

(1982) 12 MAD CK 0008
In the Madras High Court

K. Rangaswamy	Vs	APPELLANT
The State of Tamil Nadu and Others		RESPONDENT

Date of Decision : 08-12-1982

Acts Referred:

Tamil Nadu Cinemas (Regulation) Rules, 1957 — Rule 47A(1)

Citation : (1983) ILR (Mad) 381 : (1983) 2 MLJ 149

Hon'ble Judges : G. Ramanujam, J

Bench : Single Bench

Judgement

G. Ramanujam, J.—The petitioner herein applied for a no objection certificate from the Collector of Coimbatore for locating a semi

permanent cinema in Gudalur on 7th September, 1978. The said application for no objection certificate was duly published. No objections were

received for the issue of a no objection certificate applied for by the petitioner within 14th October, 1978, the date fixed for the receipt of

objections. However, the fourth respondent filed his objections on 8th March, 1979. Since the objections were received beyond 14th October,

1978, the date fixed for filing objections, the Collector rejected the objections of the fourth respondent and granted the no objection certificate to

the petitioner on 25th March, 1979.

2. As against the order granting the no objection certificate, the fourth respondent filed an appeal before the Board of Revenue which after

considering the merits dismissed the appeal on 9th August, 1979. Thereafter the fourth respondent filed a revision petition to the State Government

u/s 9-B of the Cinemas (Regulation) Act, 1955. The said revision petition was entertained by the Government and after giving notice to the

petitioner herein and after hearing his representations, the Government considered the merits of the case and set aside the grant of no objection

certificate to the petitioner and remanded the entire proceedings before the Collector for a fresh consideration by its order dated 8th August, 1980.

The said revisional order of the Government dated 8th August, 1980, which is in favour of the fourth respondent is being challenged by the petitioner in this writ petition.

3. Two contentions have been urged by the petitioner in this writ petition. One is that the State Government cannot entertain a revision petition

beyond 90 days from the date of the order of the Board of Revenue, sought to be revised, and therefore, the Government has acted without

jurisdiction in passing the impugned order. The second contention is that since the fourth respondent filed his objections beyond the period of 15

days after the publication of the application for a no objection certificate, he cannot be taken to be an aggrieved person as has been held in very

many decisions of this Court.

4. The learned Counsel for the fourth respondent would, however, contend that merely because the objections have not been filed within 15 days

of the publication of the application for a no objection certificate the fourth respondent cannot be said to have been disabled from filing his

objections, that so long as the fourth respondent's objection dated 8th March, 1979 was before the Collector, when the final order was passed,

his objection should have been considered by the Collector and the non-consideration of his objection by the Collector vitiated the grant of a no

objection certificate by the Collector and that therefore the order of the Government setting aside the orders of the Collector is quite equitable and

just. The learned Counsel for the fourth respondent also contends that it is always open to the Government to entertain a revision even if it is filed

beyond 90 days as the Government has also the power to invoke its revisional jurisdiction suo motu and no time limit is fixed for exercising the said

suo motu power of revision.

5. Therefore, the first and foremost question to be decided in this writ petition is whether the Government could entertain the fourth respondent's

revision petition which has been filed after a delay of 139 days beyond the 30 days prescribed for filing a revision petition. For deciding this

question the statutory provisions dealing with the limitations have to be considered. Section 9-B of the Tamil Nadu Cinemas (Regulation) Act,

1955, enables the Government to exercise its revisional power either suo motu or on application by a party. However, the proviso to Section 9-B

(1) says that the revision petition to the Government shall be preferred within such time as may be prescribed. The prescription is made under Rule

47-A of the Tamil Nadu Cinemas (Regulation) Rules. Sub-rule (1) of that Rule is as follows:

The Government may entertain an application for revision against the decision of the appellate authority u/s 5(7) of Section 9-A(1) of the Act. Such

application for revision shall be preferred within thirty days from the date of receipt of the order of the appellate authority:

Provided that the Government may admit an application for revision preferred within a period of two months after the expiry of the prescribed

period of thirty days aforesaid, if sufficient cause is shown for not preferring the application for revision within the prescribed period:

Provided further that in computing the periods aforesaid, the time taken for obtaining a certified copy of the order of the appellate authority shall be

excluded:

Provided also that, where an application for revision is presented within the prescribed period of thirty days aforesaid, but is returned by the

Government for re-presentation in the prescribed manner, and if such an application for revision is re-presented in the manner prescribed and

within the date if any, specified by the Government for the re-presentation of the application for revision, the application for revision so presented

shall be deemed to have been presented within the prescribed time for the purpose of this rule.

Sub-rule (1) prescribes a period of 30 days for filing a revision petition before the Government against an order of the appellate authority. The first

proviso to that sub-rule says that the Government can entertain an application for revision preferred beyond a period of 30 days if the revision has

been filed within a period of two months after the expiry of the 30 days" period fixed under the main rule (1) if sufficient cause is shown by the

applicant for not preferring the application within 90 days. This Rule 47-A (1) enables the State Government to condone the delay in filing the

revision upto 60 days in addition to the 30 days prescribed for filing the revision. Thus the Government can entertain revision petition in its

discretion if it was filed within 90 days in the aggregate. The Government has no power as per the said rule to admit a revision petition which has

been filed beyond 90 days from the date of the order of the appellate authority. No doubt it is true that the second proviso to Rule 47-A enables

the computation of the period of limitation from the date of service of the appellate order on the revision petitioner. In this case, the date of the

appellate order on the fourth respondent was admittedly 16th August, 1979. Therefore, the fourth respondent could file a revision petition within

90 days therefrom, with an application for condonation of the delay by the Government under the first proviso to Rule 47-A (1). In this case, the

90 days period has ended on 15th November, 1979, and the revision petition has actually been filed on 4th February, 1980, with a delay of 139

days. So long as the power of the Government to entertain a revision is limited to a period of 90 days from the date of the appellate order, the

Government have no jurisdiction to entertain the revision petition in this case which has been filed beyond 90 days. In this case, since the

jurisdiction of the Government has been invoked by the fourth respondent by filing a revision petition it cannot be said that the Government has

invoked in suo motu power. Therefore, there is no escape from the application of the time limit fixed under Rule 47-A (1). In this view, the order

passed by the Government and impugned in this writ petition should be taken to have been passed without jurisdiction. Hence it has to be quashed.

The writ petition is, therefore, allowed and the order is quashed. No costs.

6. In view of the fact that the revisional order passed by the Government is held to be without jurisdiction, it is unnecessary to go into the second

question as to whether the fourth respondent is an aggrieved person or not.