Hate Speech

Why in news?

The Kerala High Court has delivered its judgement against a slew of petitions seeking a ban on the film 'The Kerala Story'.

What is the case about?

- **Case** - The Kerala Story, a film allegedly based on the instances of a few women joining the Islamic State, claimed that 32,000 girls went missing in Kerala after being recruited by the radical Islamist group.
- After a slew of petitions were filed before various courts seeking a ban on the film, the filmmakers agreed to withdraw the teaser and carry a disclaimer that the film's content is fictional.
- **Supreme Court** - A division bench of the Supreme Court refused to grant a stay and suggested to approach the Kerala High Court for relief.
- **High Court** - The Kerala High Court refused to stay the film's release, saying that there was no allegation against a particular religion as a whole and that certain claims have been made only against ISIS.
- The bench highlighted that artistic freedom must be protected and there was a need to balance competing interests.
- However, it allowed the petitioners to prosecute their complaint before the Central Board of Film Certification (CBFC) seeking re-examination of the film.

Arguments for Ban	Arguments against the Ban
• Likely to cause hatred and enmity between different sections of society in India • Infringes upon the constitutional values of equality and fraternity. • Film blatantly promotes hateful and malicious propaganda. • Has the potential to disturb public order, decency and morality, particularly women and the Muslim community.	• The film was merely a form of art and cannot be conflated with hate speech. • There was no allegation against a particular religion as a whole and that certain claims have been made only against ISIS. • Artistic freedom must be protected and thus there was a need to balance competing interests.

What are the legal framework for dealing with hate speech?

Hate speech is an incitement to hatred against a particular group of persons marginalized by their religious belief, sexual orientation, and gender and so on.

- **Constitution** - Hate speech is *not defined* in the constitution.
- **Article 19(1)(a)** – It guarantees the right to freedom of speech and expression but imposes reasonable restrictions on speeches that cause hate, violence, ridicule or indignity.
- **Indian Penal Code (IPC)**
  - **Section 153A -** Promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., doing acts prejudicial to maintenance of harmony
  - **Section 153B -** Imputations, assertions prejudicial to national-integration
  - **Section 295A** - Deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs
- **The Cinematograph Act 1952** - Empowers the Board of Film Certification to prohibit and regulate the screening of a film if it is likely to incite offence against public order, decency or morality, or involves defamation or contempt of court.
- **Cable Television Network Regulation Act 1995** - Requires cable news channels to adhere to a list of restrictions on content, prescribed under the programme code or advertisement code which have been defined under the Cable Television Network Rules 1994.
- **Law Commission** - Proposed the addition of new provisions to the IPC, which are
  - Prohibiting incitement to hatred under sections 153C and
  - Prohibiting causing fear, alarm or provocation of violence under 505A.

What are the concerns with hate speech?

- **Concerns** – Hate speech
  - Infringes the dignity and equality of individuals
  - Creates barriers of mistrust
  - Creates hostility between individuals and groups
  - Plants fears and obstructs normal relations
  - Increases the caste based violence
- **Way forward** - Recognizing the insufficiency of existing laws to deal with different forms of hate speech, the Law Commission proposed the addition of new provisions to the IPC
  - **Section 153C** - Prohibiting incitement to hatred
  - **Section 505A** - Prohibiting causing fear, alarm or provocation of violence

Quick facts

Central Board of Film Certification (CBFC)

• CBFC is a ***statutory body*** under *Ministry of Information and Broadcasting.*
• It regulates the public exhibition of films under the provisions of the *Cinematograph Act 1952.*
• Films can be publicly exhibited in India ***only*** after they have been certified by the CBFC.
• CBFC consists of ***non-official members*** and a Chairman all being appointed by Central Government.
• Headquarters - ***Mumbai***

References

1. The Hindu | Issues About Kerala Story Movie
2. CBFC | About CBFC

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