

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.5959 of 2019

Balaji Theatre,
Rep. By its Partner Mr.Perumal,
No.118, Kamaraj Salai,
Puducherry - 605 001. .. Petitioner

Vs

Government of Puducherry,
Office of the District Magistrate,
Puducherry. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records on the file of the respondent dated 18.02.2019 in No.13457/DM/D1/2018 and quash the same and direct the respondent to issue Form C license to the petitioner firm to run Balaji Theatres.

For petitioner : Mr.J.Ravindran

For Respondent : Mr.A.Gandhiraj, G.P. (Pondy)

ORDER

The present writ petition is directed against the impugned proceedings dated 18.02.2019 passed by the respondent / District Magistrate, Government of Puducherry, Puducherry, suspending the license given to the petitioner to run Balaji Theatre.

2. It is stated by the learned counsel for the petitioner that the petitioner was issued with a show cause notice dated 17.10.2013 on the basis of the complaint given by one of the partners of the theatre in question, in which the petitioner is the Managing Partner. Thereafter, based on the said complaint, the present impugned order has been passed suspending the license given to the petitioner. He has also relied on Clause 18 of the Deed of Partnership

dated 09.03.1981, which reads as follows:-

18. That for matters not referred above including the matters of difference of opinion amongst the partners of the firm regarding the matters of the firm, the decision of the Managing Partner is final and binding the firm and all its partners.

By relying on the above said Clause, he has submitted that the decision of the Managing Director is final and binding on all its partners if there is any difference of opinion amongst them. Therefore, the petitioner being the Managing Partner, his decision is final and binding amongst all the partners of the Firm insofar as running the Cinema Theatre is concerned, hence, even the complaint given by one of the partners should not have been entertained and thereupon the impugned proceedings ought not have been passed suspending the license granted to the petitioner to run the theatre. In any event, he pleaded, against the said order, an appeal has been filed on 07.02.2019, which is pending before the Chief Secretary, Puducherry Government, Puducherry.

5. Mr.A.Gandhiraj, learned Government Pleader (Pondicherry), accepting notice for the respondent, fairly submitted that two months time may be granted to pass orders on the appeal filed by the petitioner in accordance with law.

6. At this juncture, learned counsel for the petitioner, by producing a copy of the appeal petition filed by petitioner on 07.02.2019, stated that although the respondent has received the appeal filed by him on 07.02.2019 itself, the said Authority, without taking note of the said appeal, has stated that the petitioner has not preferred an appeal before the Appellate Authority. However, it is seen that the said appeal petition has been received only by the office of the Chief Secretary, Puducherry, not the respondent department as stated by the learned counsel for the petitioner.

7. Be that as it may, since the appeal preferred by the petitioner on 07.02.2019 is pending before the Chief Secretary, Government of Puducherry, Puducherry, this Court, without going into the merits of the matter, directs the said Authority to pass orders on the appeal petition dated 07.02.2019 filed by the petitioner on merits and in accordance with law within a period of two months from the date of receipt of a copy of this order. It is made clear that till such time, the petitioner is permitted to run the theatre.

8. With the above direction, the writ petition is disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

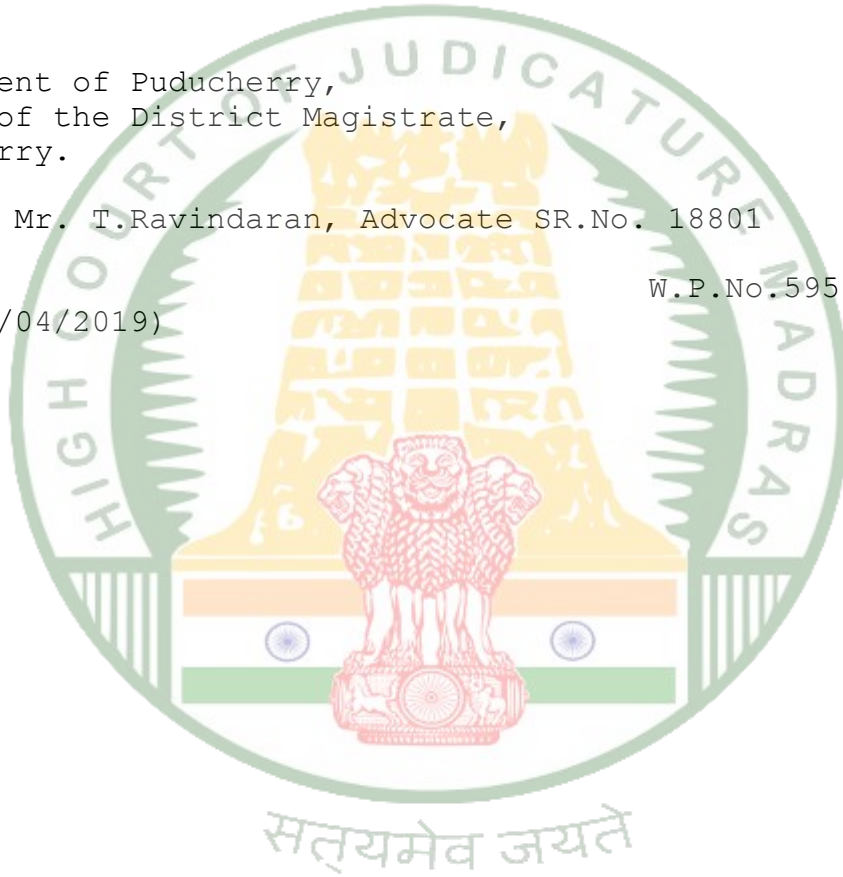
rkm
To

Government of Puducherry,
Office of the District Magistrate,
Puducherry.

+lcc to Mr. T.Ravindaran, Advocate SR.No. 18801

W.P.No.5959 of 2019

A.SK(01/04/2019)



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