

CENSORSHIP AND SAKHARAM BINDER

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The changing fortunes of the Marathi play *Sakharam Binder* which fell foul of the Stage Performances Security Board of the Government of Maharashtra until it was rescued by the Bombay High Court¹ well illustrate the occupational insensitivity affecting a censor. The office of a censor in ancient Rome slowly changed its character from that of an official presiding over the census to that of the guardian of public morality. Our censors also tend to enlarge their limited burden of eliminating clearly offending parts of a script and assume the role of being the arbiters of morals and even of taste. Otherwise it is difficult to appreciate why this serious play by a distinguished playwright should have been mutilated by the Board which imposed as many as thirty-two cuts including the elimination of climactic scenes.

There is no uniformity in the law relating to stage censorship in India. This is in contrast with films which have been governed by the Central Cinematograph Acts of 1918 and 1952². Under the Cinematograph Act, 1952 the Board of Film Censors has to determine the question of granting a certificate for the public exhibition of a film in accordance with the principles laid down in the Act and the directions given from time to time by the Central Government. The concept of pre-censorship for films subject to constitutional safeguards has been recently affirmed by the Supreme Court in *K. A. Abbas v/s. Union of India*³. On the other hand, pre-censorship for the stage is not a requirement in many states. But where it is prevalent, it has unfortunately become a part of the general Police Acts rather than of any specific statute dealing with the theatre. For instance, no censorship is required in Delhi or Goa where a play can be performed without any scrutiny of the script, although any violation of the law like that of obscenity or sedition can always be dealt with post facto.

Censorship in Maharashtra

The delicate question of censoring plays in Maharashtra is curiously enough governed by the Bombay Police Act, 1951⁴. This Act essentially deals with the regulation of the police force in the states of Maharashtra and Gujarat. It also incidentally reposes power in the Commissioner of Police to make rules for various purposes relating to the regulation of traffic and for preservation of order in public places. In the motley crowd of subjects under Section 33, which includes the power to make rules for regulating processions and for driving elephants in streets,

there is also to be found the power to make rules for licensing theatrical performances for public amusement and for prior scrutiny of such performances by a Board. This rule-making power has been exercised by the publication of rules with the cumbersome title of "Rules for Licensing and Controlling Places of Public Amusement (other than Cinemas) and Performances for Public Amusement including Melas and Tamashas. 1960". Under the rules the Board may refuse to grant a certificate of suitability on the ground that the performance of the play or any part of it is against the interest of the sovereignty and integrity of India or the security of the State, friendly relations with foreign states, public order, decency or morality or involves defamation or contempt of court or is likely to incite the commission of any offence. Thus the concepts of decency and morality have been pushed into a category which mainly includes different heads of public order. The Board is further enjoined to be guided by certain directions including the noble sentiment that no performance shall be certified as suitable which will lower the moral standards of those who see it. The rules include the general principle that it is not desirable that a performance shall be certified as suitable which deals with the relations "within" the sexes in such a manner as to lower the sacredness of the institution of marriage or suggests that "illicit sexual relations are ordinary incidences of life and not to be reprobated". The numerous general principles are cast wider than what public order requires and an enthusiastic member of the Board may (and some of them do) regard the directions about the interests of decency and morality to include the Sermon on the Mount as well as the Ten Commandments. The general principles are almost as wide as the powers of Lord Chamberlain⁵ who under the Theatres Act of 1843 could prohibit any stage play whenever he thought its performance would militate against good manners, decorum and the preservation of public peace.

Sakharam Binder

In November 1971 the script of *Sakharam Binder* written by Vijay Tendulkar was submitted to the Stage Performances Scrutiny Board. The play centres round three main characters—Sakharam, Laxmi and Champa. Even a bare outline of the plot would indicate the insensitivity of the censor's approach. When the curtain goes up, Sakharam, a coarse yet forceful person enters, accompanied by Laxmi, an emaciated figure, clutching a bundle of clothes to her bosom. Sakharam sternly tells her what to expect. He is poor, but she will get two square meals, clothes and a roof over her head. She will have to be a wife to him and he will brook no nonsense. He is frank and outspoken and his rough idiom seems the right vehicle for the values he has evolved for himself. He tries to work out an independent philosophy of life, with no sense of false obligations. Laxmi is shown as a helpless woman, steeped in traditional

morality but compelled to submit to Sakharam. She does the household chores under the exacting eye of Sakharam. At the time of the Ganapati festival Laxmi objects to Sakharam's Muslim friend Dawood participating in the *aarti*. Infuriated by her attitude, Sakharam beats her up. The scenes which follow show a deterioration of their relationship. In spite of her reluctance to leave, Sakharam drives away Laxmi from the house.

