



WP.Nos.24732, 24733, 24735, 24736, 24737, 24739,
24948, 24950 & 24954 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.09.2023

Pronounced on : 13.10.2023

CORAM: JUSTICE N.SESHASAYEE

WP.Nos.24732, 24733, 24735, 24736, 24737, 24739,
24948, 24950 & 24954 of 2023

and

WMP.Nos.24169, 24170, 24171, 24172, 24174, 24175,
24176, 24177, 24178, 24179, 24180, 24181, 24382, 24384

- | | |
|------------------------|--|
| 1.M/s.Rakcini Theater | ...Petitioner in W.P.No.24732 of 2023
...Petitioner in W.P.No.24950 of 2023 |
| 2.M/s.Randhini Theater | ...Petitioner in cW.P.No.24733 of 2023 |
| 3.M/s.Rohini Theater | ...Petitioner in W.P.No.24735 of 2023
...Petitioner in W.P.No.24948 of 2023 |
| 4. M/s.Rupini Theater | ...Petitioner in W.P.No.24736 of 2023 |
| 5.M/s.Rukmini Theater | ...Petitioner in W.P.No.24737 of 2023 |
| 6.M/s.Rahini Theater | ...Petitioner in W.P.No.24739 of 2023
...Petitioner in W.P.No.24954 of 2023 |

All at :

Unit of Rohini Movie Park
Represented by its Partner
R.Panneerselvam
No.141/2, E.V.R.High Road
Koyambedu, Chennai - 600 107.

Vs



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1. The Director General of Police
Dr. Radhakrishnan Salai, Krishnapuram
Mylapore, Chennai - 600 004.

2. The Commissioner of Police /
Licensing Authority
Greater Chennai Police
132, Commissioner Office Building
EVK Sampath Road, Vepery
Chennai - 600 007.

... Respondents 1 & 2 in all WPs

Prayer in W.P.Nos.24732, 24733, 24735, 24736, 24737, 24739 of 2023: Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned orders vide Rc.No.E4(2)/11(17)/2296/2023, Rc.No.E4(2)/11(16)/2296/2023, Rc.No.E4(2)/11(18)/2296/2023, Rc.No.E4(2)/11(14)/2296/2023, Rc.No.E4(2)/11(15)/2296/2023, Rc.No.E4(2)/11/2296/2023, dated 31.03.2023, issued by the second respondent and quash the same and refund Rs.2,000/- (Rupees Two Thousand Only) payable to the petitioner herein.

Prayer in W.P.Nos.24948, 24950 & 24954 of 2023 : Writ Petitions filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the records relating to the impugned orders vide Rc.No.E4(2)/111/20497/2023, Rc.No.E4(2)/111(5)/20497/2023, dated 10.06.2023, issued by the second respondent and quash the same and refund Rs.4,000/- (Rupees Four Thousand Only) payable to the petitioner herein.



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For Petitioner : Mr.T.M.Hariharan
(in all WPs) for Mr.K.M.Mrithun Jayan

For Respondents : Mr.Hasan Mohamed Jinnah
(in all WPs) State Public Prosecutor
Assisted by Mr.S.Santhosh
Government Advocate (Crl. Side) &
Ms.J.R.Archana for R1

Mr.R.Muniyapparaj
Assistant Public Prosecutor &
Mr.Muthuvel,
Govt Advocate (Crl. Side) for R2

COMMON ORDER

The Challenge in this batch of writ petitions is to the proceedings of the second respondent imposing fine on six cinema theaters of a multiplex for screening movies in breach of Clause 14 of the conditions stipulated in the 'C' Form licence granted for exhibition of movies. The details are as below:

Sl. No.	Name of the theater	Writ Petition No.	Date of extra show and timing	Date of proceeding imposing penalty by R2	Fine amount (in Rs.)
1	Rakcini	24732 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 (17)/2296/2023 dt.31.03.2023	2,000/-
		24950 of 2023	On 30.03.2023 "Pathu Thala" at 8.00 a.m.	Rc.No.E4(2)/111 (5)/20497/2023 dt.10.06.2023	4,000/-



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Sl. No.	Name of the theater	Writ Petition No.	Date of extra show and timing	Date of proceeding imposing penalty by R2	Fine amount (in Rs.)
2	Randhini	24733 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 (16)/2296/2023 dt.31.03.2023	2,000/-
3	Rohini	24735 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 (18)/2296/2023 dt.31.03.2023	2,000/-
		24948 of 2023	On 30.03.2023 "Pathu Thala" at 8.00 a.m.	Rc.No.E4(2)/111 /20497/2023 dt.10.06.2023	4,000/-
4	Rupini	24736 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 (14)/2296/2023 dt.31.03.2023	2,000/-
5	Rukmini	24737 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 (15)/2296/2023 dt.31.03.2023	2,000/-
6	Rahini	24739 of 2023	On 11.01.2023 "Thunivu" at 1.00 a.m & "Varisu" at 4.00 a.m.	Rc.No.E4(2)/11 /2296/2023 dt.31.03.2023	2,000/-
		24954 of 2023	On 30.03.2023 "Pathu Thala" at 8.00 a.m.	Rc.No.E4(2)/111 (3)/20497/2023 dt.10.06.2023	4,000/-

