

(2021) 11 OHC CK 0081

In the Orissa High Court

Case No : Writ Petition (Civil) No. 646 Of 2016

Navin Kumar Pathak

APPELLANT

Vs

Collector, Puri & Others

RESPONDENT

Date of Decision : 11-11-2021

Acts Referred:

Orissa Cinemas (Regulation) Act, 1954 — Section 3, 5

Orissa Cinemas (Regulation) Rules, 1964 — Rule 6(1), 6(2), 6(3), 8(1), 9(2), 10, 12, 18

Citation : (2021) 11 OHC CK 0081

Hon'ble Judges : Arindam Sinha, J

Bench : Single Bench

Advocate : S.S.Rao, P.C.Panda, P.K.Jena

Final Decision : Disposed Of

Judgement

Arindam Sinha, J

1. Mr. Rao, learned advocate appears on behalf of petitioner, who wants renewal of cinematograph licence. He submits, the licence was granted for three years and expired on 31st March, 2015. On 28th August, 2015, there was order made in Cinematograph Appeal no.1 of 2015, whereunder order dated 27th March, 2015 passed by the Collector was not interfered with. The Collector by said order refused further renewal of licence until civil dispute is over and final disposal of OJC no.1221 of 2001.

2. He relies on section 3 in Orissa Cinemas (Regulation) Act, 1954 and rule 18 in Orissa Cinemas (Regulation) Rules, 1964. He submits, his client had three years' licence and had applied prior to its expiry. Thus, there was compliance with section 5. Procedure under rule 18 must be followed for purpose of renewal of licence. Mr.Jena, learned advocate appears on behalf of private opposite parties and submits, there is long pending civil dispute and there is apprehension of breach of peace because the cinema hall stands on property, which petitioner is wrongfully holding and seeking to run cinema hall. He is also making

unauthorized construction. As such, there should be no interference with order of appeal. He submits further, his clients have filed writ petition challenging finding by Member Board of Revenue that the land stands vested. Mr. Panda, learned advocate appears on behalf of State and also opposes the petition. He relies on clauses (i) and (ii) in sub-rule (1) rule 8 to submit, for purpose of renewal too, these clauses apply. He submits, the land is vested to the government. Petitioner not being owner of the land, there is no case for renewal.

3. It is admitted that licence issued was for a period of three years. That makes the licence, class 'B' licence under sub-rules (1), (2) and (3) in rule 6. Sub rule (2) in rule 9 provides for the application of renewal to be accompanied by copies of the certificates of inspection last conducted by the Public Works Department etc. Sub rule (3) says, Licensing Authority may, if necessary, obtain further certificate of verification from inspecting authorities. Rule 12 provides for inspection.

4. The Licensing Authority will reconsider the renewal application of petitioner in light of record of submissions and observations made above. If the application of petitioner satisfies the requirement in section 5, for purpose of grant of new licence, then renewal should be granted. Otherwise, a fresh order is to be passed refusing the renewal and communicated to petitioner in accordance with rules. It is to be noted that rule 10 provides for communication of the decision within one month beyond expiry of licence. That is not applicable here. Hence, communication is to be made within two months from date of communication of this order, allowing for inspection in the meantime, if directed by Licensing Authority. Impugned orders are set aside and the renewal application restored to the Licensing Authority.

5. The writ petition is disposed of.

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