

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.12798 of 2019

Mr.M.Ilavarasu .. Petitioner

-vs-

State of Tamil Nadu
represented by its Additional Chief Secretary
Home (Cinema) Department
Fort St.George, Chennai .. Respondent

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, to call for the
records and quash the same G.O.Ms.No.891 dated 30.11.2017 on the
file of the respondent the Additional Chief Secretary to
Government, Home (Cinema) Department, Government of Tamil Nadu.

For Petitioner:: Mr.I.Abrar Mohammed Abdulla

For Respondent:: Mr.K.Ravikumar
Additional Government Pleader

ORDER

This writ petition is directed against the validity of the
G.O.Ms.No.891, Home (Cinema) Department dated 30.11.2017, in and
by which the Government have revised the parking fees for all
the Cinema Theatres including Multiplex Theatres in the State
after considering the representation given by the stakeholders.
However, not being satisfied with the revision, the present writ
petition has been filed seeking for enhancement.

2. Learned counsel for the petitioner submitted that when
the petitioner is a licence holder of vehicle parking stands at
the group of Devi theatres and also obtained a licence issued by
the Greater Chennai Corporation, they are providing sufficient
area for the parking of vehicles of cinema goers. Since the

petitioner and other theatres have provided adequate parking space notwithstanding the fact that the cost of land is prohibitively high in the city of Chennai and other metropolitan cities, the cost of the land in almost all the major areas in the State is more than 3 crore rupees per ground, the parking fees fixed by the State Government in the impugned G.O.Ms.No.891 dated 30.11.2017 is unreasonably low. Therefore, a representation was given for further enhancement of the parking fees. But citing a reason that they have already passed the Government Order impugned herein, they have refused to consider the further enhancement. Hence, if the prayer of the petitioner for enhancement of a reasonable amount towards parking fees is not accepted, it will cause a great problem for regulating the vehicles which are coming to the cinema theatres. The learned counsel further submitted that against the very same Government Order, one more writ petition is pending.

3. But this Court is unable to find any justification or merit in the present writ petition, for the following reasons. Firstly, when the Government came forward to fix Rs.1/- for cycle, Rs.2/- for two wheeler and Rs.3/- for car and three wheeler vehicles for the areas covered under the Corporation/District Headquarters/Grade-I Municipalities etc., the licensee of Rohini Movie Park, Chennai and other licence holders of the cinema theatres had challenged the Rule 91-B of the Tamil Nadu Cinemas (Regulation) Rules, 1957 in W.P.Nos.10048 of 1999 etc., before this Court and the learned single Judge struck down the said rule. Aggrieved thereby, the Government filed Writ Appeal Nos.47 to 56 and 824 to 827 of 2002 batch against the said order before the Division Bench. The Hon'ble Division Bench, in its order dated 17.8.2010, setting aside the order passed by the learned single Judge, passed a detailed order holding that the Government cannot insist upon the same rates which have now become obsolete and the Government shall re-fix the parking fees after hearing the objections of the theatre owners and also the licensing authorities/District Collectors and re-fix the parking fee in accordance with law. Aggrieved thereby, Rohini Movie Park filed Special Leave Petition No.22158 of 2011 before the Hon'ble Supreme Court and the same was dismissed by order dated 9.7.2013 as withdrawn. Only thereafter, the Additional Chief Secretary to Government, Home, Prohibition and Excise Department called for the parties concerned, namely, the writ petitioners, the President of Tamil Nadu Cinema Theatre Owners Federation and Mr.K.Kathimathiyon, Coimbatore Consumer Cause for a personal hearing on 14.7.2017 and they also submitted their written statements. After hearing them, the Additional Chief Secretary/Commissioner of Land Administration also sent his report and the reports from the District Collectors and this apart, the Tamil Nadu Cinema

Theatre Owners Federation, Chennai also indicated the parking fees collected in various public places and they further stated that 324 sq.ft., is required for parking a vehicle and they are paying an average salary of Rs.10,000/- per month to 20 persons to take care of the parking space, based on which a request was made to fix the parking fees reasonably. The Additional Chief Secretary/Commissioner of Land Administration, Chennai also had recommended that the average fee, which could be considered for fixation of fee for parking vehicles in the cinema theatres, be as follows:-

Area	Cycle	Two-Wheelers (Motor)	Motor Car (Three/Four Wheelers)
Corporation	5	10	20
Municipalities	5	10	20
Town Panchayat/ Village Panchayat	2	5	10

4. The Government, after examining the entire issue, have come out with the present Government Order fixing the parking fee for the two-wheeler, car/three wheeler, by dispensing with the parking fee for cycle, as follows:-

Serial No.	Area	Parking fee		
		Car/Three Wheeler (Motor) Rupees	Two Wheeler (Motor) Rupees	Cycle
1	Municipal Corporations/ Municipalities Special Grade	20.00	10.00	Nil
2	Municipalities other than Municipalities, Special Grade	15.00	7.00	Nil
3	Town Panchayats/ Village Panchayats	5.00	3.00	Nil

This Court, finding that the Government have positively, accepting the case of the petitioner and others, revised the parking fees for all the cinema theatres including multiplex theatres in the State, bearing in mind that when the cinema goers are purchasing tickets, a duty is cast upon the cinema theatre owners to provide the parking facilities even without insisting upon the parking fees for parking their vehicles, is not inclined to interfere with the impugned Government Order. Accordingly, the writ petition fails and it is dismissed. Consequently, W.M.P.No.13005 of 2019 is also dismissed. No costs.

s/d-

Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

ss
To

1. The Additional Chief Secretary to Government
Home (Cinema) Department
Fort St.George
Chennai 600 009

+1 CC to The Govt. Pleader sr 42531.

+1 CC to Mr.I.Abrar Md Abdulla, Advocate sr 40951

W.P.No.12798 of 2019

PPA (CO)
SP(18/06/2019)

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