

# **THE RAJASTHAN CINEMAS (Regulation) ACT, 1952<sup>1</sup>**

[Act No. XXX of 1952]

[Published in the Rajasthan Gazette (Raj-patra), Part IV-A, dated December 27, 1952]

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# **THE RAJASTHAN CINEMAS (Regulation) ACT, 1952<sup>1</sup>**

[Act No. XXX of 1952]

[Received the assent of His Highness the Rajpramukh on the 12th day of December, 1952]

### **An Act to make provision for regulating exhibitions by means of Cinematographs.**

Whereas it is expedient to make provision for regulating exhibitions by means of Cinematographs;

Be it enacted by the Rajasthan State Legislature as follows:-

**1. Short title, extent and commencement.**-(1) This Act may be called the Rajasthan Cinemas (Regulation) Act, 1952.

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<sup>1</sup> For Statement of Objects and Reasons, See Rajasthan Gazette, Part III, No. 137, dated 21-10-1952.

<sup>1</sup>[(2) It extends to the whole of the State of Rajasthan].

(3) It shall come into force on the date of its first publication in the <sup>2</sup>[Official Gazette].

**2. Interpretation.**-(1) In this Act, unless the subject or context otherwise requires-

(a) "Cinematograph" includes any apparatus for the representation of moving pictures or series of pictures;

<sup>3</sup>[(aa) "Local Law" means a law relating to the establishment and powers of a local authority in force in any part of the State;]

(b) "place" includes a house, building, tent and any description of transport, whether by land, water or air;

(c) "prescribed" means prescribed by this Act or by rules made thereunder; and

(d) <sup>1</sup>[XXX]

(2) <sup>1</sup>[XXX]

**3. Cinematograph exhibitions to be licensed.**-Save as otherwise provided in this Act, no person shall give an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act or otherwise than in compliance with any conditions and restrictions imposed by such licence.

### COMMENTARY

If any person gives cinematograph exhibition, he has to obtain licence in accordance with the provisions of this Act. [*Kishankumar v. State of Rajasthan*, 1992 (2) WLC 334].

**4. Licensing authority.**-The authority having power to grant licenses under this Act (hereinafter referred to as the licensing authority) shall be the District Magistrate:

Provided that the State Government may by notification in the <sup>2</sup>[Official Gazette] constitute for the whole or any part of <sup>2</sup>[the State of Rajasthan] such other authority, as it may specify in the notification to be the licensing authority for the purposes of this Act.

1 Substituted and omitted by Item No. 19 of the Schedule of the Rajasthan Act, No. 27 of 1957.

This Act now extends to the whole of the State of Rajasthan including Abu, Ajmer and Sunel areas with effect from 1-9-1957, i.e. the date of enforcement of Rajasthan Act No. 27 of 1957.

2 Substituted by section 4 of the Rajasthan Act No. 27 of 1957, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 13-8-1957.

3 Inserted by section 2 of Rajasthan Act, No. 21 of 1955, published in the Rajasthan Gazette, Part IV-A, Extraordinary, dated 22-12-1955.

## COMMENTARY

If any person gives cinematograph exhibition, he has to obtain licence in accordance with the provisions of this Act. [*Kishankumar v. State of Rajasthan*, 1992 (2) WLC 334].

**Grant of licence by State Government.**-Sub-section (2) of section 5 of the Act provides that in granting a licence, the licensing authority shall be subject to "the Control of the State Government". There is no requirement of law that the State Government's control cannot extend to the issue of a direction for the grant of licence in a specific case and once that control has been exercised, it is obligatory on the part of the licensing authority to carry it out. AIR 1952 SC 16 Disting., AIR 1956 ALL 99 & 1957 A.P.513 Rel.on.

There is no obligation cast on the State Government to act in a judicial or quasi-judicial manner while considering an application for the grant of a temporary licence to exhibit cinematograph and a grievance that a party affected was not heard before granting such licence is unjustified. [*Vishnu Talkies v. The State*, 1962 RLW 222]

### 5. Restrictions on powers of licensing authorities.-

(1) The licensing authority shall not grant a license under this Act, unless it is satisfied that-

- (a) the rules made under this Act have been substantially complied with, and
- (b) adequate precautions have been taken in the place, in respect of which the licence is to be given, to provide for the safety of persons attending exhibition therein.

