IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:17.03.2016

CORAM :

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE M.M.SUNDRESH

W.P. No.40173 of 2015

G.Devarajan .. Petitioner

-Vs-

1.The Chief Secretary,
The Govt. of Tamil Nadu,
Fort St. George, Chennai.

2.The Police Commissioner,
New Police Commissioner Office, Chennai.

3.The Commissioner,
Head of The All District Collector
Commissionerate of Revenue Administration,
Ezhilagam, Chepauk, Chennai.

4.The Commissioner,
Commissionerate of Land Administration,
Ezhilagam, Chepauk, Chennai.

5.The Commissioner,
Commissioner of Commercial Tax,
Ezhilagam, Chepauk, Chennai.

6.The Asst. Commissioner,
Commissioner of Commercial Tax,
Kodungaiyur, Chennai.

7.Ticket New
Orbgen Technologies Pvt. Ltd.,
Regd. Office: 23, Kannagi Street,
Choolaimedu, Chennai.

8.Ticket Green India Pvt. Ltd.,
Plot No.1187, G Block,
1st Street, Anna Nagar, Chennai. .. Respondents

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Petition filed under Article 226 of the Constitution of India praying for the issue of a Writ of Mandamus to direct the respondents to take action against the cinema theatre owners, in Tamilnadu whom collected excessive ticket charges through showing new movies such as ''Yennai Arindhal, Puli, Vedalam, Thoongavanam and Thanga Magan'', etc., to stop such cheating practice of cinema theatre owners by collecting more than the government fixed ticket charges and excess ticket costs and showing extra shows and to stop the hide and seek act of online booking and selling of movie ticket by the 7th and 8th respondents whom colluding with cinema theatre owners with the view to enable the cinema theatre owners to collect excessive ticket charges.

For Petitioner	:	Mr.G.Devarajan Party-in-person
For Respondents	:	Mr.S.T.S.Murthi, Govt. Pleader, assisted by Mr.V.R.Kamalanathan, Addl.G.P. & Mr.V.Shanmugasundar, G.A. For RR 1 to 4.
	:	Mr.V.Haribabu, A.G.P. (T) For RR 5 and 6
	:	No appearance for RR 7 & 8

* * * * *

O R D E R

(Order of the Court was made by The Hon'ble Chief Justice)

Admit. Learned counsels have entered appearance for the respondents. At request of learned counsel for the parties, the writ petition is taken up for final disposal.

2.The petitioner is aggrieved by the cinema theatre owners collecting charges in excess of the maximum ticket charge fixed by the State Government whether through on-line ticketing process or otherwise.

3.We, at the inception, had put a query to the petitioner appearing in person that people booking through on-line may be required to pay those charges separately. On this aspect, he does not dispute the position. But, he states that for new movies, the on-line charges itself have been shown as Rs.300/- or more for the booking, while the maximum price fixed is Rs.120/-. He further states that this is more prevalent outside the city limits of Chennai.

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4.In order to appreciate the controversy, we had asked the State Government to place on record the Government policy of fixing the rates for cinema tickets. The same has now been placed on record.

5.It is stated on behalf of the respondents that Section 4 of the Tamil Nadu Entertainments Tax Act, 1939, provides for entertainment tax on each payment of admission to cinematographic exhibition in theatres located in Municipal Corporations, Municipalities, Special Grade Municipalities and in permanent and semi-permanent theatres located within five kilometer radius within the peripheral areas of Municipal Corporations and Special Grade Municipalities, as under:

(a) at the rate of 30% in respect of new film;
(b) at the rate of 20% in respect of old film (means more than ten years old from the date of issue of certificate for the film for the first time under the Cinematograph Act, 1952) ; and
(c) in other areas, at the rate of 20% in respect of both new and old films.

It is not necessary for us to go into the details except to state that Rule 83 (1A) (a) of the Tamil Nadu Cinema (Regulation) Rules, 1957, empowers the Licensing Authority to fix the rates of admission on each class in the theatre, the prevailing rates of admission in similar theatres in similar localities within its jurisdiction and any other relevant factors.

6.The Government is stated to have issued two G.Os. in this behalf. The first G.O. is only revision of rates earlier provided which has been issued on 20.05.2009. The Rules were amended to provide maximum and minimum rates of admission to A/c theatres and non-A/c theatres as also in multiplexes provided with special amenities.

7.It is not disputed that the maximum rate provided is Rs.120/- and the only exception is IMAX theatres in view of G.O. dated 06.01.2015 where the maximum has been provided at Rs.480/-.

8.The aforesaid being the position, if we revert to the typed set of documents filed with the petition, we find that the petitioner has been making representations from time to time, i.e. on 02.02.2015, 27.09.2015, 29.09.2015, 02.11.2015, 14.12.2015, giving therewith the material to support the allegation that the maximum limit is not being followed. In this behalf, an extract from the website has also been given showing tickets of Rs.300/- and Rs.250/-. The break-up shows the ticket cost as Rs.200/- with service provider fee of Rs.20/- and service tax, totalling to Rs.223/-. As an illustration,

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there is no quibble with the imposition of service provider fee or the tax, but the question is whether when the maximum charge is provided as Rs.120/-, Rs.200/- can be imposed. Even, according to the learned counsel for the respondents, the answer to this query would be in the negative.

9.Learned counsel for the respondents sought to emphasize that in some cases, the charge has been refunded and compounding charges imposed, while in one case penalty has been imposed. In this behalf, an order of the Commercial Tax Department dated 23.02.2015 has been produced.

10.On the conspectus of the matter, we are of the view that in so far as the legal position is concerned, there is no dispute. However, much is left to be done at the ground level, as obviously there are various violations. These violations have to be checked by the Commercial Tax Department as well as the Licensing Authority and not that the petitioner or other affected persons should be called upon to litigate over these small amount of few hundred rupees arising from increased amount of charges beyond permissible limits. If the purpose of fixing the maximum fee is to provide a facility to the people to see the film at cheaper rates, this cannot be made illusionary and only applicable on paper without proper implementation.

11.We, thus, direct the respondents to constitute a special team to monitor the aspects of such violations and inform the public at large through proper publicity, a methodology of giving such complaints telephonically to facilitate information to flow to the team. We would expect the team to take proper action so that there is translation, in fact, of the intent for which such a policy has been framed.

12.The needful be done within three (3) weeks from today.

13.Writ Petition is disposed of in terms aforesaid. No costs.

sra Sd/-
Asst.Registrar

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Sub Asst. Registrar

To

1.The Chief Secretary,
The Govt. of Tamil Nadu,
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6.The Asst. Commissioner,
Commissioner of Commercial Tax,
Kodungaiyur, Chennai.

+ 1 cc to The Govt.Pleader, Sr 17385

+ 1 cc to The Spl.Govt.Pleader (Taxes) Sr 17236

KR/28/3/16

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