
(1988) 05 KAR CK 0009
In the Karnataka High Court
Case No : W.P. Nos. 9042 to 9054/1987

M/s. National Video and Others	Vs	APPELLANT
State of Karnataka and Others		RESPONDENT

Date of Decision : 26-05-1988

Acts Referred:

Karnataka Police Act, 1963 — Section 31(1)

Licensing and Controlling of Places of Public Amusements Order, 1985 — Section 2(14)

Citation : (1988) 2 KarLJ 258

Hon'ble Judges : M. Rama Jois, J

Judgement

Rama Jois, J.-In all these petitions, the grievance of the petitioners is that the respondents are compelling the petitioners to secure license for running video cassette library, though no such licence is necessary under any provision of law in force.

2. Government Advocate had been directed to take notice in all the petitions except in W.P. No. 7927/1988, which has come up for preliminary hearing today. Government Advocate is directed to take notice in the said case also. As the question involved is a short one, they are taken up for final hearing.

3. The facts of the case, in brief, are as follow: Each of the petitioners is running a video cassette library. Their business consists of giving video cassettes to their customers on daily rental basis. The Commissioner of Police, Bangalore, in exercise of the powers under sub-section (1) of Section 31 of the Police Act, has issued an order called "The Licensing and Controlling of Places of Public Amusements Order, 1985 in supersession of orders on the topic which were in force earlier. By the said Order, the conditions for grant of license for conducting public amusements have been prescribed. The application for grant of license for conducting public amusement is prescribed as Form-I appended to the Order. The plea of the petitioners is that the respondents are compelling the petitioners to take license in terms of the aforesaid Order, though they were not required to do so under the provisions of the Police Act and the Orders framed thereunder.

4. The learned counsel for the respondents, however, contended that Section 31(1)(w) of the Police Act authorised the Commissioner in the City of Bangalore and the District Magistrate, in areas under their respective charges, to regulate by Orders the licensing or controlling places of public amusement or entertainment. The learned counsel also relied on the definition of the words "place of public amusement" as given in Section 2(14) of the Act. It reads:

"2(14)"place of public amusement"means any place where music, singing, dancing or any diversion or game or the means of carrying on the same is provided and to which the public are admitted and includes a race course, circus, theatre, music hall, billiard room, beagattelle room, gymnasium, fencing school, swimming pool or dancing hall."

The learned counsel submitted that the carrying on the business of video cassette library falls within the scope of the Order made by the Commissioner of Police under Section 31(1)(w) of the Act and therefore the respondents were right in insisting on each of the petitioners to take license under the Order.

5. If the nature of business of the petitioners can be regarded as conducting public amusement or entertainment and their shops can be regarded as places of public amusement or entertainment, the contention advanced by the learned counsel for the respondents would be unexceptionable. But the short question for consideration is, whether the place of shop where the video cassettes are kept can be regarded as public amusement or entertainment. I am unable to appreciate as to how the keeping of video cassettes in a particular premises with the object of giving it to the customers on rental basis could be regarded as a place of public amusement or entertainment. It is not the case of the respondents that the petitioners are carrying on video shows at their place of business. The learned counsel submitted that in view of the definition of the words "place of public amusement", not only the place where a person conducts music, singing, dancing or any other diversion or game has to be regarded as a place of public amusement, but also a place where the means of carrying on the same is provided, should be regarded as place of public amusement. In support of this, he relied on the definition given in Section 2(14), extracted earlier.

6. I am unable to agree with the submission made by the learned counsel for the State. The definition, in my opinion, is clear and unambiguous. A place can be regarded as a place of public amusement if in such a place music, singing, dancing or any diversion or game is conducted by the owner or the means of carrying on any such activity in that place by others is provided and the carrying of such activity by others is permitted by the owner. As far as the petitioners are concerned, in their place of business all that is being done is, some video cassettes are kept and they are being given on rental basis to their customers. No activity of music, singing, dancing or any diversion or game is conducted in the premises either by the owner or by any other person with the permission of the owner. Therefore, the provisions of Section 31(1) (2) are not at all attracted.

7. In the result, I make the following order:

(i) The writ petitions are allowed, (ii) A direction shall issue to the respondents not to insist or compel the petitioners to take a license under the provisions of the Licensing and Controlling of Places of Public Amusements Order, 1985, so long they are carrying on only the business of giving video cassettes on rental basis in their respective business premises.

Sri N Devadas, HCGP, is permitted to file memo of appearance in such of the petitions in which he has not put in appearance, in two weeks.

Writ petitions dismissed.