

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.2417 of 2018

ORDER:

Heard the learned counsel for the petitioner and learned Government Pleader for Home.

2. Questioning the action of the respondents in not granting permission to screen the films in 'B' Form as illegal and arbitrary, the present writ petition is filed.

3. The petitioner- M/s.Geeta Theatre was constructed in the year 1983-84 and "B" Form Licence was granted on 03-05-1984. In the year 2015 the petitioner's theater was closed for renovation and it made an application on 07-09-2015 for conversion from single screen into four screens in the existing theatre by additions and alterations. Pursuant to the inspection, the authorities viz., namely 1) District Medical and Health Officer, 2) Deputy Electrical Inspector, 3) District Fire Officer and 4) Executive Engineer (R&B) and the police department also made recommendations in favour of the petitioner. The theatre came to be altered and four cinema screens have been fixed. The petitioner herein made an application on 21-12-2017 requesting to grant 'B' Form Licence by inspecting the existing theatre with four cinema screens. In the above background, alleging inaction on the part of the above respondents, the present writ petition has been filed.

4. A counter-affidavit is filed by the 2nd respondent, opposing the writ petition.

5. It is contended by the learned counsel for the petitioner that the impugned action is illegal, arbitrary and violative of Article 14 and

19(1)(g) of the Constitution of India and opposed to the A.P. Cinematograph Act, 1952 and A.P.Cinemas (Regulation) Rules,1970; that earlier all the authorities including the police inspected the premises and after recording satisfaction recommended in favour of the petitioner, as such the objection of the 2nd respondent now cannot be sustained; that the Rules do not stipulate production of NOC from the Greater Hyderabad Municipal Corporation.

6. On the contrary, it is maintained by the learned Government Pleader that there is no illegality nor there exists infirmity in the impugned order and in the absence of the same, the questioned action is not amenable for any judicial review under Article 226 of the Constitution of India; that the Deputy Commissioner of Police, Traffic, Cyberabad, in his report dated 10-05-2017 stated that the parking area demarcated is very less which needs to be rectified; that vide notice dated 07-10-2016, the Deputy Commissioner of Police instructed the petitioner to produce 'No objection Certificate' (NOC) from GHMC for stability of structure and fire department but the petitioner failed to produce the same, as such the authorities can not be faulted.

7. In the above background the issue that emerges for consideration of this Court is -- whether the inaction on the part of the respondents-authorities in processing of the application of the petitioner is justified or not?

8. The material available before this court reveals in categorical terms that all the statutory authorities have issued NOCs. The Assistant Commissioner of Police, Kukatpally Traffic Division, Cyberabad, vide proceedings No.08/T1/ACP/KKP-TR/CYB/2015, dated

14-01-2016, while categorically mentioning various particulars as to the dimensions, parking area etc., recommended for construction of multi screen theatre in the subject premises. Subsequently also, vide proceedings No.12/T1/ACP/KKP-TR/CYB/2016, dated 14-07-2016, Assistant Commissioner of Police, Kukatpally Traffic Division, Cyberabad, Kukatpally reiterated the above recommendations and thereafter vide proceedings dated 08-11-2016 once again Assistant Commissioner of Police, Madhapur Traffic Zone, Cyberabad, also issued NOC in favour of the petitioner herein, recommending for grant of NOC. It is very much clear from the above said proceedings that the Assistant Commissioners of Police, after thorough verification, noted all the measurements and particulars, but in the proceedings, dated 10-05-2017 issued by the Deputy Commissioner of Police, Traffic, Cyberabad, no such particulars nor any measurements are given. It is also significant to note that the respondent authorities are not disputing the earlier reports of the Assistant Commissioners of Police. In the counter-affidavit filed by the Commissioner of Police, Cyberabad, it is stated that the petitioner herein failed to comply with the instructions of the Deputy Commissioner of Police by producing NOC from the GHMC authorities. The counter further says that the Commissioner, GHMC, did not give any communication to the office of the Commissioner despite reminders. No provision of law could be brought to the notice of this court which obligates the petitioner herein to produce such NOC from the Municipal authorities.

8. On the other hand, Rule 8-B of the A.P. Cinemas (Regulation) Rules, 1970 obligates the licensing authority to forward a copy of the application together with its enclosures to various

authorities including the Chief Executive Officer of the Local Authority. The second proviso to Rule 8-B(2) stipulates that if the Licensing Authority fails to send reply to the applicant either granting or rejecting the “No Objection Certificate” applied for, within a period of 45 days, the NOC is deemed to have been granted provided the proposal is in conformity with the Act and the Rules made thereunder. Since the police authorities have already recommended for grant of NOC to the petitioner herein earlier, this court does not find any justification on the part of the respondents-authorities.

For the aforesaid reasons, the writ petition stands disposed of, directing the respondents to process the application of the petitioner herein and take appropriate action strictly in accordance with the A.P. Cinematograph Act, 1952 and the A.P. Cinemas (Regulation) Rules, 1970 and also pass appropriate orders within a period of two months from the date of receipt of a copy of this order. No order as to costs. Miscellaneous Petitions pending, if any, shall stand closed.

A.V.SESHA SAI, J

Date: 27.02.2018
TSNR