In the Second Act Sakharam enters the house, accompanied by Champa. He is repeating the same well-worn formula with which he had awed Laxmi. But the person who now accompanies him is a vibrant, earthy being and his words have a hollow ring. Sakharam is not able to gain ascendancy over her. When Champa's husband enters the house, Champa cannot control her fury. She attacks him. Asked to explain her action, she tells Sakharam and Dawood that her husband had ruined her life. He had wanted to make a whore out of her. Sakharam is infatuated by Champa. When Champa is asleep in the kitchen, he approaches her but she resists him. However, when he threatens to throw her out on the streets, she comes to terms with her own helpless condition. But she submits to him only under the influence of drink. After this there is always a note of savage despair in Sakharam's manner of making demands on her. And, of course, she can submit to him only by numbing her senses with liquor. A mood of sad desperation dominates the scenes which follow. They show Sakharam's growing infatuation with Champa. On the night of *Dassera*, Laxmi, who has been forced out by her nephew, tries to take shelter with Sakharam but he drives her out.

In the final Act, Laxmi again tries to enter the house when Sakharam is at work and Champa takes her in. Sakharam finds Laxmi's presence disconcerting but allows her to stay simply because Champa insists. Champa's husband returns when Champa is out. Laxmi takes pity on him and feeds him. But Champa finds out about his visits and warns Laxmi that her wishes must not be thwarted. Laxmi's presence in the house begins to tell on Sakharam. Sakharam shows loss of vigour in his relations with Champa. Laxmi's presence in the adjoining room and Champa's taunts infuriate Sakharam. He orders Laxmi to leave the house at once. She falls at his feet and when he refuses to listen to her entreaties, she tells him that Champa is evil. She has been having relations with his friend Dawood. Laxmi can vouch for this. Sakharam storms out of the house. He returns, a dazed creature. He strangles Champa. Laxmi realizes what has happened and promises to take care of him. She brings in a shovel to bury Champa and leads Sakharam to the kitchen. A broken man, he now dumbly watches her dig the ground and the curtain comes down on the play.

The play deals with a character who has evolved his own approach to life and marriage. He faces the compulsions of sex frankly and, there-

fore, certain references to sex are to be expected in his speech. The play deals with a serious theme. Its total impact on playgoers is grim. It compels them to give some thought to the fate of characters like Sakharam, Laxmi and Champa. The scenes where Sakharam imposes his will on Champa, far from "tending to deprave or corrupt", evoke compassion, and even terror. A person who gets titillated by the submission of Champa, and remains unaffected by her anguish, may as well find the scenes in *Desire under the Elms* or the descriptions in *Tess of the D'Urbervilles* of prurient interest.

