

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15310 of 2016

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Arun Kumar Pillai, S/o Shri Hari Pillai, R/o 24/5 Bishnupur Road,
Bahrapur P.S. Baharampur, District - Murshidabad West Bengal at
present at RF - 50 Kankarbagh Housing Colony Lohiya Nagar, Patna -
800020.

.... Petitioner

Versus

1. The State of Bihar through Secretary Department of Arts, Culture Youth Welfare.
2. District Magistrate, Muzaffarpur.
3. Sub Divisional Officer, Muzaffarpur.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Renu Jha, Advocate

For the State : Mr. Ashutosh Kumar Jha, AC to G.A.11

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

3 28-09-2016 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks direction of this Court to quash the order dated 29.8.2016 passed by the Sub Divisional Officer, Muzaffarpur East stating that since on putting up Disney Land Mela in the Oriental Club Maidan the local children and elderly people will have difficulty in having their morning walk in the area and there would be constant jam therein as a result of which law and order problem would arise and further considering different incidents occurring at present, it was not proper to grant permission for exhibiting Disney Land Mela.

The fact of this case is that the petitioner is Manager of Handloom and Handicraft Expo with the Disney Land with its head office at Calcutta organizing handloom and handicraft products of different States at different places for the purpose of exhibition and sale, besides entertainment items like Giant Wheel,



Tora Tora, Mickey Mouse, Baby Train, etc. and some Jadu exhibits. The petitioner for the purpose of the said exhibition at Muzaffarpur arranged land belonging to the Orient Club on payment for the period from 18.8.2016 to 24.10.2016. An application for permission/No Objection Certificate was made to the Sub Divisional Officer, Muzaffarpur stating the aforesaid fact and the Sub Divisional Officer called for reports from the Fire Brigade Officer, Muzaffarpur, the local Police Officer of the area and the Circle Officer, Mushari, all of whom filed their No Objection Certificate, which are annexed to the writ application. Despite the same the impugned letter dated 29.8.2016 was issued refusing permission on the ground of law and order and other problems.

Despite grant of time no counter affidavit has been filed on behalf of respondent Nos.2 and 3, the District Magistrate and the Sub-Divisional Officer. However, a counter affidavit has been filed by respondent No.1, the Secretary, Department of Arts, Culture Youth Welfare supporting the stand taken by the Sub-Divisional Officer for the similar reasons as assigned in the order.

Learned counsel for the petitioner submits that the issue of allowing such type of exhibition is not res integra but has been already settled by this Court in the case of Asian Circus vs. The State of Bihar & Ors. :2001(2) PLJR 812 wherein Aftab Alam, J. (as His Lordship then was) held in paragraphs-11 to 15 of the said judgment as follows :

“11. I am unable to accept the submission. As long as an act is valid, lawful and authorized, it cannot be prohibited on the ground that it is likely to have an adverse effect on the law and order situation. What can be prohibited and prevented from taking place are events and actions which are in themselves unlawful, illegal



and unauthorized. If the submission of the State counsel is accepted, it may lead to highly anomalous consequences. The district administration may one day prohibit persons belonging to a particular religious group, caste or community from taking stroll on a road on the plea that it was likely to have an adverse effect on the law and order situation.

12. It is also to be borne in mind that on the plea of bad law and order situation the district administration did not even consider allowing the exercise of the right to the petitioner in a limited, restricted or controlled way but saw nothing wrong in the complete denial of the exercise of the right.

13. I am unable to uphold the total denial of the petitioner's fundamental right on the mere subjective response of the district administration on the plea of bad law and order situation at Mairwa.

14. In these facts and circumstances and on the basis of the materials brought on record, I am satisfied that there is no legal requirement for a written permission for holding circus shows as long as the show is not breaking any law, rule or statute. All that is required is the prior information and intimation to the district administration to enable them to take suitable measures for maintaining law and order and other allied and incidental matters. It may, however, be open to the administration to regulate and control the timings of the show, number of persons to be allowed entry in the each show and other allied matters of detail in the larger public interest.

15. This writ petition is accordingly allowed with the direction that it will be open to the petitioner to hold its circus shows and it will be allowed to do so as long as it does not contravene or breach any provision of law,

statute or rule. The district administration and the police may, however, give necessary directions on matters indicated in the previous paragraph.”

It is evident from the aforesaid decision that, as a matter of fact, no permission or No Objection Certificate is required from the local administration for putting up Disney Land Mela on the ground of Orient Club, Muzaffarpur. It is not a public land rather it is the land of Orient Club which had duly permitted the petitioner to put up the same on its land. Nothing has been cited in the counter affidavit filed on behalf of respondent No.1 to show that any permission is required for putting up such exhibition/Mela on the basis of any statutory provision. Thus, as held by this Court in the case of Asian Circus (supra) the putting up of the same is merely an exercise of the fundamental right of the petitioner under Article 19(1)(g) of the Constitution of India and any constraint or restraint in the exercise of such fundamental right can only be under statute framed under Clause (1)(g) of Article 19 thereof and there being no such provision shown to this Court it is evident that the petitioner could not have been informed that it could not hold Disney Land Mela/Exhibition on the ground of Orient Club.

As held by this Court in Asian Circus case (supra), the requirement of the petitioner is not for permission rather an intimation to the local administration to enable them to take suitable measures for maintaining law and order and other allied incidental matters. It was not open to the Sub-Divisional Officer, East Muzaffarpur to have refused the so-called permission sought, rather the petitioner having intimated him it was for him to take suitable measures for the said purpose.

Thus, in the light of the aforesaid discussions, the writ

application is allowed. The impugned letter dated 29.8.2016 is quashed and it is directed that the petitioner may hold its exhibition/Mela on the ground subject to the permission of the owner of the land, namely, Orient Club, Muzaffarpur, with due intimation to the local administration about the period, etc. considering the fact that a major part of the period has already expired. It shall be open to the local administration to take such steps as have been delineated by this Court in the decision in Asian Circus case (supra).

(Ramesh Kumar Datta, J)

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