(2) Subject to the foregoing provisions of this section and to the control of the State Government the licensing authority may grant licence under this Act to such persons as that authority thinks fit and on such terms and conditions and subject to such restrictions, as it may determine.

(3) Any person aggrieved by the decision of a licensing authority refusing to grant a licence under this Act may, within such time as may be prescribed, appeal to the State Government or to such officer as the State Government may specify in this behalf and the State Government or the officer, as the case may be, may make such order in the case as it or he thinks fit.

## COMMENTARY

### Powers of State Government to Grant Licenses.—

Sub-sec. (2) of sec. 5 provides that in granting a licence, the licensing authority shall be subject to the "control of the State Government". Since the State Government has also been given the power to control the grant of licences under the Act, there is nothing wrong if

the Government chose to exercise its control in any case by directing the licensing authority to grant the temporary licence. There is no requirement of law that the State Government's control cannot extend to the issue of a direction for the grant of licence in a specific case and once that control has been exercised, it is obligatory on the part of the licensing authority to carry it out. It is therefore a matter of no consequence what the District Magistrate thought of the merits of the application for the grant of the licence, for the legislation has placed him under the State Government's control in the matter. The order of the licensing authority is not final since an appeal is provided by sub-sec. (3) to the State Government against his order. AIR 1956 All. 99 and AIR 1957 Andh. P. 563 Rel.

Since the power of the State Government under sec. 5 (3) is of an administrative character, it was not obligatory on the State Government to act in judicial or quasi-judicial manner while considering an application for the grant of a temporary licence to exhibit cinematograph by providing the petitioner a hearing in the matter. For similar reason it is not necessary for the State Government to give reasons while granting the temporary licence. [*M/S Vishnu Talkies v. The State*, 1962 RLW 222 (224)=ILR 1962 Raj. 44.]

<sup>1</sup>[5A. Special provision for Cinema buildings.-(1) Nothing contained in any Local Law in regard to—

- (a) the grant of permission for the construction and reconstruction of a building or-
- (b) the grant of licence for the use of any place or building for any purpose for which such licence is required, or
- (c) the grant of permission to install any machinery in any place or building,

shall apply to the construction or reconstruction of or the use of, or the installation of any machinery in any place or building to be used exclusively for the purpose of cinematograph exhibitions; and in every such case an application for such licence or permission shall be made to the licensing authority under this Act in accordance with the rules made under this Act.

(2) Subject to the control of the State Government and to any rules made in this behalf, the licensing authority after such enquiry as it deems fit and consulting the local authority concerned may for reasons to be recorded either grant or refuse to grant the licence or permission applied for.

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1 Inserted by section 3 of Rajasthan Act No. 21 of 1955.

## COMMENTARY

**No objection not granted- Reasons for- Validity of.-**[1] The fact that area not shown as an area reserved for Cinema in the plan prepared by Town Planning Department cannot oust the jurisdiction of the licensing authority under the Act for granting 'no objection certificate'.

Another reason which has been given by the Collector is that this area has not been shown as an area reserved for Cinema in the plan prepared by the Town Planning Department of the State of Rajasthan, Section 5A of the Rajasthan Cinemas (Regulation) Act, 1952 is complete answer to it. According to it, 'nothing contained' in any local law in regard to various clauses contained in it, shall apply to the construction or reconstruction of or use of or installation of any machinery in any place or building to be used exclusively for the purpose of cinematograph exhibition.

Even assuming that s. 5A has got no application for the purposes of location of the site; then also the mere fact that a particular place has not been shown as a place reserved for cinema, cannot oust the jurisdiction of the licensing authority under the Act for granting 'no objection certificate'. In the present case the land belongs to a private person and not the Urban Improvement Trust or Municipality or Government. That being so while preparing the master plan, the town planner could not have reserved it for cinema unless there was a scheme for acquiring the land. Moreover, the Town Planner's information can only be considered, as one of the factors for consideration, but cannot be conclusive, nor he can be given 'Veto power'. [*Smt. Gyan Devi v. The State of Raj.*, ILR (1978) 28 Raj. 863=1978 R.L.W. 509=A.I.R. 1979 Raj. 5].

### 6. Power of State Government to issue directions.-

The State Government shall have power, from time to time to issue directions to licensees generally or to any licensee in particular for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational purposes, films dealing with news and current events, documentary films or indigenous films secure an adequate opportunity of being exhibited and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the licence under this Act has been granted.