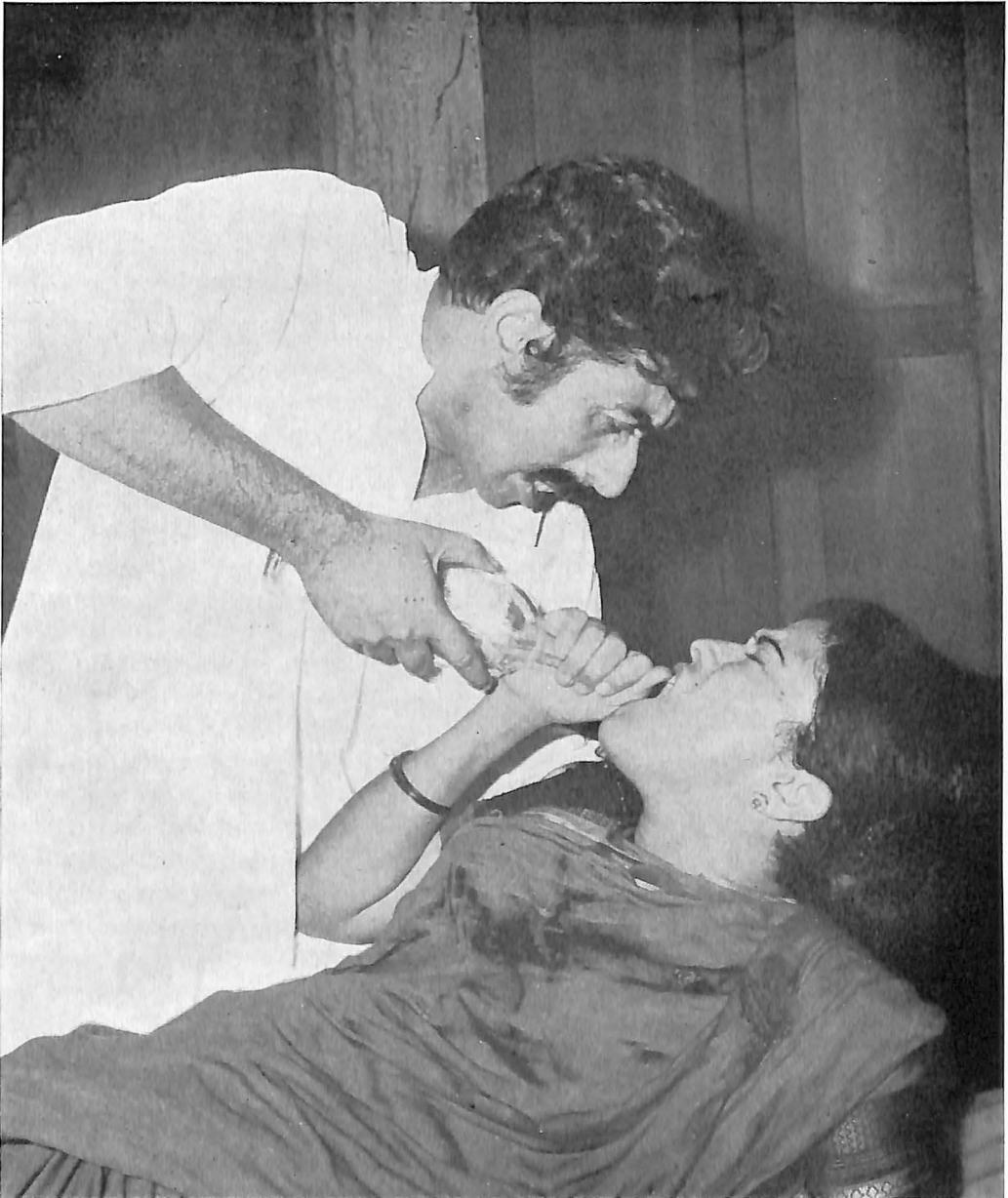
Initially this also appears to have been the view of the Board which twice granted limited certificates of suitability to the play. The only conditions in these certificates were the elimination of four expletives (not four-lettered words and very much the current coin of the realm) and the curious direction that all scenes and references in connection with alcoholic drinks not conforming with the provisions of the Bombay Prohibition Act should be dropped. (Presumably Sakharam ought to have shown his permit every time he took his drink).

The Controversy

Sakharam Binder was first performed in March 1972 and was received with critical acclaim. There was also some adverse reaction by critics who proclaimed that the play dealt with baser human instincts. (One peculiar objection was that a Hindu wife was shown assaulting her husband in spite of his divine rights!) The first certificate granted on 4th March 1972 was again issued on 13th March 1972. But on 6th April 1972, barely two days before further performance, the Board abruptly cancelled the certificate. The producer had to rush to the Bombay High Court which on 7th April 1972 stayed the order of the Board and permitted the scheduled performances. At the hearing for admission of the Petition the Board informed the court that it had not finally decided on the issue of the certificate of suitability and would do so within a month.

