

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.01.2017
CORAM
THE HONOURABLE MR.JUSTICE P.N.PRAKASH
W.P.No.13753 of 2003
and WPMP Nos.17219 and 17220 of 2003
and 7044 of 2005

K.Shanmugavalli

.. Petitioner

Vs

1.The District Collector,
Ramanathapuram.

2.Additional Commissioner (Cinemas)
Ezhilagam, Chennai 9.

3.P.S.Loganathan
rep. by his wife L.Sulochana

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the 2nd respondent and quash his impugned order dated 24.04.2003 signed and despatched on 25.04.2003 vide proceedings D1/CA 16/2003 dated 24.04.2003 confirming the orders of the first respondent dated 27.03.2003 cancelling the "C" Form licence as well refusing further renewal of the "C" Form licence of the theatre namely "Ohm Shanmuga Theatre", Paramakudi, Ramanathapuram District represented by the petitioner as its Managing Director.

For petitioner : Mr.K.Ravi Anantha Padmanabhan

For R1 and R2 : Mr.V.Jayaprakash Narayanan
Special Government Pleader

For R3 : No Appearance

ORDER

This petition has been filed seeking a writ of certiorarified mandamus calling for the records of the 2nd respondent and quash the order dated 24.04.2003 signed and despatched on 25.04.2003 vide proceedings D1/CA 16/2003 dated 24.04.2003 confirming the orders of the first respondent dated 27.03.2003 cancelling the "C" Form licence as well refusing further renewal of the "C" Form licence of the theatre namely "Ohm Shanmuga Theatre", Paramakudi, Ramanathapuram District.

2. For the sake of convenience, the parties will be referred to by their name.

3. "Jaihind Talkies (Paramakudi) Pvt. Ltd." is a Company incorporated under the Indian Companies Act, 1956 and it owned a site and building in Paramakudi, wherein, it runs a cinema theatre in the name of "Ohm Shanmuga Theatre". Shanmugavalli was the Managing Director of "Jaihind Talkies (Paramakudi) Pvt. Ltd.". Licence in Form "C" under the Tamil Nadu Cinema (Regulations) Act, 1955 was issued by the District Collector, in the name of Shanmugavalli, Managing Director, "Jaihind Talkies (Paramakudi) Pvt. Ltd.".

4. One P.S.Loganathan lodged a complaint before the District Collector making several allegations against Shanmugavalli and prayed that further licence for "Ohm Shanmuga Theatre" should not be renewed. Based on the said complaint, the District Collector, Ramanathapuram conducted enquiry by calling both parties. Loganathan made several allegations in support of his plea that the licence should not be renewed, which was refuted by the petitioner. Three main allegations were made by Loganathan, viz.,

(1) that "Ohm Shanmuga Theatre" is owned by "Jaihind Talkies (Paramakudi) Pvt. Ltd.", which is a juristic person and therefore, the licence in Form "C" should not have been given in the name of Shanmugavalli, but should have been given in the name of the Company;

(2) that Shanmugavalli's son, P.S.K.Balasubramaniam is running a Brick Works in the theatre, which is in violation of condition no.17 of the Licence conditions; and

(3) that the theatre had violated the provisions of the Tamil Nadu Entertainment Tax Act and was fined several times, but they had compounded the offences and therefore, it will not be desirable for renewing the licence.

5. After hearing both sides and perusing the evidence produced, the District Collector, by order dated 27.03.2003, upheld the objections of Loganathan and cancelled the "C" Form licence granted to Shanmugavalli by rejecting the renewal application. Aggrieved by the order passed by the District Collector, Shanmugavalli filed an appeal before the Additional Commissioner (Cinemas). The appellate authority stayed the order passed by the District Collector and heard both the parties in the appeal. By order dated 24.04.2003, the appellate authority held that the licence should have been given only in the name of the Company and it should not have been given in the name of Shanmugavalli and on that ground alone, the order of the District Collector was confirmed. The appellate authority did not go into the other two grounds which form the basis for

cancellation by the District Collector. Against the order of the appellate authority, the Tamil Nadu Cinema (Regulations) Act provides a revisional remedy, which Shanmugavalli did not avail of and instead, she filed the present writ petition.

6. At the outset, Mr. Jayaprakash Narayanan, learned Special Government Pleader submitted that this writ petition is liable to be dismissed on the short ground that there is a revisional remedy available to Shanmugavalli, which she has not availed of.

7. On a reading of the affidavit of Shanmugavalli, it is seen that she has not availed of the revisional remedy, because, she apprehends that in the mean time, the theatre will be forcibly closed down by the authorities, which may result in huge loss. Therefore, Shanmugavalli cannot be heard to contend that she was not aware of the availability of revisional remedy. This Court admitted the writ petition in the year 2003 and also granted stay and after hearing both parties, this Court passed the following order on 28.04.2003:

"The first respondent shall grant temporary permit in "E" Form in the name of the Theatre represented by the petitioner. Notice."

8. On the strength of the aforesaid order, "Ohm Shamuga Theatre" is now being given temporary licence in the name of "Jaihind Talkies (Paramakudi) Pvt. Ltd." with which the said theatre is being run.

9. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for respondents 1 and 2.

10. On a perusal of the order passed by the appellate authority, this Court does not find any irregularity or illegality in it. Admittedly, "Ohm Shamuga Theatre" is owned by "Jaihind Talkies (Paramakudi) Pvt. Ltd.", which is a juristic person and which can sue and be sued and therefore, the grant of licence in the name of Shanmugavalli is indeed irregular. Admittedly, the theatre is being run till date on the strength of the temporary licence that is being granted from time to time by the District Collector in the name of "Jaihind Talkies (Paramakudi) Pvt. Ltd.".

11. In view of the above, this Court does not find any serious infirmity in the order passed by the appellate authority warranting interference. However, if renewal application is made by "Jaihind Talkies (Paramakudi) Pvt. Ltd." for grant of "C" form licence, the same shall be considered in accordance with law and appropriate orders passed on merits within a period

of three months from the date of receipt of the application.

This petition (*)shall stands (*)disposed of with the above observation. No costs. Consequently, connected miscellaneous petitions are closed.

-sd/-

Assistant Registrar(CCC)

Dated:31/01/2017

(*)Corrected as per order

dt.01.03.2017 in WP.13753/2003

Sd/-

Assistant Registrar (CO)

Dated:07.03.2017

True Copy

Sub-Assistant Registrar

gms

To

1.The District Collector,
Ramanathapuram.

To be Substituted
order already despatched
on 28.02.2017

2.Additional Commissioner (Cinemas)
Ezhilagam, Chennai 9.

+1 cc to mr.K.Ravianantha Padmanaban Advocate sr 571

+1 cc to Government Pleader High Court Madras sr 904

W.P No.13753 of 2003

pk(co)

aa03/02/2017

RS(07/03/2017)

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