1.2 All these proceedings are challenged that there can be no condition on the timing of the shows, since under Sec.2(6) of the Tamil Nadu Shops and Establishment Act 1947, a theater is included in the definition of an



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establishment, and the government, vide G.O. (Ms) No.61, Labour Welfare and Skill Development (K2), dated 02.06.2022, issued by it in exercise of its power under Sec. 6 of the said Act, has done away with the time for opening and closing an establishment. To state it differently, inasmuch as the definition of an establishment includes a cinema theater, and since under the G.O.61, an establishment can operate 24 x 7, these theaters, as establishments falling within the definition of Sec.2(6) of the Act, has the right to exhibit movies unrestricted by time, and is not bound by clause 14 of the conditions attached to C-Form licence.

1.3 It is now about the tenability of the petitioners' contention Vs the justifiability of the impugned notices. In order to appreciate the contentions of the petitioners, it may be necessary to introduce the scheme of Tamil Nadu Cinema (Regulations) Act, 1955, to the extent the factual context of this case require:

- Under Sec. 8 of the Tamil Nadu Cinema Regulations Act, 1955 the owner of a theater will be liable for penalty, if he/she breaches any of the provisions of the Act. Under Section 10 of the Act, the Government is empowered to make rules governing different aspects of the Act, and



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contextually Section 10(2)(b) is relevant by which the Government is empowered to make rules to regulate a cinematography exhibition for securing the public safety.

- In terms of the same, Rules are framed, of which Rule 107 and 108 and Form 'C' are relevant. Under Rule 107, an owner of a theater is required to apply for a licence, and under Rule 108, the licence is issued. Turning to 'C' Form licence, it is issued in a statutorily prescribed form, and it is loaded with multiple conditions. In the context of the case, Conditions 14 and 14A are relevant. Under condition 14A, a theater shall not conduct more than 4 shows a day within the time stipulated under condition 14. The time for screening the show is governed by G.O. (Ms) No.2193 Home Department dated 18.08.1973. As per this G.O. there shall not be a show earlier to 9.00 a.m and later than 1.30 a.m on the following day.

2. Mr.T.M.Hariharan, the learned counsel for the petitioners made the following submissions:

- A cinema theatre is not just controlled by Tamil Nadu Cinema Regulation Act, 1955 but also by Tamil Nadu Shops and Establishment



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Act, 1947. Under Sec.2(6) of the Tamil Nadu Shops and Establishment Act, an establishment *inter alia* means a theater, or any place of public amusement or entertainment. Section 13(1) of the Act, empowers the Government to fix the opening time and closing time of an establishment. This provision, however, makes it clear that it is made subject to any other enactment for the time being in force. However, under Sec. 6 of the Act, the Government is further empowered to exempt either permanently or temporarily any establishment or class of establishment from all or any of the provisions of this Act by notification, subject to such condition, which the state government may deem fit and proper to impose. In exercise of this power, the Government has issued a notification vide G.O. Ms. No.61 Labour Welfare and Skill Development (K2) Department dated 02.06.2022 and permitted that the shops and establishment whose opening and closing times are governed by the Regulations issued under Section 7(1) and 13(1) respectively, were given a go by under the Shops and Establishment Act.

- Now, inasmuch as the petitioners theater falls under the definition of an establishment under the Tamil Nadu Shops and Establishment Act,



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it is entitled to the benefit of G.O. Ms. No.61 dated 02.06.2022 and hence is entitled to keep its establishment opened 24 x 7. Therefore, the penalty imposed on the theaters for violation of the conditions 14 and 14A of the 'C' Form is bad in law, inasmuch as it does not take into consideration the notification issued by the same Government under G.O.Ms.No.61, as stated above. While G.O.Ms No.2193 Home Department dated 18.01.1973 which stipulates the opening time and the outer time for screening a show is issued in public interest, and G.O. Ms.No.61 dated 02.06.2022 is also issued for public interest.

- While the Shops and Establishment Act does not deal with one category of establishment but with establishments of various classes and kinds, and each of these category of establishment will necessarily be governed by some enactment. But when an exemption is granted under Section 6(1) of the Shops and Establishment Act, then it will apply to all category of establishments, which necessarily include a cinema theater.

3. Per contra, Mr. Hasan Mohamed Jinnah, the learned State Public Prosecutor appearing for the first respondent made the following



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submissions:

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- Tamil Nadu Shops and Establishment Act, and the Tamil Nadu Cinema Regulations Act, operate in two different spheres, as the the object behind these enactments are different.
- Under condition 14A, a maximum of four shows in a day alone can be exhibited within the time stipulated under condition 14. Indeed 14A has few provisos, and the fourth proviso requires the licensee to conform to the working hours, and also to the number of persons to be employed in accordance with the provisions of Tamil Nadu Shops and Establishment Act.
- The Government has come up with G.O. Ms. No.32 Home (Cinema) Department dated 11.01.2023, and it permits 5 shows, but between 9.00 a.m to start and 1.30 a.m on the following day. In other words, as per G.O.Ms. No.32, the theaters are permitted to exhibit five shows within the fixed time, but they do not have any right to exhibit a movie either before 9.00 a.m or later than 1.30 a.m on the following day. So far as the present batch of cases is concerned, the theaters involved had exhibited the movie at 4.00 a.m (before the permitted 9 a.m.) and after 1.00 a.m on the following day (as against the permitted 1.30 am)



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and hence penalty is imposed.

