

(1998) 11 MAD CK 0035
In the Madras High Court

Anna Theatre

APPELLANT

Vs

The Licensing Authority/Commissioner of Police

RESPONDENT

Date of Decision : 09-11-1998

Acts Referred:

Citation : (1999) 1 MLJ 623

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Judgement

S.S. Subramani, J.—Petitioner seeks issuance of writ of certiorarified mandamus calling for the proceedings of the respondent made in

Na.Ka.No. E3/(1)231, dated 25.8.1998 and quash the same and consequently direct respondent to consider the application of the petitioner for

increase in the rates of admission in their theatre as prayed for in their application dated 1.7.1998 and 23.7.1998 and pass such further orders.

2. Petitioner is a permanent cinema theatre situated at Anna Salai, Madras and the same is licensed under the Tamil Nadu Cinema (Regulation) Act

and Rules. It is said that the rate of admission in theatres are governed by the provisions contained in Rule 83(1A) of the Cinema (Regulation)

Rules. As per Sub-clause (a) of Rule 83(1A), the licensing authority is to fix the actual rates of admission to each class of accommodation

provided in the auditorium after taking into account the proposals of the licence, the, amenities provided in the theatre, the prevailing rates of

admission in similar theatres in similar localities within its jurisdiction and other relevant factors. Sub-clause (c) as it stood prior to October, 1994

enabled the licensee to have the rates of admission altered on making an application to the licensing authorities. In October, 1994, Government

issued orders permitting the licensee to alter the rates of admission by giving notice to the licensing authorities. Subsequently in 1996, Government issued revised orders placing certain restrictions on the said power. On 11.2.1997, Sub-rule (c) was amended as per which licensees were enabled to alter the rates of admission by giving a notice to the licensing authorities except with reference to the lowest class. However, proviso laid down that such increase shall not be more than 75% of the rates that prevailed prior to 28.10.1994.

3. Petitioner got the rates fixed at Rs. 20 for balcony, Rs. 16 for first class and Rs. 6 for the second class. Various writ petitions were filed before this Court questioning the amendment to the Rules brought about in February, 1997. A Division Bench of this Court confirmed the validity of the amendment and made certain observations as per which the licensees of theatres were enabled to seek alteration of the rates of admission by making an application under Sub-rule (a) of Rule 83(1A) of the Cinema (Regulation) Rules. Division Bench held that Sub-rule (c) was an enabling provision enabling the licensees themselves to alter the rates subject to certain limitations while the right to have rates of admission revised or refixed was available to the theatres under Sub-rule (a) of the Rules.

4. On the basis of the decision of the Division Bench, petitioner moved an application before the respondent for increase in the rates of admission, Before making application, petitioner has spent more than Rs. 15,00,000 to add amenities and other facilities to the theatre. In the place of Rs. 20 for balcony petitioner proposed Rs. 40 for first class Rs. 30 instead of Rs. 16 and for second class there is no change. A reminder was also sent for the request and respondent informed that the petitioner is entitled to increase the rates of admission as Rs. 25 for balcony: Rs. 20 for first class and for second class the rates are remaining unchanged. Petitioner on receipt of the said letter, again informed the respondent that the authorities have not taken into consideration various factors provided under Cinema (Regulation) Act and his demand is only reasonable. On 25.8.1998, by the impugned order, further increase in the rates of admission was rejected. The same is Challenged in the writ petition.

5. When the matter came for admission, I ordered notice of motion. Learned Government Pleader argued the matter on written instructions. I

heard both sides.

6. Rule 83(1A)(a) Tamil Nadu Cinemas (Regulation) Rules, 1957, read thus:

The licensing authority shall fix the actual rates of admission to each class of accommodation, provided in the auditorium after taking into account

the proposals of the licensee, the amenities provided in the theatre, the prevailing rates of admission in similar theatres in similar localities within this jurisdiction and any other relevant factor.

On the basis of this Rule, rates of admission will have to be fixed taking into consideration the proposals of the licensee, the amenities provided in

the theatre, the prevailing rates in similar theatre in similar localities within this jurisdiction and any other relevant factor.

7. The impugned order has not disclosed any of the reasons. If only says that it has considered material facts and fixed the rates.

8. Learned Counsel for the petitioner also brought to my notice another proceedings dated 24.10.1998 issued to Woodlands Symphony theatre,

wherein also rates of admission have been increased substantially than the theatre of the petitioner. According to the petitioner, theatres Devi, Devi

Kala and Devi Bala are situated in the same locality and are having only similar amenities and the rates they are allowed to recover are much higher

than what the petitioner is allowed to collect. It is also the case of the petitioners that various other factors also will have to be considered like

wages paid to various employees, maintenance of theatre, and various amounts to be paid to various authorities and the Government.

9. From the impugned order, I do not find on what basis respondent fixed the rate. It is only stated that it has considered relevant materials. Even

though respondent is passing only administrative orders, the rights of the petitioner are affected and naturally petitioner is entitled to know the

reasons why the rates demanded by them cannot be allowed. It cannot be based on the subjective satisfaction of the respondent. I find some force

in the said contention.

10. Since the impugned order does not state any reason for fixing the rates of admission, I quash the same and direct the respondent to reconsider

the matter once again and pass fresh orders within a period of six weeks from today. Before passing final orders, petitioner also must be given

opportunity to explain its case. Petitioner may also produce necessary materials

available with it to substantiate its demand.

11. The writ petition is allowed as indicated above. No costs, Consequently, W.M.P. No. 21575 of 1998 is closed.