

(1968) 03 MAD CK 0002
In the Madras High Court

Royal Arts		APPELLANT
	Vs	
State of Madras and Another		RESPONDENT

Date of Decision : 22-03-1968

Acts Referred:

Citation : (1968) 2 MLJ 297

Hon'ble Judges : P. Ramakrishnan, J

Bench : Single Bench

Judgement

P. Ramakrishnan, J.—The point raised for decision in this writ petition is a short one. The petitioner is a licensee licensed to run cinema

exhibitions in a theatre in Coimbatore. In his cinema theatre he had put up a cycle-stand. This cycle-stand is leased to one Muthuswami. On an

average about 1,500 cycles used to be parked per month during the shows. The lessee used to employ three boys on a salary of Rs. 60 each per

month for looking after the cycles and he was charging 10 nP. per cycle for parking in the cycle-stand. While the affairs stood thus, the first

respondent, State Government of Madras, issued an order in G.O.Ms. No. 2508, Home, dated 7th August, 1963 amending the rules, under the

Madras Cinema (Regulation) Act. By this amended rules, a further Condition, No. 16 was added to the previous conditions of the licence in Form

"C" granted to the cinema exhibitors:

16. The licensee shall provide a suitable cycle-stand for all cycles that may reasonably be expected and appoint a caretaker to look after the

cycles. The licensee may collect a fee not exceeding five naye paise for each cycle kept in the cycle stand.

In pursuance of the above amended rule, the petitioner was informed -that his

lessee should not collect at the rate of 10 nP. per cycle in the cycle-stand and if he were to do so, the second respondent, the licensing authority would take disciplinary action against the petitioner.

2. It is contended by the petitioner that it was entirely outside the jurisdiction of the authorities whether it be the Government or the licensing authority, to prescribe for the charges which, the petitioner should levy on the users of this cinema hall whether it be for the value of the tickets purchased by the people who come there to witness the shows or for the license fee charged to those people who have come to witness the shows and who feel the necessity of parking their cycles outside the theatre, and for that purpose use the stand which the management has provided. Just as in the case of levy of charges for the tickets for witnessing shows, for which the proprietor has full discretion, he will also have A similar discretion in the matter of levying charges for the use of the amenity of cycle-stand which he has provided. For the first mentioned proposition that the levy of charges for witnessing cinema shows is entirely within the discretion of the licensee and cannot be interfered with by any rule which may be issued by the licensing authority, learned Counsel for the petitioner refers to an unreported decision of Veeraswami, J., in *Universal Theatre, Thuppur v. The Collector of Coimbatore, etc.* W.P. Nos. 174, 198 and 199 of 1960, Where the learned Judge struck down as illegal an order by Which the licensing authority directed a cinema licensee to , charge the same rate for people occupying the benches as they were theretofore charging those occupying the bare floor for witnessing the shows. But in the present case, apart, from the principle laid down in the decision above cited, the impugned order itself states that what is to be collected from the users of the cycle-stand is a fee for such user. In that event, the licensee can correlate the quantum of the fee to the actual expenses incurred for providing amenities. That Will again depend upon the salary he pays to the caretakers and any other expenses like lighting, cost of the upkeep of the stands and so on and provided at the cycle-stand. Therefore, to prescribe an invariable maximum for the fee, without taking into account the actual expenditure that the licensee may have to incur for providing the service or amenity in question will be entirely ultra vires and illegal. Therefore, I have no doubt that the rule mentioned above providing for an

upper limit for the fees to be collected from the users of the cycle-stand was beyond the jurisdiction of the rule-making authority. Hence, that part of the rule which prescribes that the fee collected from the users of the cycle-stand should not exceed 5 nP. for each cycle is struck down as ultra vires and beyond the competency of the rule-making authority. No order as to costs.