
(2002) 04 MP CK 0089
In the Madhya Pradesh High Court
Case No : Writ Petition No. 872 of 2001

Laxmi Chand Jain

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 26-04-2002

Acts Referred:

Madhya Pradesh Cinemas (Regulation) Rules, 1972 — Rule 123, 123(1)

Citation : (2002) 5 MPHT 450 : (2003) 1 MPLJ 509

Hon'ble Judges : A.K. Mishra, J

Bench : Single Bench

Advocate : Rohit Arya, for the Appellant; B.N. Mishra, Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

Arun Mishra, J.

Petitioner is challenging the order passed by the District Magistrate of suspending the licence as per order (Annexure P-3) dated 31st January, 2001.

Petitioner is running a cinema hall Paras Talkies; on 30th July, 2000, a raid was made in the cinema hall and exhibition of blue film was found; offence was registered under Cinematography Act; information was sent by the Supdt. of Police, Sagar vide letter dated 23rd November, 2000; cassettes of blue films were recovered and offence was found to have been committed; challan was filed on September 5th, 2000 before the CJM, Sagar. The petitioner was required to show cause u/s 123 of M.P. Cinemas (Regulation) Rules, 1972 (for short "the Rules of 1972"). Notice was issued on 31-1-2001 to the effect that why licence should not be cancelled. Reply was required to be filed within seven days. Suspension order was issued on the same day. Petitioner submits that action to suspend the licence is in contravention of the Rules of 1972; it could not be done without issuance of show-cause notice. Thus, order (Annexure P-3) passed on 31st January, 2001 is bad in law; in contravention of the specific provision of

Rule 123 of the Rules of 1972.

The respondents in their return contend that licence of the petitioner was renewed upto 31-12-97; the licence was not renewed after 31-12-97. Thus, licence came to an end on December 31st, 1997. Petitioner does not have any right to exhibit the films as such the writ petition is liable to be dismissed.

In the rejoinder filed by the petitioner it has been contended that petitioner had deposited the renewal fee for renewal of the licence continuously as per documents (Annexures P-4 and P-5). Renewal has not been disallowed and it shall be deemed that it has been granted.

Shri Rohit Arya, learned Counsel for petitioner submits that the order is patently illegal being violative of Rule 123 of the Rules of 1972. No show-cause notice was given before suspending the licence and it was not the ground adopted in suspending the licence that the petitioner's licence was not renewed after December, 1997.

Shri B.N. Mishra, learned Govt. Advocate appearing for the respondents submits that the petitioner was found exhibiting blue films; criminal case has been filed which is pending before C.J.M., Sagar; licence was not renewed after 31-12-97; in the circumstances of the case there was no valid licence, hence principles of natural justice or issuance of show-cause notice is not required in the instant case.

The first question for consideration is whether the licence could be suspended without issuance of show-cause notice. Rule 123 of the Rules of 1972 is quoted below :--

"123. Suspension or cancellation of licence.-- (1) The licensing authority may suspend or cancel any licence granted under these rules for contravention of any of these rules, provided that the licensing authority shall give the licensee an opportunity to show cause before taking any action under this sub-rule.

(2) Notwithstanding the provisions of Sub-rule (1), the cinema licence shall be liable to immediate suspension or cancellation by the licensing authority, if, in the opinion of the licensing authority the appliances in the cinema for protection against for extinguishing fire are inadequate or in any way insufficient or in unsatisfactory condition."

It is apparent from Sub-rule (1) of Rule 123 of the Rules of 1972 that the licensing authority is obliged to give the licensee an opportunity to show cause before taking any action. In the instant case the show-cause notice was issued on January 31st, 2001 and the order of suspension was also issued on the same day. Thus, petitioner was not required to show cause before ordering the suspension of his licence. Thus, the order contravenes the specific provision of Rule 123 of the Rules of 1972 and is liable to be struck down on this count alone.

The submission raised by the learned Counsel for respondents that licence was

not renewed after December, 97 is not enough to deny the relief to the petitioner. In the instant case, no order is placed on record refusing to renew the licence. Moreover, the validity of the order has to be considered on the basis of the reasons mentioned in the order. It has not been mentioned in the order that licence stands expired and was not renewed after December, 1997. In the absence of any order refusing to renew the licence, it cannot be said that the stand taken by the respondents in the return justifying the order is proper.

In the result, the order (Annexure P-3) is quashed; liberty is given to the respondents to take an action after requiring the petitioner to show cause. Since show-cause notice (P-3) was given, petitioner may file the reply before the District Magistrate; the same shall be considered by the District Magistrate and a reasoned order shall be passed expeditiously.

The petition is allowed. Order (Annexure P-3) is quashed. Cost on parties.