
(1958) 12 MAD CK 0004
In the Madras High Court
Case No : Writ Petition No. 907 of 1958

M.C.M. Muthurama Thevar

APPELLANT

Vs

Board of Revenue and Another

RESPONDENT

Date of Decision : 05-12-1958

Acts Referred:

Tamil Nadu Cinemas (Regulation) Act, 1955 — Section 1, 5, 5(1)

Citation : (1959) ILR (Mad) 726

Hon'ble Judges : Balakrishna Ayyar, J

Bench : Single Bench

Advocate : K. Arunachala Sastri, for the Appellant;

Final Decision : Dismissed

Judgement

Balakrishna Ayyar, J.—In November 1957, the Petitioner applied to the Collector of Madurai district for a no objection certificate to locate

a touring cinema in Survey Nos. 61|4 and 63/1 of Kallupatti village in Tirumangalam taluk. The site was recommended by the District

Superintendent of Police, Madurai South, by the President of the Panchayat Board and by the Tahsildar of Tirumangalam. But, apparently none of

them mentioned the fact that an institution called the Gandhi Niketan Asramam was functioning in the vicinity. I was told that this Asramam runs a

basic school which trains about three hundred students. A sketch of the locality that was handed over to me by the learned Counsel for the

Petitioner shows that this basic school is at a distance of one thousand and eighty-one links (about two hundred and forty yards) from the place at

which the Petitioner desires to put up his touring cinema.

2. The Chairman of the Asramam and the Principal of the Rural Extension Training Centre, objected to the location of the cinema on the site in

question on the ground that

it would seriously affect the morale and discipline of the inmates of the Asramam as well as the students and trainees of other institutions.

3. The Collector considered that this objection was sound and rejected the application of the Petitioner. He was told that if he so desired, he might

select some other place in or near Kallupatti, about a mile away from the Asramam.

4. The Petitioner appealed to the Board of Revenue which recorded its view:

the reasons given by the Collector for rejecting the Appellant's request are sound.

and dismissed the appeal.

5. The Petitioner has now come to this Court for the issue of an appropriate writ to quash the order of the Collector and of the Board.

6. Learned Counsel for the Petitioner referred to Section 5(1) of the Madras Cinemas (Regulation) Act, 1955, which says that in deciding whether

to grant or refuse a licence, the licensing authority "shall have regard to the following matters". Then a number of matters are enumerated.

Objections of the kind put forward by the Chairman of the Asramam and the Principal of the Rural Extension Training Centre are outside those

enumerated in the Sub-section. The argument was that the Collector was not entitled to take into account circumstances not enumerated in the

Sub-section.

7. This argument proceeds on the assumption that the considerations enumerated in Sub-Section 1 of Section 5 are exhaustive. But, that is not so.

The words used are:

shall ... have regard to the following matters

8. Exactly similar words are used in the Motor Vehicles Act, and in quite a number of decisions under that Act given by this Court it has been held

that the considerations set out in the section are not exhaustive.

9. The concluding portion of Sub-Section 1 of Section 5 provides that the licensing authority shall take into consideration any representations that

may be made

(i) by the persons already giving cinematograph exhibitions in or near the proposed locality;

(ii) by any local authority;

(iii) by police authority within whose jurisdiction the place proposed to be licensed is situated; and

(iv) by any association interested in the giving of cinematograph exhibition.

10. Learned Counsel argued that the persons who objected before the Collector and whose objections the Collector upheld, do not fall into any

one of these four categories and that therefore they had no locus standi to make any representation.

11. This argument too I am unable to accept. The concluding portion of Sub-Section 1 of Section 5 enjoins on the licensing authority a duty to take

into consideration representations made by the authorities set out therein. It does not say that the licensing authority shall not take into account

representations made by any one else. In fact, to make a representation no specific authority is necessary. Any person who feels aggrieved is at

liberty to make his representation. It is for the authority to which the representation is addressed to decide what importance it would attach to that

representation .

12. Learned Counsel for the Petitioner next said that under the rules, the authority to which the application is addressed was bound to pass an

order within thirty days, and , that this was not done in this case. This argument would have availed the Petitioner if the rules had contained a

provision--analogous to those which exist in some of our Municipal Acts--that if orders were not passed within the time, the person making the

application would be at liberty to proceed on the basis that the licence had been granted. But, no such provision exists in the rules, framed under

the Act. This argument, therefore, does not help the Petitioner.

13. The basic school is, as I said, only about two hundred and forty yards away from the place chosen by the Petitioner for locating the cinema.

The view of the Collector that the location of the cinema near the institution would be detrimental to it appears to be a legitimate one. In the result,

this petition is dismissed.