(2000) 10 MAD CK 0041

In the Madras High Court

Case No : W.P.No.18015 of 1992

Thangamani Theatre APPELLANT

Vs

Appellate and the Joint Commissioner (L), Land Administration Department, Chepauk, Madras 5 and another RESPONDENT

Date of Decision : 11-10-2000

Acts Referred:

Tamil Nadu Cinemas (Regulation) Act, 1955 — Section 9(1), 9(2)(A)
Tamil Nadu Entertainments Tax Act, 1939 — Section 14(1), 15

Citation : (2000) 10 MAD CK 0041

Hon'ble Judges : P.D. Dinakaran, J

Bench : Single Bench

Advocate : Mr.S. Subbiah, for the Appellant; Mr.V. Rangaraju, Government Advocate, for the Respondent

Judgement

1. The petitioner in the above writ petition precisely challenges the order of the licensing authority, namely, the second respondent dated 2.8.1989

suspending the ''C'' Form License of the petitioner theatre for 15 days for alleged violation that they had permitted 26 persons without ticket.

2. No doubt, the petitioner had compounded the said offence under Sections 14(1) and 15 of the Tamil Nadu Entertainment Tax Act, 1939,

however in his explanation dated 18.7.1989 submitted in reply to the show cause notice dated 8.6.1989 of the second respondent issued u/s 9(1)

of the Tamil Nadu Cinemas (Regulations) Act, 1955, denied the very violation, but the second respondent by proceedings dated 2.8.1989 which

is impugned in the above writ petition without going into the explanation, rejected the same and held that his explanation cannot be accepted as the

petitioner has already compounded the offence under Sections 14(1) and 15 of the Tamil Nadu Entertainment Tax Act, 1939, and therefore suspended the ''C'' Form License of the petitioner theatre for 15 days. Hence the above writ petition.

3. No doubt, the Divisional Bench of this Court in Sri Kamatchi Theatre v. District Collector, Madurai, 2000 (2) LW 255 held that a detailed

enquiry is not necessary and a show cause notice u/s 9(2)(A) of the Tamil Nadu Cinema (Regulations) Act, 1955 alone is sufficient. But,

admittedly, even though in the instant case a show cause notice dated 8.6.1989 was given to the petitioner to which the petitioner submitted his

explanation on 18.7.1989, the second respondent licensing authority by impugned proceedings dated 2.8.1989 did not deal with the explanation,

but rejected the same on the ground that the petitioner had admitted violation, compounded the offence and paid the compounding fee under

Sections 14(1) and 15 of the Tamil Nadu Entertainment Tax Act, 1939.

4. Even assuming no detail enquiry is required and it is sufficient to issue a show cause notice, as held by this Division Bench of this Court in Sri

Kamatchi Theatre v. District Collector, Madurai, 2000 (2) LW 255, in my considered opinion, the licensing authority have to consider the

explanation submitted by the petitioner dated 18.7.1989 to the show cause notice dated 8.6.1989 independently, irrespective of the proceedings

for compounding the offence u/s 14(1) and 15 of the Tamil Nadu Entertainment Tax Act, 1939.

Since the licensing authority had not considered the explanation of the petitioner dated 18.7.1989 independently, irrespective of the proceedings

for compounding the offence under Sections 14(1) and 15 of the Tamil Nadu Entertainment Tax Act, 1939, the impugned proceedings dated

2.8.1989 of the licensing authority suffers for violation of the principles of natural justice and therefore stands quashed.

The writ petition is allowed accordingly. No costs.

