

Sangeetha Enterprises Vs. the District Magistrate

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Court : Karnataka

Decided On : Jul-07-2005

Reported in : ILR2005KAR3380; 2005(5)KarLJ23

Judge : Chidananda Ullal, J.

Acts : Karnataka Cinemas (Regulation) Rules, 1971 - Rule 85

Appeal No. : Writ Petition No. 17410/2005

Appellant : Sangeetha Enterprises

Respondent : The District Magistrate

Advocate for Def. : H.M. Manjunath, HCGP

Advocate for Pet/Ap. : K. Chandrashekar, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Chidananda Ullal, J.

1. Since the instant writ petition has been listed for preliminary hearing, I have taken up the matter for final disposal. Hence, Rule is issued.

2. The learned Government Pleader is directed to take notice for the respondent.
3. It is the complaint of the petitioner is that the respondent-District Magistrate was insisting upon him for production of entertainments tax clearance certificate from the competent Authority, probably that was done by him for the reason that somewhere in the year 1985, Sub-clause (iii) of Rule 85 of Karnataka Cinemas (Regulation) Rules, 1971 came to be inserted to say that for the purpose of renewal of licence, production of entertainments tax clearance certificate has to be produced.
4. During the course of argument, Sri Chandrashekar, the learned counsel for the petitioner, had produced a xerox copy of judgment of Division Bench of this Court in W.P. No. 19904/1985 (DD 30.6.1992).
5. As I see, in the above decision, the Division Bench had struck down Sub-clause (iii) of Rule 85 of Karnataka Cinemas (Regulation) Rules, 1971. In paras-5 and 6 of the aforesaid decision, the Division Bench had held as hereunder:

'5. The view we have taken about the scope of the Act and the purpose sought to be achieved by it are perfectly in harmony with the view expressed by a Full Bench of this Court in State of Karnataka v. Sri Laxmi Touring Talkies and Ors. : ILR 1984 KAR1192 and subsequently by another Division Bench in Kodanda Touring Talkies v. State of Karnataka and Anr. : ILR 1985 KAR1 .
6. Since the impugned Rule, that is to say, Sub-clause (iii) of Rule 85 of the Rules inserted in the year 1985 is clearly beyond the scope of the Act, we have no alternative except to declare it to be illegal and unenforceable. Consequently, we strike down the aforesaid sub-rule.'

Therefore, I am convinced to say that the respondent-District Magistrate would not have insisted upon the production of entertainment tax clearance certificate issued by the Competent Authority. In view of the said decision, I direct the respondent-District Magistrate to consider the application for renewal filed by the petitioner in accordance with law. Let him do that within a period of eight weeks from the date of communication of this order.

The writ petition therefore stands allowed in the above terms.

The learned Government Pleader is directed to send the necessary communication to the respondent-District Magistrate at the earliest. He is also permitted to file memo of appearance for the respondent-District Magistrate within four weeks.

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