

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CR No. 51 of 2015**

- T.S. Chhatwal, S/o L.S. Chhatwal, Aged About 64 Years, Ex-Collector Surguja And Licensing Authority M.P. Cinema Niyam (Regulation) At Present Additional Commissioner, Excise Department, Gwalior (M.P.) At Present R/o 106, Radio Colony Indore (M.P.)

---- Applicant**Versus**

1. Alaknanda Talkies Through Aruneshwar Sharan Singhdev, S/o Shri Madaneshwar Sharan Singhdev, Aged About 43 years, Proprietor Alaknanda Talkies, Ambikapur, District Surguja (C.G.), Through The Power of Attorney Tribhuneswar Sharan Singhdev, R/o Kothi House Ambikapur, District – Surguja (C.G.)
2. State of Chhattisgarh Through Secretary, Excise Department (M.P.) Now State of Chhattisgarh, Mantralaya, Raipur (C.G.)
3. Secretary General Administration Department, State of M.P. Now Chhattisgarh, Mantralaya, Raipur (C.G.)
4. Secretary Home Department Government of India, North Avenue, New Delhi

---- Non-Applicants

For Applicant	:	Shri Syed Ishhadel Ali, Advocate on behalf of the Mrs. Naushina Afrin Ali, Advocate.
For Non-Applicant No.1	:	Shri Manoj Paranjpe, Advocate.
For Non-Applicant Nos.2 to 4	:	Shri U.N.S. Deo, Government Advocate.

Hon'ble Thottathil B. Radhakrishnan, Chief Justice
Order on Board

27.06.2018

1. Heard the learned counsel for the Revision Petitioner (Applicant) and the Non-Applicants, who are the Plaintiff and the State Government and its officials.
2. The 1st Respondent/Plaintiff was running an establishment 'Alaknanda Talkies'. The Applicant/ 1st Defendant was the licensing authority in terms of the M.P. Cinemas (Regulation) Rules,1972; hereinafter referred to as the 'Rules'. Stated to be in exercise of his statutory authority, he took certain actions against the

Plaintiff and his establishment Alaknanda Talkies. The suit was filed alleging that such action which included cancellation of licence and closure of Alaknanda Talkies was without the authority of law and defeasance of a telephonic communication regarding the stay of cancellation of licence. The Plaintiff claimed that he suffered loss of Rs.16,368/- and sought to recover that amount by way of compensation from Defendants namely the State of Chhattisgarh and its officers, the Applicant in this revision.

3. The Trial Court decreed the suit as against all the Defendants. The State which had not filed written statement, taking any contradictory stand as against the 1st Defendant licensing authority, chose to file an appeal. The lower Appellate Court interfered with the decree of the Trial Court and confined the decree to be one as against the 1st Defendant, thereby exonerating the State. The 1st Defendant has filed this revision challenging that appellate decision.
4. Having regard to the contentions raised, to the pointed query from the Bench, it is submitted that the 1st Defendant alone had filed written statement. Apparently, there was no conflict of plea, as between Defendant No.1 who was the licensing authority and the State, before the Trial Court. There was no question of the Trial Court adjudicating an issue as to whether the 1st Defendant/Revision Petitioner was liable, notwithstanding the liability of the State. There was also no necessity, on the basis of the pleading, for the Trial Court to adjudicate as to whether a decree could be passed, personally, as against Defendant No.1.
5. It is not in dispute that the Revision Petitioner/ 1st Defendant was the licensing authority under the provisions of the Rules. It is also not in dispute that the establishment of the Plaintiff, namely; Alaknanda Talkies, was governed by the provisions of that piece of law. Even if it is a case of excessive exercise of administrative power; including statutory; the basis on which penalty by way of compensation for illegal action of an official could be handed down, is not seen established in the case in hand, going by the materials on record. In fact the

Trial Court had recorded the finding that the 1st Defendant had exercised due statutory power and that he had not abused such authority and power. This is clear from the findings under issue No.2, going by the judgment of the Trial Court. That position notwithstanding; there was no conflict of interest between the State Government and 1st Defendant/Revision Petitioner before the Trial Court. This way also, there was no ground for the lower appellate Court to have interfered with the decision of the Trial Court, adverse to the First Defendant.

6. For the aforesaid reasons, this revision petition succeeds.
7. In the result, the judgment and decree of the Appellate Court is set aside, thereby restoring the decree granted by the Trial Court. No costs.

Sd/-
(Thottathil B. Radhakrishnan)
Chief Justice