
(2000) 02 MAD CK 0034

In the Madras High Court

Case No : Writ Petition No's. 4932 to 4935 and 4946 to 4950

M/s New Royal Talkies

APPELLANT

Vs

The District Collector Thirunelveli.. Thirunelveli Dist.

RESPONDENT

Date of Decision : 11-02-2000

Acts Referred:

Tamil Nadu Cinemas (Regulation) Act, 1955 — Section 10(2)(1)

Citation : (2000) 3 CTC 289

Hon'ble Judges : R. Balasubramanian, J

Bench : Single Bench

Advocate : Mr. Sureshkumar, for the Appellant; Mr. S. Gopinathan, Government Advocate, for the Respondent

Judgement

1. The respondent licensing authority in each of the above writ petition had sent a communication dated 20.2.93 to all the ""C"" form licence holders.

The circular is identical. Under the said circular the licensees are informed that it is brought to the notice of the licensing authority that the licensees

are charging fee for parking cycles, scooters and other vehicles and this act of the licensees is in violation of condition No.16 attached to the ""C

form licence, as such a right to collect the money is not specifically provided for. Therefore the licensees are informed that if they indulge in

collecting parking fee for the purpose mentioned above, action will be taken against them in accordance with the Tamil Nadu Cinemas (Regulation)

Act, 1955 for violation of the licence conditions. This circular, which is common and addressed to various licensees, is being challenged in all the

above writ petitions. Heard the learned counsel on either side.

2. It appears that condition No.16 as it stood originally and attached to the licence empowers the licensee to collect a fee not exceeding 5 N.P. for

each cycle kept in the cycle stand situated in the theatre complex. This condition appears to have been in force upto the year 1967. In

W.P.No.3352 of 1965 this condition was challenged by a licensee and this court by judgment dated 26.3.68 quashed the said condition so far as

it restricts the licensee from collecting anything over and above 5 N.P. per cycle kept in the cycle stand. This judgment appears to have become

final. Thereafter G.O.Mn No.762 dated 18.10.69 was brought Into force Under this Government Order condition No.16, as it stood upto the

year 1967, underwent a change. The change was that, the restriction imposed on the Licensees not to collect a fee in excess of 5 N.P. for each

cycle kept in the cycle stand, was totally omitted. In all other aspects, condition No.16, as it stood originally, remained unaltered. On the ground

that condition No.16, as it stood after the amendment referred to above, does not specifically provide for, the licensees to collect any parking fee

at all in respect of the vehicles brought into the theatre complex and noticing that all the ""C"" Form licence holders are collecting various amounts as

parking fees, the circular challenged in each of the above writ petition had come to be issued.

3. It is also on record that the Government by G.O.Ms.No.678 dated 18.5.99 introduced Rule 91-B in the Tamil Nadu Cinemas (Regulation)

Rules, 1957. Section 10(2)(1) in the main Act was also brought in by the Tamil Nadu Amendment Act 3 of 1998. This section enables the

Government to make Rules to fix fees for the parking of the vehicles in the theatre complex. Exercising this power, Rule 91-B had been

introduced. The validity of section 10(2)(1) of the Tamil Nadu Cinemas (Regulation) Act, 1955 as well as Rule 91-B of the Tamil Nadu Cinemas

(Regulation) Rules, 1957 was challenged before this court in a batch of writ petitions namely, W.P.No.10048 of 1999, etc., batch and a learned

Judge of this Court by judgment dated 30.9.99 held . that section 10(2)(1) of the Said Act is valid. The learned Judge also held that the

Government has the power consequently to frame Rules fixing the fee to be collected by the ""C"" Form licence holders for parking vehicles in the

theatre. The learned Judge further held that Rule 91-B is also valid and within the Rule making power. But however the learned Judge was inclined

to quash the rates alone fixed in purported exercise of the power under Rule 91-B on the ground that -the rates as fixed have not taken into

account the relevant materials. Therefore it is clear that as on date there is no prescribed fee, which a "C" Form licensee can charge.

4. In the absence of such a fee to be collected by the "C" Form licence holders, the question that arises is whether the licensing authority is acting in

accordance with law in telling the "C" Form licence holders not to collect any parking fee at all. As already stated originally condition No.16 of the

"C" Form "licence did not enable any licensee to collect more than 5 N.P. per cycle. The ceiling limit had been quashed by this Court. Later on,

condition No.16 was amended and it contains no restrictions regarding the right of the "C" Form I licenses to charge parking fee. Realising that the

"C" Form licence holders are entitled to collect the parking fee, the Government, in order to regulate the collection of parking fee, had introduced

Rule 91-B. After the parking fee as fixed under Rule 91-B had been quashed, the position as on date is that the Government has not fixed any

parking fee in respect of the vehicles that are parked in the cinema, theatre. Therefore it is clear from the above that the Government itself is aware

of the fact that the "C" Form licence holders are entitled to collect the parking fee for the vehicles parked in the cinema theatres but it only wanted

to regulate the same. Till the Government comes out with a regulation, regulating the parking fee to be collected for the vehicles parked in the

cinema theatre, the licensing authority would not be Justified in telling the "C" Form licence holders not to collect any parking fee at all. Therefore I

am of the opinion that the circular sent to each of the licensee has no legal force. Accordingly the circular challenged in each of the writ petition is

quashed.

5. However as and when the Government fixes the parking fee exercising the power under Rule 91-B, then it is always open to the Government to

implement the same against all "C" Form licence holders. If they choose to do so, this order will not stand in the way of the Government in

implementing such regulatory measure. All the writ petitions are allowed with no order as to costs. Consequently the connected W.M.Ps. are

closed.