in the day-to-day functioning.”

The ex-ABVP chief too talks of building nationalistic spirit. “We ...continued »

the members who work for the benefit of the nation should be only anti-national activity at the institute. If there are mischief makers who work against the government, to unko sabak sikhana zaroori he (they should be taught a lesson) ”

While the ABVP had clashed with FTII students in 2013 over a performance on the campus by the Kabir Kala Manch, which is accused of Maoist links, Pathak stressed his closeness to the RSS was of no consequence.

Solapurkar, who says he was offered and then denied a Vidhan Sabha ticket last year by the BJP, makes the point that he never formally joined the party. “I have been an RSS member since childhood. But I did not join the party. Last year, they asked me if I was interested in a party ticket and I said yes. Later they decided to choose someone with a political background,” he says.

Denying his saffron connections were behind his appointment to the FTII Society, Solapurkar says it is his work in films that counted. “I have acted in 90 Marathi films and six Hindi films. I am one of the trustees at the Bhandarkar Oriental Research Institute. Hence I have done enough on the cultural front to merit the selection.”

Solapurkar backs the concept of supporting nationalism too. “There is nothing wrong in introducing a new line of thought that is beneficial for the nation and students,” he says.

Saikia, who is an NSD alumnus, denies being involved with either the RSS or BJP, though he is the president of Sanskar Bharati, which has links with the Sangh.

Saikia says he fully supports upholding traditional, moral and ethical values in today’s children. “Sanskar Bharati teaches students their culture and tradition. It is not just about songs and dance but also traditional art forms. We teach students moral and ethical values that every Indian should have. We try to inculcate this in children so that they grow up to be useful to the society and nation.”

As protests continued at FTII for the third day over Chauhan’s selection as the president of the FTII Society and the chairman of its governing council, students’ association president

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Apfection as the president of the FTII Society and the chairman of its governing council, students' association president

Harishankar Nachiputhu said it was "extremely sad" that "rather than enhancing stature of the institution, the government is trying to undermine its autonomy by partisan appointments of people with no merit".

He urged the I&B Ministry to "reconsider the appointment of Chauhan and also relook at the process of constituting the FTII Society and its members".