The final decision taken by the Board was to grant a certificate of suitability with thirty-two conditions. It was later ascertained in the writ petition that many of the members of the Board had decided to impose these conditions without actually witnessing a performance of the play. (All the members saw the performance only when a special performance was enacted for the High Court with a blue bulb in front of the stage which used to light up to indicate the offending passages). The final certificate of suitability issued on 23rd May 1972 effectively mutilated the play. It eliminated critical parts of five climactic scenes (including two entire scenes), which were necessary for an understanding of the

development of the characters and the theme. These cuts in effect destroyed the play as an artistic work. They rendered the action disjointed and no spectator could ever understand, much less appreciate, the characters from what remained of the script. Some of the cuts are characteristic of the working of the Board. For instance a common word for impotent in Marathi is *pauneath* (literally "seven and three fourth", metaphorically



A scene from Sakharam Binder, objected to by the censors.

incomplete). The Board deleted the word and suggested that *namard* (unmanly) should be used instead. The word *pauneath* has no obscene overtones and it would be absurd for Sakharam who is a book binder to use the heavier word *namard* unless, of course, he had been reading the books he was binding. Another statement by Sakharam that "my appetite is not simple" was also eliminated presumably because "appetite" did not refer only to food. One stage direction that "Sakharam pulls Laxmi" was deleted and the Board suggested that Laxmi should move towards Sakharam (totally misunderstanding the reluctance of Laxmi to approach Sakharam!). The point is not that the cuts were mala fide but that they were made in a manner which clearly showed that the majority of the Board had not understood the theme of the play or seen the performance.

The High Court's Decision

The certificate of suitability in effect made it impossible for the play to be performed as a coherent work of dramatic art. Even though the earlier controversy had given a certain amount of publicity to the play, the producer and the director declined to cash in on this circumstance by performing the play with the deletions. They approached the Bombay High Court challenging the vires of the rules themselves on constitutional grounds. The freedom guaranteed under Article 19(1) (a) of the Constitution is of wide amplitude and guarantees to all citizens the right to the freedom of speech and expression. This includes the freedom of communication and propagation of ideas by dramas and cinemas. The Constitution does not prevent the State from making any law in so far as it imposes reasonable restrictions in the interest of the safety and integrity of India and the security of the State, friendly relations with foreign states, public order, decency or morality or in relation to contempt of court, defamation or incitement of an offence. Such restrictions may take various forms although normally they are post facto in the sense of punishing an offender for the infringement of existing laws. It is true that under the Constitution censorship is not impermissible. But at the same time, such restrictions should meet the test of reasonableness by being fair, procedurally and substantially. After all the Constitution postulates a democratic form of government which requires that unorthodox and unpopular views be also offered in the market place of ideas.

The rules under the Bombay Police Act were successfully assailed in the High Court on the grounds that they did not impose an obligation on the Board to hear the party affected when a certificate was being granted with conditions, that they did not impose the obligation to pass a "speaking order" that would give reasons why an adverse decision was being made, that they did not provide for appeal against an adverse

decision, that they did not specify a time limit for a decision and above all because they did not contain a direction which would tend to preserve art and to promote it. In the result the Court declared that the existing scheme of rules was void and set aside the whole chapter of rules relating to the Stage Performance Scrutiny Board. The decision of Mr. Justice Kania thus vindicated theatrical freedom by declaring that the rules were not reasonable and therefore ultra vires. The decision however leaves it open to the Government to formulate rules which would be consistent with the principles laid down in the decision as also by the Supreme Court in the case of *Abbas*.

A strong case can be made out for elimination or restriction of the general censorship of plays. In this the distinction between the stage and the screen is often missed. A film once shot and edited is a crystallised form of art and the screening would be identical every time. But the very nature of the theatre as a form of art makes it difficult for a play to be censored merely from its script. The performance of a play can differ completely from one group of actors to another group of actors and even from performance to performance. An easy example to consider is a bawdy performance of "The Taming of the Shrew" compared to a school performance of the same play. Thus censorship in the theatre, even if imposed, can only be regarding those parts of the script which can *in no event* be performed without being offensive to a precise set of directions. Further the rare attendance of children at the theatre and the relatively greater sophistication of theatre audiences also support the case for elimination of stage censorship.

