



\$~5 (SB)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 445/2023 & CM APPL. 67351/2023**

AKSHAT BALDWA & ORS. Petitioners

Through: Mr. Rahul Bajaj & Mr. Pritthish
Roy, Advs. (M: 8860367740)

versus

YASH RAJ FILMS & ORS. Respondents

Through: Mr. Abhishek Malhotra, Ms. Srishti
Gupta, and Ms. Anukriti Trivedi,
Advs. for R-1. (M: 9310322455)

Mr Ravi Prakash, CGSC with Mr
Farman Ali, Ms. Astu Khandelwal
& Ms Usha Jamnal, Advs. (M:
8744956276)

Mr Devvrat Joshi & Mr. Angad S
Makkar, Advs. for R-4.

Mr. Nitin Sharma, Mr. Kuber
Mahajan & Ms Deepika Pokhria,
Advs. for R-5. (M: 9958393111)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **22.12.2023**

1. This hearing has been done through hybrid mode.

CM APPL.67351/2023

2. The present application has been moved by Petitioner No.1 - Akshat Baldwa praying for providing accessibility features in theaters as well as on the OTT platform in the feature films i.e., 'Jawan' and 'Hi Papa'.

3. Mr. Bajaj, ld. Counsel for the Petitioners submits that the film 'Jawan' has already been released theatrically as well as on OTT platforms. Insofar as the film 'Hi Papa' is concerned, the OTT release is to take place in

W.P.(C) 445/2023

Page 1 of 4



March, 2024. It is submitted that, the accessibility features are not being followed on OTT platforms, therefore, a direction should be issued that on OTT platforms, features should be made available for persons with disabilities.

4. This Court had, vide order dated 16th January 2023, considered a similar request on behalf of the Petitioners for the film “Pathan”. In respect of the said film, on OTT, various features including audio description, subtitling and closed captions were included when the OTT release took place. The relevant part of the said order is as under:

*“18. A perusal of the above judgments would show that accessibility is crucial and is enforceable as a legal right. Even private parties have to ensure that ‘reasonable accommodation’ measures are taken in order to enable greater accessibility for the hearing and visually impaired persons. Though accessibility in the case of **Rajive Raturi (supra)** is in the context of access to buildings, transportation etc., accessibility to information, technology and entertainment, is equally important. A hearing or visually impaired person, may get easy physical access to a film theatre but may not be able to enjoy the film at all, if the measures to make it enjoyable are not taken by the other stakeholders, including producers, theatre managers, OTT platforms, etc. The State has an obligation to ensure that all steps, that are reasonably possible, are taken in this direction.*

Interim Directions:

19. Thus, in the interim, it is directed as under:

- a. Insofar as the theatrical release of the film ‘Pathaan’ is concerned, since the said film is slated for release on 25th January, 2023, no directions are being passed.*
- b. However, insofar as the release of the film ‘Pathaan’ on the Respondent No.4’s ‘Amazon’ OTT*



platform is concerned, the following directions are issued:

- i. The Respondent No.1 - Producer shall prepare the audio description, the subtitles in the Hindi language, as also, the closed captions in both English and Hindi languages, and submit that same to the CBFC for approval, by 20th February, 2023.*
 - ii. Upon the same being submitted, the CBFC shall consider the re-certification of the film 'Pathaan', along with the audio description, the subtitles in the Hindi language, and the closed captions in both English and Hindi languages.*
 - iii. CBFC shall take a decision on re-certification of the said film by 10th March, 2023.*
- c. If the Respondent No.1 - Producer wishes to enable greater accessibility for the film 'Pathaan', in theatres, it may contact the operators of the mobile applications 'XL Cinema' and 'Shazacin', or other similar applications, if any, to explore the possibility of providing audio description, subtitles, and closed captions."*

5. The film Pathan was thereafter released on OTT with the accessibility features and the Court was informed that the cost of the same was not very high. This application has already been served upon Ministry of I&B. In view thereof let the Ministry call the producers of the films 'Jawan' and 'Hi Papa' for consultation and impress upon them the importance of providing these features at least in the OTT release for these two films. Since it is easier to replace a particular copy of the film on OTT, uploading a fresh copy of the film 'Jawan' with accessibility features on OTT platforms shall be considered.

6. Let the consultation in respect of these two films take place by 20th



January, 2024.

7. Let a status report be placed on record by the Ministry of I&B by 31st January, 2024 in respect of the previous order dated 2nd November, 2023.
8. List on the date already fixed i.e. 31st January, 2024.

PRATHIBA M. SINGH, J.

DECEMBER 22, 2023/dk/kt