

Gyanti Devi Vs. State of Bihar and ors.

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Court : Patna

Decided On : Mar-27-2001

Judge : S.N. Jha and I.P. Singh, JJ.

Acts : Bihar Cinemas (Regulation) Act, 1954 - Sections 6, 7 and 8

Appeal No. : I.P.A. No. 267 of 2001

Appellant : Gyanti Devi

Respondent : State of Bihar and ors.

Disposition : Appeal dismissed

Prior history : 1. This appeal arises from order of the learned single judge in C.W.J.C. No. 2734 of 2001 by which the learned Judge dismissed the writ petition of the appellant. By the order under challenge the exhibition of the film KOYA was suspended and the cinema hall was put under lock. The learned single Judge took the view that an order suspending the exhibition of the cinema show comes under Section 6 of the Bihar Cinema (Regulation) Act, 1954 (wrongly noted as Cinematograph Act in the order) and as

Judgement :

1. This appeal arises from order of the learned single judge in C.W.J.C. No. 2734 of 2001 by which the learned Judge dismissed the writ petition of the appellant. By the order under challenge the exhibition of the film KOYA was suspended and the

cinema hall was put under lock. The learned single Judge took the view that an order suspending the exhibition of the cinema show comes under Section 6 of the Bihar Cinema (Regulation) Act, 1954 (wrongly noted as Cinematograph Act in the order) and as that order is appealable under Section 7 of that Act but the appellant had not preferred an appeal against the order, he declined to entertain this petition.

2. When the appeal was taken up for preliminary hearing on 22-3-2001 counsel for the State fairly stated that provisions of Section 7 of the said Act are not attracted in the instant case but in view of the provisions of Sub-section (2) of Section 6 of the Act which provides information of the order by the State Govt. he took time for instructions. Today when the case was taken up he produced copy of letter No. 863 dated 24-3-2001 of the Additional Secretary, Urban Development informing the District Magistrate, Jahanabad that under Section 8 of the Act the District Magistrate is competent to cancel or suspend the cinema licence and therefore, it is open to him to take necessary action in accordance with law. The aforesaid letter is based on complete misapprehension of the point involved. Section 6 of the Bihar Cinema (Regulation) Act, 1954 confers power on the State Government or the District Magistrate to suspend the exhibition of any film. Sub-section (1) lays down that the State Government, in respect of the whole State or any part thereof, and the District Magistrate in respect of the local area within his jurisdiction, may if it or he is of opinion that any film which is being

publicly exhibited is likely to cause breach of the peace, by order, suspend the exhibition of the film, and during such suspension the film shall not be exhibited in the State, part of the State, or local area, as the case may be. As per Sub-section(2) where such order is issued by the District Magistrate he is required to forward a copy of the order along with the statement of reasons therefor to the State Govt. Thereupon 'the State Government may either confirm or annul the order'. In view of the provisions of Sub-section(2) the State Government was required to take a decision to either confirm or annul the impugned order of the District Magistrate.

3. However, we do not want to go into this aspect of the matter. Sub-section (3) of Section 6 lays down that any order made under Sub-section (1) shall, unless it is annulled by the State Government under Sub-section (2), shall remain in force for a period of two months, though the State Government may, if it is of opinion that the order should continue in force, extend the period of suspension by such further period as it thinks fit.

4. The impugned order having thus lapsed with the efflux of time it is not necessary to consider the validity of the impugned order of the District Magistrate. But as the cinema hall of the appellant is said to be under lock, preventing the appellant from exhibiting any film whatsoever, we would observe that unless the cinema licence is suspended or cancelled there cannot be a blanket closure of the cinema hall. Needless to say that while proceeding to suspend or cancel the licence the licensing authority is required to follow the prescribed procedure. It is thus open to the District Magistrate to take suitable action as he considers proper in the matter for suspension/cancellation of licence but till such action is taken, the appellant must be allowed to exhibit film in the cinema hall M/s Sheo Shanker Chitra Mandir, Jahanabad in accordance with law.

5. Before parting with the case we must record the undertaking of the counsel for the appellant on instructions, that in future the appellant will see to it that no objectionable film is exhibited in the cinema hall.

6. Subject to the above observation this appeal is dismissed.

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