## COMMENTARY

### SYNOPSIS

1. Constitutional validity
2. Conditions-Validity of condition 15
3. Interpretation of
4. Remedy under Article 226.

**1. Constitutional validity.**-Clause (6) of Art. 19 protects the imposition of a reasonable restriction on the exercise of the right conferred by Art. 19 (1) (g) in the interests of the general public. The cinematograph is a valuable agency for educating the public mind, and in order that the general level of intelligence may develop, any restriction for utilisation of the agency of the cinematograph amounts only to a reasonable restriction. The section does not give an unbridled discretion to the Government because the extent of the restriction is also given in the sub-section namely to secure an adequate opportunity. What is adequate has no doubt been left to be decided by the Government, but that is a contingency which by the very nature must be left to the authority exercising the power, as it would vary as the circumstances vary. The section only authorises the Govt. for issue of directions to regulate the exhibiting of films so that scientific films, films intended for educational purposes, films dealing with news & current events, documentary films or indigenous films may secure adequate opportunity of being exhibited. The section, therefore, by itself, imposes only reasonable restrictions. Whether the directions actually issued are reasonable or not will be another point for determination but the section only purports to authorise the imposition of reasonable restrictions and is not unconstitutional. [*Brijniwas Das v. Chief Commissioner, Ajmer*, 1959 RLW 662 (665)=ILR (1958) Raj. 1076.]

**2. Conditions imposed-Validity of condition 15.**-Condition No. 15 imposed by the notification issued by the Chief Commissioner, Ajmer authorised the Chief Commissioner to require an exhibitor to exhibit any film for a period upto 15 minutes, free of charge or on such terms as regards remuneration as the Chief Commissioner may determine. On being challenged it was held that the condition has no authority behind it. There is no mention of the class of films to be shown and as such the condition is an unreasonable restriction so far as the requirement of exhibiting film is concerned. [*Brijniwas Das v. Chief Commissioner, Ajmer*, 1959 RLW 662 (666)=ILR 1958 Raj. 1076.]

**3. Interpretation.**-Section 6 of the Rajasthan Cinemas (Regulation) Act, 1952, comprises two categories of films, one consisting of scientific films, films intended for educational purposes, films dealing with news and current events and documentary films or what for conciseness may be called "cultural films", and the other, of "indigenous films". (1) cultural and (2) indigenous, & so far as indigenous films are concerned they may be cultural films or may not be. The words "indigenous films" in the section are general and unqualified in their contents, and must include in their ordinary and accepted sense cultural as well as other films. If the two categories of films are to be construed as mutually exclusive, then the words "indigenous films" have to be read as meaning "indigenous films other than cultural films." That would be to cut down the plain and ordinary sense of the words, and to import into the enactment words which are not there. Such a construction must, if that is possible, be avoided.

Where a notification required that cultural films should have been produced in India, it was within s. 12 (4) Cinematograph Act, 1952 (36 of the Rajasthan Act) and such a condition was valid. ILR 1958 Raj. 1076=1959 RLW 662, partly reversed. [*Chief Commissioner, Ajmer v. Brijniwas Das*, AIR 1963 SC 408 (410 & 411).]

**4. Remedy under-Art. 226.**-Where Collector acted in complete disregard of High Court's previous order and thus nullified same, High Court competent to issue direction to comply with order-

To start with, I was of the opinion that since this is the duty of the licensing Authority, this court should not take upon the burden of adjudication upon merits, Mr. Kasliwal strenuously argued that if the orders of the court are disobeyed, as has happened in this case, it would be a mockery of justice and rule of law, if his client is thrown from pole to pillar and pillar to pole by being forced again to go and submit himself before the same authority which has exhibited scant regard for the judgment of this court. The application for obtaining no objection certificate was made as early as in the year 1970, the writ application by this court was decided earlier on 23-2-1974 after the matter remained pending for about a year. More than two years were taken by the Collector for passing this arbitrary order. The petitioner has approached this court again on 27-9-1976 and another two years have passed since then. It is serious question to be considered by this court whether after this chequered history of eight years of ordeal of citizen trying to enforce his fundamental rights though restricted by laws of the lands he should be again told that we accept his writ application, but feel helpless to grant any relief. Since, I am of the opinion that the condition of Rule 16 are fulfilled and there will be no violation of it if no objection certificate is granted, I hereby direct that the present Collector would grant a no objection certificate but while doing so he may if the present situation and the condition of the locality and society so warrant, insist upon the laying down of the conditions which were mentioned in the letter of Shri L.N.Gupta the then Collector dated 19-8-1974. It would be open to him to waive any of those conditions and also to add any fresh one, if situation so warrants, as this court cannot and should not take upon it the duty of the statutory authority, which alone can consider the matters of details. However, it is made clear that it is desired, that under the garb of laying down conditions the statutory authority should not again repeat same serious mistake which was committed earlier by the impugned order. [*Smt. Gyan Devi v. The State of Rajasthan*, 1978 RLW 509.]

