

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

-

WRIT PETITION NO.33409 OF 2015

-

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“to issue Writ of Mandamus declaring the action of the respondents in not granting permission for reducing seats as per application dated 22.09.2015 of the petitioner is illegal, arbitrary, null and void and contrary to the judgment reported in 1999(5) ALD 693 and consequently direct the 2nd respondent to issue orders to the petitioner for reduction of seats.”

2. When the matter is taken up, Sri K.Durga Prasad, learned counsel for the petitioner and learned Government Pleader for Home have submitted that the subject matter in this writ petition is squarely covered by the order of this Court in W.P.No.12295 of 2015 dated 27.04.2015 and a copy of the same is placed by the learned counsel for the petitioner. This Court deems it appropriate to dispose of the writ petition in terms of the said order.

3. The petitioner's application for reduction of seating capacity is stated to be pending with the Licencing Authority since 22.09.2015. Aggrieved by the same, the present Writ Petition is filed requesting for directions as were passed by this Court in **Nataraj Theatre v. Government of Andhra Pradesh**.

4. The instructions of the learned Government Pleader for Home, however, show that though the petitioner's application dated 22.09.2015 was received, the renewed licence is not granted to the petitioner and his original licence expired four or five years back. In view of the non-renewal of licence, the request of the petitioner cannot be considered. Learned counsel for the petitioner states that the petitioner applied for renewal of licence within time, but has no intimation of its non-renewal and since it is not a new Theatre, the petitioner sought reduction of the seating capacity, which the Licencing Authority is required to be considered. While considering the aforesaid request, this Court gave several directions to the Licencing Authority in the matter of

regulation of theatres whether for enhancement of payment or for reduction of seating capacity or for grant or otherwise of the renewal of licences. The directions are contained in paragraph No.40 of the said judgment cited supra, which are extracted as under:

“40. Another aspect of the matter which has been brought to the notice of the Court by the learned Government Pleader is that though the principle challenge is with regard to Memo No.1730/Genl.A1/94-3, dated 23.05.1995 issued by the Government, the petitioners are also asking for a mandamus directing the Licencing Authority to permit enhancement in the rates of admission. According to the learned counsel, the same is beyond the scope of writ petition. As there is force in the submission, the same is liable to be countenanced by this Court. However, keeping in view the conclusions of this judgment as well as intervening circumstances, the writ petitions are disposed of with the following directions:

(1) The impugned Memo No.1730/Genl.A1/94-3, dated 23.05.1995, is declared as ultra vires, without power or jurisdiction and the same is set aside.

(2) Consequential orders passed by the Licencing Authority, if any, are vitiated as the Licencing Authority abdicated its statutory functions and acted as per the dictates of the Government, and they accordingly are set aside.

(3) If the petitioner has already been accorded permission for reducing seating capacity either by the Government or by the Licencing Authority, the same shall not be rescinded. However, if the order is passed by the Government pursuant to the interim orders of this Court, a formal order by the Licencing Authority is a must to save the order of the Government from the vice of being void order.

(4) The petitioner is permitted to make application to the Licencing Authority seeking reduction of seating capacity, if not already made before or during the pendency of the writ petition. Such application shall be considered in accordance with law and keeping in view the observations in this judgment. For the purpose of direction No.3 above the application made by the petitioner, if any, shall be considered.

(5) If the licensee has reduced seating capacity in anticipation of sanction by the Licencing Authority, the Licencing Authority may inspect the theatre and give further directions as may be appropriate to avoid abuse or misuse of reduced seating capacity.

This direction is in accordance with the judgment of the Division Bench of this Court in W.P.No.9640 of 1984, dated 30.10.1984.

(6) The licensee shall not be entitled to enhance the rates of admission which has been already sanctioned by the Government vide G.O.Ms.No.218, dated 14.07.1995, and any further enhancement by the licensee will be in accordance with further sanction by the competent authority.

(7) It is further directed that the Licencing Authority has to consider any application filed at any time seeking reduction of seating capacity subject to the provisions of Rule 10A Act without any restriction as to cut off date.”

5. Since the petitioner seeks consideration of his request for reduction of seating capacity in terms of Clause 5 of the directions extracted above, the Licencing Authority shall consider the said request of the petitioner and pass appropriate orders expeditiously. The Licencing Authority is also at liberty to pass appropriate orders on the application of the petitioner for renewal of his licence.

6. The Writ Petition is, accordingly, disposed of. There shall be no order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.V.SESHA SAI, J

DATED: 09-10-2015

Hsd