

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.28688 of 2017

W.Shobana Diamond

... Petitioner

vs.

1. The Commissioner of Police,
Licensing Authority,
Greater Chennai Police,
Vepery, Chennai 600007.

2. B.Sivakumar

3. B.Srinivasan

4. B.Shankar

(R2 to 4- impleaded as per order
dated 14.11.2017 by KRCBJ
in W.M.P.31342/17 in W.P.28688/2017)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings of the respondent made in Rc.NoE2(1)/270/22491/2014 dated 12.09.2017 and quash the same consequently direct the respondent to include the name of the Petitioner and her minor children in the "C" Form Licence of M/s Vijaya Theatre, situated at Door No.75/145, Pillaiyar Koil Street, Jafferkanpet, Chennai 600083.

For Petitioner : Mr.S.Thirumavalavan

For Respondent : Mr.I.Sathish
Additional Government Pleader for R1
Mr.K.M.Vijayan
Senior Counsel
for Mr.C.M.Krishna Kumar for R2 to 4

O R D E R

This writ petition is filed challenging the proceedings of the first respondent dated 12.09.2017, and consequently seeking for a direction to the first respondent to include the name of the petitioner and her minor children in the "C" Form Licence of M/s.Vijaya Theatre, situated at Door No. 75/145 Pillaiyar Koil Street, Jafferkhanpet, Chennai 600083.

2. Heard Mr.S.Thirumavalavan, learned counsel appearing for the petitioner, Mr.I.Sathish, learned Additional Government Pleader appearing for the first respondent and Mr.K.M.Vijayan, learned senior counsel appearing for 2nd to 4th respondents.

3. It is claimed by the petitioner that the subject matter theatre was issued with "C" Form Licence in the name of one C.Balaraman and his family members. It is further stated that after the death of said C.Balaraman, the "C" Form Licence was issued in the name of his four sons namely B.Kabaleeswaran, B.Sivakumar, B.Srinivasan and B.Shankar. It is the case of the petitioner that the said C.Balaraman died and his legal heirs got the equal share in the land, building, machineries and equipments of the theatre. It is the further case of the petitioner that one of the legal heirs of the said C.Balaraman viz., B.Kabaleeswaran, sold his 1/8th undivided share to the petitioner's husband S.Suresh by way of a sale deed dated 13.07.2012. It is further contended that petitioner's husband, after obtaining consent letters and affidavit dated 10.10.2013 from his vendor and others, submitted the same to the first respondent for including his name in the place of B.Kabaleeswaran. It is stated that the petitioner's husband died on 04.09.2014 and thereafter, the petitioner made a representation dated 25.11.2014 with a request to include the name of the petitioner and her children in the "C" Form Licence. It is stated that the another representation dated 16.05.2017 was made for the very same purpose. Thus, it is stated that the respondent, instead of including the name in the "C" Form Licence, issued the present communication. Therefore, the present writ petition is filed challenging the above said communication.

4. Mr.K.M.Vijayan, learned senior counsel appearing for the respondents 2 to 4 submitted that the impugned communication is not an order passed against the interest of the petitioner and on the other hand, it is only a communication calling upon the petitioner to produce certain details and documents. Therefore, he contended that the writ is not maintainable against the impugned communication.

5. On the other hand, Mr.S.Thirumavalavan, learned counsel for the petitioner contended that in the absence of any partnership deed as alleged in the impugned communication, there is no requirement for the petitioner to produce the documents as sought for in the impugned communication.

6. Perusal of the impugned communication would show that it has only called upon the petitioner to furnish certain details and documents for the purpose of considering her request for renewal of "C" Form Licence. Therefore, it is evident that no adverse order is passed against the petitioner's interest by the first respondent. If the petitioner is of the view that the document sought by the first respondent either not necessary or unwarranted, it is for her to give an explanation to the above said communication dated 12.09.2017 with all facts and circumstances, as I found that the said impugned communication itself is not an adverse order against the interest of the petitioner.

7. Therefore, without expressing any view on the merits of the contentions raised by the parties, this Writ Petition is disposed of by directing the petitioner to give explanation/reply to the impugned communication dated 12.09.2017 before the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such reply, the first respondent shall consider the said representation and pass appropriate orders after hearing all the parties concerned, namely, the petitioner as well as the respondents 2 to 4. Such exercise shall be done by the first respondent within a period of four weeks from the date of receipt of a copy of the explanation. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

The Commissioner of Police,
Licensing Authority,
Greater Chennai Police,
Vepery, Chennai 600007.

+1cc to Mr.S.Thirumavalavan, advocate sr.no.78598
+1cc to Mr.C.M.Krishna Kumar, Advocate sr.no.78633
+1cc to Government Pleader sr.no.79178

W.P.No.28688 of 2017

kan(co)
nr 29/11/2018