

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-14474-2004 (O&M)
Date of decision: 18.11.2022**

Nandan Theatre, Amritsar

... Petitioner

Vs.

State of Punjab & others

... Respondents

**CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.
HON'BLE MR. JUSTICE SANJIV BERRY.**

Present: Mr. Alok Mittal, Advocate for the petitioner.

Mr. Gurpreet Singh, Additional Advocate General, Punjab.

...

TEJINDER SINGH DHINDSA, J. (ORAL).

Instant writ petition was filed in the year 2004 assailing the order dated 14.07.2004 (Annexure P-10) passed by the Excise and Taxation Commissioner, Patiala, Punjab declining the request for reduction of seats of Nandan Theatre, Amritsar/petitioner. Further challenge is to the order dated 12.08.2004 (Annexure P-12) passed by the District Magistrate-cum-Licensing Authority, Amritsar.

During the course of hearing today, counsel for the parties are *ad idem* that identical issue came to be dealt with by a Division Bench of this Court in **M/s Navdeep Theatres (P) Ltd. City Centre, Amritsar Vs. State of Punjab & another, 2018 (2) RCR (Civil) 777** and in which the following view was taken:

“13. The 1954 Act is a statute for taxation purposes. The seating capacity and the rates of admission determined by the District Magistrate subject to the approval of the Commissioner forms the basis for calculating the tax. Thus the District Magistrate must first allow or reject an application for

reducing the seating capacity. If the application is allowed by the District Magistrate in exercise of powers under the 1952 Act it affects the assesses' rights under the 1954 Act only if the Commissioner approves the same for the purpose of and under the 1954 Act. In other words, the question of the Commissioner's approval under the 1954 Act arises only where the District Magistrate reduces the seating capacity under the 1952 Act. As in the present case the District Magistrate/licensing authority has refused the application under the 1952 Act the question of the Commissioner's approval under section 3 D of the 1954 Act does not arise. Accordingly, there is no appealable order under section 15A of the 1954 Act.

14. In the present petitions, the grievance of the petitioner is against the orders passed by the licensing authority under the 1952 Act which are appealable under section 5(3) of the 1952 Act.

15. The petitions were pending in this Court for several years. In the circumstances, if the petitioner files appeals by 28th February, 2018, the same be decided by the Appellate Authority on merits. The writ petitions are disposed of accordingly. ”

Mr. Gurpreet Singh, learned Additional Advocate General, Punjab very fairly concedes that the instant writ petition be also disposed of in terms of the judgment rendered by this Court in **M/s Navdeep Theatres (supra)**.

Even Mr. Alok Mittal, learned counsel representing the petitioner has sought disposal of the writ petition in the same terms.

In view of such consensus having been arrived at, we dispose of instant writ petition in terms of directions reproduced hereinabove issued by

the Division Bench of this Court in **M/s Navdeep Theatres (supra)**.

For the sake of clarification, we direct that in case the petitioner now files an appeal under Section 5(3) of the Punjab Cinemas (Regulation) Act, 1952 within a period of six weeks from today, the same would be dealt with by the Appellate Authority on merits and without raising any objection with regard to limitation.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

(SANJIV BERRY)
JUDGE

18.11.2022

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| (i) | Whether speaking/reasoned? | Yes/No |
| (ii) | Whether reportable? | Yes/No |