

Vazeer Vs. the District Magistrate

Vazeer Vs. the District Magistrate

SooperKanoon Citation : sooperkanoon.com/384900

Court : Karnataka

Decided On : Jun-25-2002

Reported in : AIR2002Kant405

Judge : S.R. Bannurmath, J.

Acts : [Constitution of India](#) - Articles 14 and 19; Karnataka Cinema (Regulation) Act, 1964 - Sections 5

Appeal No. : Writ Petn. No. 21719 of 2002

Appellant : Vazeer

Respondent : The District Magistrate

Advocate for Def. : M.G. Anjana Murthy, Govt. Adv.

Advocate for Pet/Ap. : Chandrashekar, Adv.

Disposition : Petition allowed

Judgement :

ORDER

S.R. Bannurmath, J.

1. Though the matter is posted for orders, as both the sides are served and the dispute in question can be resolved on a short ground, with the consent of both the

counsel, the matter is taken up for final disposal.

2. Heard the learned counsel for the petitioner and the learned High Court Government Pleader.

3. The petitioner had applied to the Authority for the grant of NOC for running a Temporary Touring Cinema Theatre. The NOC has been rejected as per Annexure-D on the ground that the Police Report shows there was some objections from the Public and Wakf Board Committee regarding the functioning of the Cinema Theatre.

4. The grievance of the petitioner is that before rejecting his application for grant of NOC, an opportunity should have been given to him to have his say regarding the alleged objections raised.

5. Right to run a Cinema Theatre is also a trade or a business under Article 19 of the Constitution. Though the Act does not provide the applicant/objector to have the right of oral say, while considering the application, if the authority considers the application and objections and grants NOC, the person claiming the same may not have objections, but if the same is to be refused or rejected, such an order affecting the right of the applicant cannot be passed, without giving an opportunity to the person or the applicant for having his say. This view of mine is supported by the pronouncement of Division Bench decision of this Court reported in *Ramaiah v. District Magistrate, Bangalore* reported in : AIR1985 Kant151 . Hence, the contentions raised by the petitioner are to be upheld and the impugned order Annexure-D is liable to be quashed on, the ground that an opportunity of being heard has been refused illegally to the petitioner.

6. In the result, the writ petition is allowed. The impugned order at Annexure-D dated 15-5-2002 passed by the respondent is hereby quashed. The matter stands remitted back to the District Magistrate to consider the case afresh that too after giving an opportunity to the petitioner to have his say. The respondent is directed to dispose of the application expeditiously at any rate not later than four months from the date of receipt of this order or production of the copy of the same by either parties.

7. In the facts and circumstance of the case, there shall be no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com