- So far as G.O.Ms.No.61 is concerned, it is introduced only with regard to working condition of shops and establishments, and may not apply to screening of movies in cinema theaters. Reliance was placed on the decision of the Hon'ble Supreme Court in *Minerva Talkies, Bangalore and Others Vs State of Karnataka and Others* [MANU/SC/0281/1988].

4. The counsel for the petitioners would now reply that in view of G.O. Ms.No.61 Labour Welfare and Skill Development (K2) Department dated 02.06.2022, G.O.Ms. No.32 dated 11.01.2023 is wholly unnecessary.

5. With little hesitation this Court holds that the petitioners herein are under serious misconception in invoking Sec.13 of the Shops and Establishment Act and G.O. 61. As argued by the learned State Public Prosecutor, both Shops and Establishment Act, and the Cinema Regulation Act, operate in different spheres and aim to achieve different objectives. This will be evident from the statement of Objects and Reasons behind the Shops and Establishment Act, 1947. It reads:



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“There is no enactment in this Province regulating the conditions of work of employees in shops, commercial undertakings, restaurants, etc. It is considered that there should be a comprehensive measure in this Province to regulate these matters on the lines of similar enactments in force in other provinces. The Bill is intended to give effect to this object.”

If the scheme of the Shops & Establishments Act is scanned for particulars, it has ten Chapters, of which Chapters VIII to X relate to administering the Act. Chapters II to VII deal with regulating the working conditions of the employees of Shops and Establishments, as defined in the Act. Of the rest, Chapter IV deals with employment of children, Chapter V with Health and Safety, Chapter VI concerns with Holidays and Wages, and Chapter VII with Wages. Each one of these chapters relate to the working conditions of those who are employed in shops or establishments. Now, if Chapter II and III are considered in the backdrop of the Statement of Reasons & Objectives behind this Act and also the rest of the provisions in the Act, they necessarily deal with working conditions of the employees of shops and establishments respectively.

6. The learned counsel for the petitioner harped more on Sec.13 of the Shops



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and Establishments Act, and the G.O.Ms.No.61 dated 02.06.2022 issued under it. Sec.13 finds a place under Chapter III and it deals with opening and closing hours of the establishments as defined in Sec.2(6) of the Act. Contextually this must be understood as relating to the working condition of the employees of the establishments.

7.1 By definition, a cinema theater falls within the definition of establishment under Sec.2(6). So far as a cinema theater is concerned, it employs staff for running the theater, and it also caters to the entertainment requirements of the public. While working conditions of the employees of the theater is taken care of by the Shops and Establishments Act, regulation of exhibition of movies is dictated by the Cinemas (Regulation) Act, 1955. This is evident from the preamble of the Tamilnadu Cinemas (Regulation) Act, 1955 :

"An Act to provide for the regulation of exhibitions by means of cinematographs in the State of Tamil Nadu.

WHEREAS it is expedient to provide for the regulation of exhibitions by means of cinematographs in the State of Tamil Nadu;"



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7.2 There is public interest involved both in regulating the working condition of the employees of the theater and also in screening the movies for the general public. Both are different aspects of public interest which intend to serve different purposes, and hence they cannot be equated or can be brought under a homogeneous head. For instance, a cinema theater may screen five shows a day round the year without a break. But can the employee of the theater work 24 x 7 for 365 days a year? This explains why the legislature thought it fit to regulate both the working condition of the employees of the cinema theater, and also the screening of the movies through different enactments, to be administered by different set of authorities.

8. There now should be little difficulty in anticipating where the decision in this batch of case is heading to. The petitioners did not have any qualms over the Cinemas (Regulation) Act, 1955, nor the conditions stipulated therein under Form C in terms of Rule 14 and 14A. G.O.(Ms) No.32, dated 11.01.2023 operate in the area that concerns the exhibition of movies, while G.O.(Ms) No.61 concerns with the working conditions of the employees of the theater. The petitioners, inasmuch as they have miscalculated their strategy in hoping to replace G.O.(Ms) No.32 with G.O.(Ms) No.61, should



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necessarily fail.

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9. In conclusion, this Court does not find merit in the contentions of the petitioners and accordingly all the petitions are hereby dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

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- 1.The Director General of Police
Dr.Radhakrishnan Salai, Krishnapuram
Mylapore, Chennai - 600 004.
- 2.The Commissioner of Police /
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Greater Chennai Police
132, Commissioner Office Building
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N.SESHASAYEE.J.,
Asr/ds

Pre-delivery order in
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