
(1975) 02 AP CK 0008
In the Andhra Pradesh High Court
Case No : W.A. No. 98 of 1975

Puli Veera Raghavaiah

APPELLANT

Vs

S. Subba Rao and others

RESPONDENT

Date of Decision : 07-02-1975

Acts Referred:

Citation : (1975) 02 AP CK 0008

Hon'ble Judges : A. Sambasiva Rao, Acting C.J.; Shiv Shanker, J

Bench : Division Bench

Advocate : G.V.R. Mohan Rao, for the Appellant; A. Suryanarayana Murthy for the Respondent No. 1 and The Government Pleader for Police of behalf of the Respondent Nos. 2 and 3, for the Respondent

Final Decision : Dismissed

Judgement

Hon"ble Mr. A. Sambasiva Rao, Acting Chief Justice

1. Despite very prolonged and persistent arguments worthy of a far better cause, that too for a final disposal we are not at all satisfied that the decision rendered by our learned brother, Sriramulu, J. allowing the writ petition is wrong. On the other hand, on an examination of the relevant rules, we are satisfied that the licence for the temporary theatre which was given to the appellant before us is repugnant to the rules and is liable to be struck down which our learned brother has done. The licence for construction of a temporary theatre in favour of the appellant before us was granted by the District Revenue Officer, Krishna to be located in the village of Pedapudi. Though its permanent population is only 2000, it is admitted that the population of the environs within a radius of 8 kilometres from the village is 53,000. It is also seen from the Tahsildar's report that a permanent theatre has been functioning only at a distance of 450 metres, from this temporary theatre. That being the case, the granting of licence to the appellant is contrary to the restrictions imposed by Rule 7 of the Cinemas (Regulation) Rules on grounds of population and distance, Rule 7 (1) (e) says where the population is over 50,000 only three temporary Cinemas shall be

allowed if there is only one permanent Cinema. However, clause (c) of sub-rule (2) of the same rule says that there should be a distance of one Kilometer in cases falling under clauses (d) and (e) of sub-rule (1) between a permanent cinema and a temporary cinema even if the latter is outside the limits of the place. As per sub-rule (4) population of the environs of the village within a radius of eight Kilometres shall be taken into consideration for calculating the population of the place for purposes of sub-rule (1). When that is done as we have already pointed out, the population of the area is 53,000 and consequently, the place comes within the scope of clause (e) of Rule 7 (1). Then clause (c) of Sub-rule (2) enjoins that in such a case there should be a distance of one Kilometer. Since the distance between the permanent theatre and the appellants temporary theatre is only 450 metres the granting of the licence is clearly opposed to the restrictions imposed under Rule 7 on grounds of population and distance. This should have been sufficient for cancelling the licence and affirming our learned brother's order allowing the writ petition and setting aside the order granting temporary licence in favour of the appellant.

2. Sri Mohan Rao, learned counsel for the appellant has elaborately argued that the so called fiction contained in sub-rule (4) of Rule 7 cannot be extended for purposes of fixing the number of cinema buildings, as that sub-rule states that the fiction will have to be applied only for purposes of calculating the population of the place for purposes of sub-rule (1). According to the learned counsel the purpose of sub-rule is only to fix the number of cinema buildings. To say the least, the learned counsel is misreading the entire scope and amplitude of Rule 7. That rule, as a whole, places restriction on the number of cinema buildings on grounds of population and distance. Otherwise, the restrictions mentioned in sub-rule (2) have no meaning and have no place in Rule 7. Clauses (a) to (e) of sub-rule (1) relate to population and that is why sub-rule (4) even if it is to be said that it introduces a fiction, says that in calculating the population of a place account shall be given to the population of the environs within a radius of 8 Kilometres. When sub-rule (4) in so many words says that this calculation is for the purposes of arriving at the population of the place, there is no justification whatever in the contention of the learned counsel that sub-rule (1) is only for fixing the number of cinema buildings. So we are unable to accede to this argument. We have therefore no hesitation in agreeing with our learned brother and in holding that the licence issued to the appellant should be set aside. The writ appeal is accordingly dismissed.