

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.219 of 2017

M/s. OM Shanti Realities Pvt. Ltd., Appellant
Jharsuguda

Mr. Mohit Agarwal, Advocate

-versus-

State of Odisha and others Respondents
Mr. Ishwar Mohanty, ASC

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

Order No.

ORDER
17.10.2022

06. 1. The challenge in the present appeal is to an interim order dated 18th July, 2017 passed by the learned Single Judge in W.P.(C) No.11701 of 2017 filed by the Respondents 8 to 11 questioning a licence dated 1st March, 2017 issued in favour of the present Appellant under Section 5 of the Odisha Cinemas (Regulation) Act, 1954 (the 'Act') without No Objection Certificate (NOC) from the office of Director General, Fire Services, Odisha.
2. It appears that it was in fact the second round of litigation. Earlier, these very writ Petitioners had filed W.P.(C) (PIL) No.3531 of 2017, as a public interest litigation. The said writ petition was not entertained by this Court and by an order dated

15th March 2017, it was disposed of as withdrawn with liberty to approach the authority concerned in accordance with law.

3. The claim of the Respondents 8 to 11, who filed the second writ petition being W.P.(C) No.11701 of 2017, was that since the post of Revenue Divisional Commissioner (RDC), Sambalpur was vacant, they were constrained to again approach this Court. This time, however, it appears that the petition was not projected as a PIL and it came up before the learned Single Judge. It is seen from the impugned order of the learned Single Judge that the fact that the petition was a PIL was perhaps not even taken note of. It is also possible that the learned Single Judge's attention was not drawn to the earlier order passed dismissing the earlier PIL as withdrawn. Surprisingly, in the impugned order, the learned Single Judge decided to direct the Crime Branch, Odisha to examine the bona-fides of the Petitioners and their standing. The report was also asked to indicate the distance of the school from the multiplex in question.

4. Learned counsel for the Appellant has pointed out how the distance was already measured and found to be beyond the 100 metres. It was in fact 372 m from the school and therefore not within the prohibited zone.

5. The Court is of the view that in the above background, the learned Single Judge was not justified in issuing any interim order particularly by ordering the Crime Branch to examine the bona-fides of the Petitioners and also to undertake a

measurement of the distance of the cinema complex from the school. This said directions were clearly outside the scope of the writ jurisdiction of the High Court.

6. Accordingly, the impugned interim order of the learned Single Judge is hereby set aside.

7. The writ appeal is allowed, but in the circumstances, with no orders as to costs.

8. The writ petition will now be listed before the roster Bench of learned Single Judge on 14th November, 2022. The learned Single Judge will first enquire whether the writ petition is at all maintainable before the Single Bench.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

M. Panda/S.K. Guin