

(2000) 06 MAD CK 0039

In the Madras High Court

Case No : Writ Petition No"s. 518 and 1701 of 2000 and W.M.P. No"s. 755 and 2607 of 2000

Apsara Theatre

APPELLANT

Vs

State of Tamil Nadu and 2 others

RESPONDENT

Date of Decision : 12-06-2000

Acts Referred:

Cinematograph Act, 1918 — Section 7(2)

Citation : (2000) 4 CTC 43

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : Mr. D. Dorai Rajan, for the Appellant; Mr. K. Balasubramanian, Government Advocate, for the Respondent

Judgement

1. In both the above writ petitions, the petitioner"s C form licence issued under Tamil Nadu Cinema (Regulation) Act, 1955 (hereinafter referred to

as the "Act") has been suspended by the Licensing Authority for 10 days and 15 days respectively for certain alleged violations and the said

penalty was subsequently, on appeal reduced to 3 days and 5 days respectively.

2. Learned Counsel for the petitioner contends that the Licensing Authority has not conducted any enquiry pursuant to the show cause notice and

failure to conduct such an enquiry amounts to refusal of giving reasonable opportunity of showing cause against the proposed punishment which is

not only permissible u/s 7(2) of the Act, but also violates the principles of natural justice.

3. Learned Government Advocate appearing for the respondent produced relevant files relating to the above writ petitions and contends that

section 7(2) of the Act does not contemplate any personal hearing much less an

enquiry and therefore, it is suffice to give a show cause notice

calling for explanation against the proposed punishment for passing orders or punishment after receiving explanation.

4. I have carefully considered the submissions of both sides.

5. In this regard I am obliged to refer section 7(2) of the Act which reads as follows:-

7(2) No order shall be issued under sub-section (1) until the person concerned has been given a reasonable opportunity of showing cause against

the order proposed to be issued in regard to him:

Provided that this sub-section shall not apply where the Government or the District Collector proposing to issue the order are or is satisfied that,

owing to any emergency or for some other reason, to be recorded by them or him in writing, it is not reasonably practicable to give to that person

an opportunity of showing cause.

Provided further that a copy of the reasons recorded by the Government or the District Collector for issuing the order shall be communicated to

the person concerned as soon as it becomes reasonably practicable to communicate the reasons to him.

6. Section 7(2) of the Act, without any doubt statutorily requires the Licensing Authority to give a reasonable opportunity of showing cause against

the order proposed in the case if any alleged violations or provisions of the Act or Rules, as the case may be. It is not the case of the respondents

that owing to any emergency such reasonable opportunity of showing cause is dispensed with as exempted under the first proviso to section 7(2)

of the Act.

7. Therefore, I am not able to appreciate the contentions as stated by the learned government Advocate that no enquiry is contemplated before

passing the order of proposed punishment. u/s 7(2) of the Act a show cause notice is sufficient and thereafter the Licensing Authority is only

expected to pass orders after receiving the explanation without conducting any enquiry.

8. In my considered opinion that cannot be the intention of the legislature as section 7(2) of the Act clearly requires the Licensing Authority to give

reasonable opportunity of showing cause against the proposed order of punishment which can be dispensed with only in the case of emergency

under the first proviso to section 7(2) of the Act. but not in all other cases.

9. Hence finding it difficult to sustain the original orders of licensing authority dated 17.7.97, for want of enquiry in the respective matters, the

impugned orders are set aside and the writ petitions are allowed. No costs. Consequently, WMP.Nos.755 and 2607 of 2000 are closed.