

(1993) 02 AHC CK 0095

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 10918 of 1991

Pawan Palace

APPELLANT

Vs

Licensing Authority/District Magistrate and Another

RESPONDENT

Date of Decision : 12-02-1993

Acts Referred:

Uttar Pradesh Cinematograph Rules, 1951 — Rule 3, 4

Citation : (1993) 2 AWC 927

Hon'ble Judges : S.N. Saxena, J;A.P. Misra, J

Bench : Division Bench

Advocate : Govind Krishna, for the Appellant;

Final Decision : Allowed

Judgement

A.P. Misra, J.—Heard Sri Govind Krishna for the Petitioner and learned Standing Counsel for the Respondents.

2. In view of the exchange of affidavits between the parties the present writ petition is being disposed of finally at the stage of admission in accordance with the Rules of Court.

3. The Petitioner seeks quashing of order dated 19th February, 1991 (Annexure 14 to the Petitioner by virtue of which Petitioner's application for grants-in-aid under G.O. dated 21st July, 1986 was rejected and further directing the Respondents not to cancel the cinematograph tograph exhibition licence and restraining them from realising Entertainment Tax from the Petitioner.

4. The brief facts are, for promotion of cinema exhibition the Government issued a G.O. dated 21st July, 1986 (Annexure 1 to the petition) for construction of permanent cinema building and providing grants-in-aid under it The Petitioner in consequence to it filed an application date 14th January, 1988 under Rule 3 of U.P. Cinematograph Rules, 1951 for construction of the cinema building and the said application was allowed on 4th March, 1989 for constructing the same. Thereafter, the Petitioner applied for licence on 15th March, 1990, under Rule 4

for exhibiting the feature films (Annexure 4 to the writ petition). The Respondent No. 1 thereafter desired the Petitioner to submit six documents before the application could, be considered for the same. The Petitioner did submit them on 30th March, 1990. While filing the required document as aforesaid the Petitioner desired the authorities for making inspection but no inspection was made. Time and again, the Petitioner approached the Respondents for granting licence, but no orders could be passed. Then, on 12th October, 1990, the Petitioner moved an application before the Commissioner, Entertainment Tax for directing the licensing authority to grant the same and also for granting grants-in-aid. On the other hand, pertaining to the Inspection of Petitioner's cinema building on repeated requests by the Petitioner the Chief Medical Officer, Fire Officer and Electrical Inspector submitted their reports only on 4th May 1990, 1st August, 1990 and 17th September, 1990. This delay in the inspection and submitting report was on account of slackness of the concerned Respondent authorities. Thereafter, as a consequence of a direction issued by the Respondent No. 2 on 26th October, 1990, the Respondent No. 1 on 15th November, 1990, informed the Petitioner that his application for the grant of licence under the scheme cannot be considered since the Petitioner has not complied with Rule 4 of the Act, and consequently rejected his application (Annexure 11 to the petition). Aggrieved as against that the Petitioner approached again the Respondent No. 1 and informed him that every formality has been completed by him as required for the grant of licence. Subsequently, the Respondent No. 1 granted licence from 1st December, 1990. The Petitioner again remained through an application on 1st February, 1991 for the grants-in-aid facility to the Petitioner. The Respondent No. 1 without considering whether the Petitioner has complied with all the conditions summarily rejected the claim of the Petitioner on 19th February, 1991 (Annexure 14 to the petition) by means of the order impugned in this petition.

5. On behalf of the Respondents, there is not much dispute pertaining to the facts. What is urged is, since his application under Rule 4 was not in accordance with the requirements of the said rule and as per the said scheme under the said G.O. only those cases would be covered for the grants-in-aid benefit who makes an application for exhibition of cinema between 1st January, 1983 and on or before 31st March, 1990 and since actual licence was granted after 31st March, 1990, as certain formalities were only concluded subsequent to the last date and formalities not being completed the application would not be an application as required under Rule 4, and therefore, the Petitioner would not be entitled for the benefit of grants in aid under the said scheme. Under paragraph 4 of the said scheme the benefit is to be given only to such persons who make an application for exhibiting cinematograph films in a permanent cinema building within the aforesaid periods.

6. The short question and the only question for consideration by us is whether on the facts and circumstances of this case under the said scheme the Petitioner would qualify for the grants-in-aid or not. It is not in dispute that the Petitioner did make an application, after permanent construction of the cinema building

with a prior permission "granted for it by the authorities, under Rule 4 on 15th March, 1990 within the stipulated period under the said scheme. Rule 4 does specify the documents which have to accompany the said application. The Respondent-authorities desired those documents to be submitted by the Petitioner which did not accompany in the aforesaid application. That was also filed on 30th March, 1990, that is to say, within the said period Thereafter, the formalities relating to the inspection and submitting the reports by Chief Medical Officer, Fire Officer and electrical Inspector was admittedly submitted later on and actual grant of licence was also issued to the Petitioner from 1st December, 1990. The act of grant of licence under Rule 4 and submitting the three reports admittedly is beyond the said period. However, making of an application and also filing the documents accompanying the said application as required under Rule 4 was submitted within the said period. In such a situation the contention on behalf of the Respondent-State that since the Petitioner obtained the reports from the concerned officers belated and licence itself having been granted much later he would be ineligible under the G.O. is not sustainable. The significant words under paragraph 4 of the said G.O. are to give benefit of grants-in-aid only to those portions who make an application for the grant of licence (Rule 4) within the said period. The language is not actual grant of licence or even submitting of the reports of the officer concerned. So far as submitting the reports by the said three officers the Petitioner has requested for submitting the said reports. If at all there is delay in it, by the said officers that could not be on account of Petitioner's laches. In fact, initially when delay was caused in disposal of the application he moved the Commissioner and subsequently on the direction of the Respondent No. 2 his said application was rejected, but later on approaching the concerned authority saying everything has been completed by the Petitioner, the said licence was granted. Apart from the slackness or slow disposal of the Petitioner's application in our considered opinion, this is not relevant for the purpose of claim of Petitioner for grants-in-aid under the said G.O. Even if promptly the concerned Respondent-officers submitted reports would make no difference. As we have said above, the words used in the said G.O. are "making an application for the licence", of course, within the said period. Making of an application for licence could not be granting a licence. If the intention was to benefit only those who have obtained licence for exhibition of films, the words "making of an application" would not have been there, instead grant of licence would have been there. In the pretest case, it is not grant of licence but only making of an application for licence is the requirement under the said G.O. in the present case, we find, not only an application was made within the said period, even accompanying documents as required under Rule 4 were also submitted within the said period and hence rejection of the claim of the Petitioner for grants-in-aid by means of impugned order is unsustainable.

7. We accordingly allow this petition and quash the order dated 19th February, 1991 (Annexure 14 to the writ petition). We further declare that under the said scheme the Petitioner is entitled for grants-in-aid under the G.O. dated 21st July.

1986 (Annexure 1 to the petition) The Respondent-authority will in terms of the decision given by us above, pass orders granting the grants-in-aid to the Petitioner under the said G.O. Costs on parties.