The ultimate question in such matters is not so much of law as of the constitution and operation of the Board. The wide selection of members often includes persons who have scant understanding of the strictly limited functions of censorship. In the present case one member of the Board so forgot his quasi-judicial function that he condemned the play in advance as arousing the passions of dogs and pigs (reminiscent of Khrushchev's attack on Pasternak). Another member of the Board was frank enough to state that in his opinion no play having a sexual theme should be permitted at all. Evidently the member thought that the audience should subscribe to the belief that the stork brings babies. Such views would not be taken seriously but for the fact that they are held by a censor. The solicitude of many well-meaning but ill-read censors is always for the figurative schoolgirl. They might heed the warning of Mr. Justice Stable in the case of *The Philanderer*. "Are we to take our literary standards as being on the level of something that is suitable for a fourteen-year-old schoolgirl?"⁶

Chief Justice Hidaytullah in the case of *Abbas* has admirably referred to the approach required of a censor. "The task of the censor

is extremely delicate and his duties cannot be the subject of an exhaustive set of commands established by prior ratiocination. But direction is necessary to him so that he does not sweep within the terms of the direction, vast areas of thought, speech and expression of artistic quality and social purpose and interest. Our standards must be so framed that we are not reduced to a level where the protection of the least capable and the most depraved amongst us determines what the normally healthy cannot view or read. The standards that we set for our censors must make a substantial allowance in favour of freedom thus leaving a vast area for creative art to interpret life and society with some of its foibles along with what is good. Thus audiences in India can be expected to view with equanimity the story of Oedipus, son of Latipus, who committed patricide and incest with his mother. When the seer Tiresias exposed him, his sister Jocasta committed suicide by hanging herself and Oedipus put out his own eyes. No one after viewing these episodes would think that patricide or incest with one's own mother is permissible or that suicide in such circumstances or tearing out one's own eyes is a natural consequence. And yet if one goes by the letter of the directions, the film cannot be shown. Rape in all its nakedness may be objectionable but Voltaire's *Candide* would be meaningless without Cunegonde's episode with the soldier and the story of Lucrece could never be depicted on the screen".

The most delicate question for any Board is to consider the need to preserve art and to promote it. In this connection it is important to note that the Hicklin⁷ test which was the foundation of the law of obscenity in England till recently has also been modified in India. In that case Chief Justice Cockburn laid down, "I think the test of obscenity is this: whether the tendency of the matter charged as obscene is to deprave or corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall." After the Supreme Court of India had banished poor Constance Chatterley,⁸ S. 292 of the Penal Code 1860 was amended⁹ so that matter would not be obscene if its publication is proved to be justified as being for the public good on the ground that it is in the interest of science, literature, art or learning or other objects of general concern. The principles in the present code, (like treating marriage as a sacred institution) if applied without discrimination, might also bring within their mischief *Madame Bovary*, *Anna Karenina* and, for the matter of that, parts of the *Mahabharata* itself. One of the most curious features of the whole approach of the censors is that unlike the artist they are obsessed with sex. If a case can be made out for pre-censorship, it will be made out more to restrict plays which arouse religious or communal hatred or passion. Unfortunately our censors work like Pope Paul IV who ordered that the angels of Michelangelo in the Last Judgement should have discreet draperies painted over them so

that they would not be seen in their naked splendour. This approach is particularly ironic because India has a strong tradition of a frank recognition of *kama* as one of the ends of life, *shringara* as a classical *rasa* in literature and *maithuna* as a known door to liberation.

¹Judgement dated December 1, 1972 of Mr. Justice Kania in Misc. Petition No. 595 of 1972. (P. S. Dhurat v/s. C. P. Godse and others)

²Act 2 of 1918 and Act 37 of 1952.

³A.I.R. 1971 Supreme Court 481.

⁴Bombay Act 22 of 1951.

