



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.01.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.2516 of 2010

and

M.P. (MD)No.1 of 2010

WEB COPY

Rm.M.Annamalai
S/o.RM.Muthiah,
Licensee of Theatre Sakthi,
Having Office at 28, Naicker New Street,
Madurai - 1. : Petitioner

Vs.

1.The State represented by
The Secretary to Government,
Home (Cine 2) Department,
Fort St.George, Chennai - 9.

2.The Additional Commissioner,
Cinema & Irrigation, Land Administration Department,
Chennai - 5.

3.The Collector,
Madurai District, Madurai - 20.

4.The Assistant Regional Officer,
Central Board of Film Certification,
Government of India, Sashtri Bhavan,
Chennai - 6.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus calling for records relating to the order passed by the 1st respondent in proceedings in G.O.(D)No.112, dated 04.02.2010, confirming the order of the 2nd respondent in L1/C.A.17/2006, dated 01.08.2006 and the order of the 3rd respondent in Na.Ka.C1.39289/2005, dated 18.03.2006 and quash the same.

For Petitioner : Mr.M.Rajaraman

For Respondents : Mr.M.Rajarajan,
Additional Government Pleader
for R.1 to R.3

Mr.M.S.Senthil Kumar
for R.4



ORDER

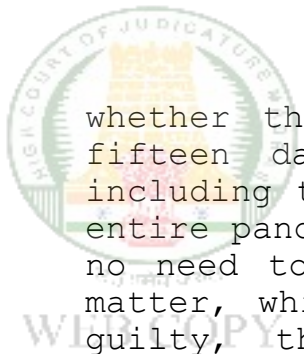
The writ petitioner has been licensed to run a cinema theatre in the name and style of "Sakthi A/c Theatre" in Madurai. An allegation was made that while screening the film "Meera age 45", certain obscene scenes were also screened. In this regard, the fourth respondent lodged a complaint, based on which the third respondent initiated action. The licensing authority issued notice to the petitioner and after holding an enquiry, came to the conclusion that the charges levelled against him stood proved. Therefore, the license of the theatre was ordered to be suspended for a period of fifteen days. This order dated 18.03.2006 passed by the District Collector, Madurai, was challenged by the petitioner by filing an appeal before the Appellate Authority. The Appellate Authority vide order dated 01.08.2006 dismissed the appeal. Questioning the same, the petitioner filed a review petition before the Government and that was also rejected vide order dated 18.12.2006. Challenging the same, the petitioner filed W.P.(MD) No.710 of 2007. The writ petition was allowed and the matter was remitted to the file of the Government to pass fresh orders, after affording sufficient opportunity to the petitioner. Thereafter, the impugned Government Order in G.O.(D)No.112, Home (Cinema) Department, dated 04.02.2010, came to be passed, confirming the order passed by the licensing authority, which was already confirmed by the Appellate Authority. This order of the Government dated 04.02.2010 is challenged in this writ petition.

2. The learned Counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of the writ petition.

3. I carefully considered the same and also went through the materials on record. The principal contention urged by the learned Counsel for the petitioner is that a case in Crime No.236 of 2005 was registered on the file of the Thilagar Thidal Police Station in this regard and that the said criminal case ended in acquittal. I am of the view that the petitioner cannot take advantage of the acquittal in the criminal case in this proceeding. This is because, the standard of proof required in a criminal case is far higher.

4. It is seen that the Assistant Regional Officer, CBFC / fourth respondent personally visited the theatre on 21.02.2005 and he had found that the offending portions were screened in the writ petitioner's theatre. Thereupon, a criminal case was lodged and the prints were also seized. The seized prints were viewed by a four member committee and they found that in, at least, five places, scenes have been interpolated. The authorities have given a clear finding that the license condition has been violated. I am, therefore, of the view that no interference is called for as regards the adverse findings rendered against the petitioner.

<https://hcservices.courts.mys.in/hcservices/> 5. Now the only question that arises for my consideration is



whether the punishment of suspension of license for a period of fifteen days should be enforced. The theatres in Tamil Nadu, including the petitioner's theatre, had to remain closed during the entire pandemic period. Therefore, I am of the opinion that there is no need to impose any additional punishment. In such view of the matter, while sustaining the impugned order finding the petitioner guilty, the punishment imposed on the petitioner by way of suspending the license for a period of fifteen days alone is set aside.

6. In the above terms, this writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

gk

To

1.The Secretary to Government,
State of Tamil Nadu,
Home (Cine 2) Department,
Fort St.George, Chennai - 9.

2.The Additional Commissioner,
Cinema & Irrigation, Land Administration Department,
Chennai - 5.

3.The Collector, Madurai District,
Madurai - 20.

4.The Assistant Regional Officer,
Central Board of Film Certification,
Government of India, Sashtri Bhavan,
Chennai - 6.

+1 CC to SGP (SR-425[F] dated 07/01/2021)

+1 CC to Mr.M.RAJARAMAN, Advocate (SR-401[F] dated 07/01/2021)

W.P. (MD)No.2516 of 2010
06.01.2021

KM (27.01.2021) 3P 7C