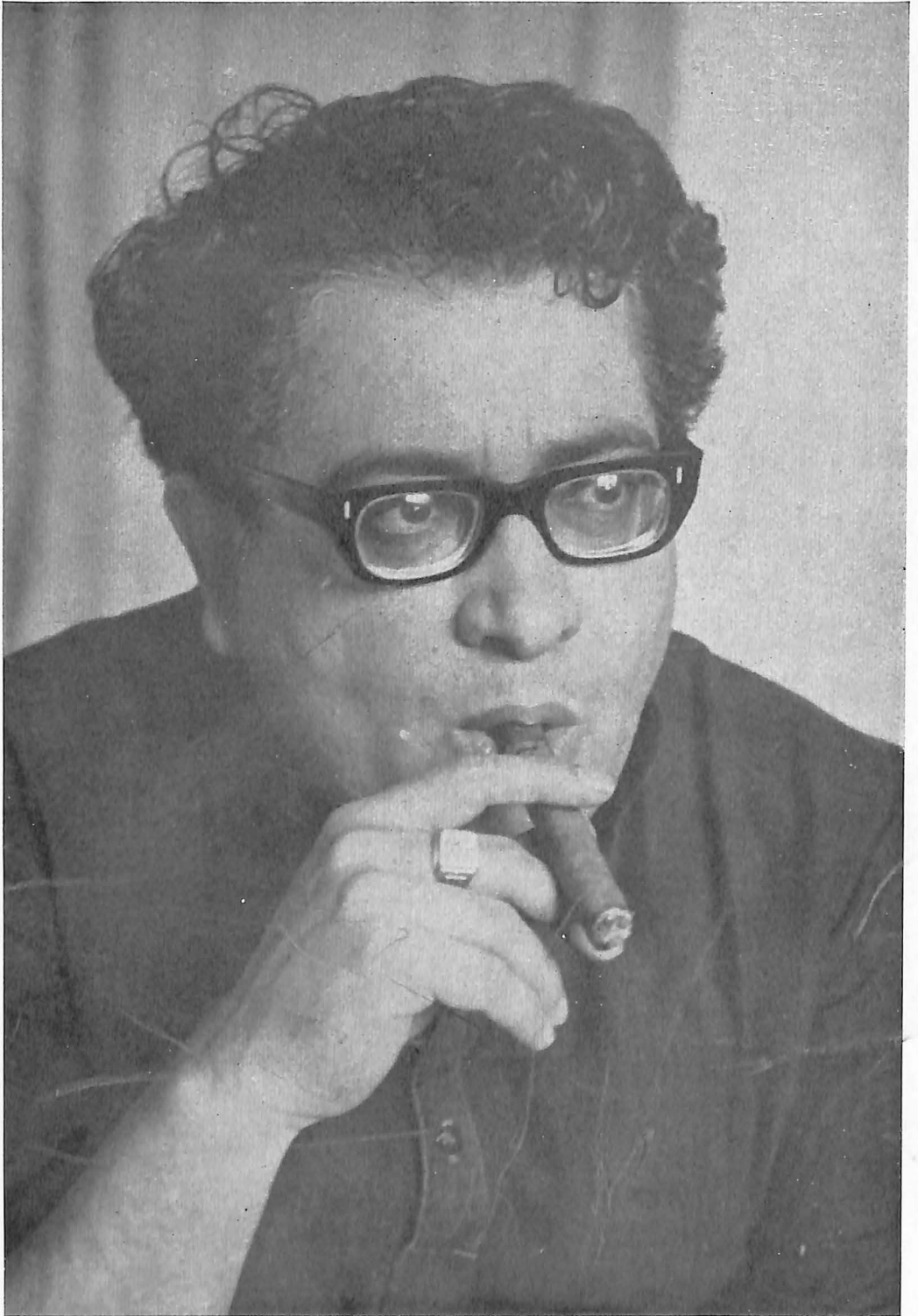
⁵The office of the Lord Chamberlain has been abolished by the Theatres Act of 1968.

⁶R v/s. Martin Secker and Warburg—1954 2 All E.R. 638.

⁷Queen v/s. Hicklin (1868) 3 Q.B. 360.

⁸Ranjit D. Udeshi v/s. State of Maharashtra—A.I.R. 1965 Supreme Court 881.

⁹Act Amending Act 36 of 1969.



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