**7. Power to suspend exhibition of films in certain cases.**-(1) The State Government in respect of the whole or any part of <sup>1</sup>[the State of Rajasthan] and the District Magistrate in respect of the district within his jurisdiction may, if it or he is of opinion that any film which is being

1 Substituted by section 4 of Rajasthan Act No. 27 of 1957.



publicly exhibited is likely to cause breach of the peace by order suspend the exhibition of such film and during such suspension, the film shall be deemed to be an uncertified film in such whole, part or district of <sup>1</sup>[the State of Rajasthan].

(2) Where an order under sub-section (1) has been issued by a District Magistrate, a copy thereof together with a statement of reason therefor, shall forthwith be forwarded to the State Government <sup>2</sup>[and the State Government may on a consideration of all the facts of the case confirm, modify or cancel the order].

(3) An order made under this section shall remain in force for a period of two months from the date thereof but the State Government may if it is of opinion that the order should continue in force direct that the period of suspension shall be extended by such further period, as if it thinks fit.

**8. Penalties for contravention of Act and Rules thereunder.**- <sup>3</sup>[(1) If the owner or person incharge of a cinematograph uses the same or allows it to be used or if the owner or occupier of any place permits that place to be used in contravention of the provisions of this Act or of the rules made thereunder or of the terms, conditions and restrictions upon or subject to which any licence under this Act has been, or is deemed to have been granted he shall be punishable with fine which may extend to <sup>3</sup>[two thousand rupees] and, in the case of a continuing offence with a further fine which may extend to <sup>3</sup>[two hundred rupees] for each day during which the offence continues.

<sup>4</sup>[(2) Where a person whose licence for cinematograph has been revoked under section 9, contravenes any provision of this Act or of the rules made thereunder he shall be punishable with imprisonment which may extend to three months, or with a fine which may extend to five thousand rupees, or with both, and in the case of a continuing offence a further fine which may extend to five hundred rupees for each day during which the offence continues].

## COMMENTARY

**Rajasthan Cinema (Regulation) Rules, 1959-R. 7-Renewal refused by Collector-Government accepted appeal and granted renewal relating back to date of expiry-Fee deposited-Held, cognizance**

1 Substituted by section 4 of Rajasthan Act No. 27 of 1957.

2 Substituted by section 4 of Rajasthan Act No. 21 of 1955.

3 Numbered and substituted by section 2(a) of Rajasthan Act No. 3 of 1983.

4 Inserted by section 2(b) of Rajasthan Act No. 3 of 1983.



of offence u/s 8 (1) is not justified. [*Smt. Shashi Rani v. State*. 1987 WLN (UC) 584=1987 RCC 403.]

<sup>1</sup>[**8A. Power to arrest without warrant.**-Any police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under sub-section (2) of section 8 of the Act].

<sup>2</sup>[**9. Power to revoke licence.**-Where the holder of a licence has been convicted of an offence under section 7 of the Cinematograph Act, 1952 (Act No. 37 of 1952) of the Central Legislature) or under <sup>3</sup>[sub-section (1) of section 8] of this Act or for the commission of any offence under the Rajasthan Entertainments and Advertisements Tax Act 1957, the licence may be revoked by the licensing authority.]

**10. Power to make rules.**-<sup>4</sup>[(1)] The State Government may by notification in the <sup>5</sup>[Official Gazette], make rules-

- (a) prescribing the terms, conditions and restrictions, if any, subject to which licences may be granted under this Act,
- (b) providing for the regulation of cinematograph exhibitions for securing the public safety,
- (c) prescribing the fees to be levied for licensing places for cinematograph exhibitions,
- (d) providing for the inspection of such places and of electric installations therein,
- (e) regulating sanitary arrangements therein,
- (f) prescribing the time within which and the conditions subject to which an appeal under sub-section (3) of section 5 of this Act may be preferred,
- (g) providing for any other matter which by this Act may be, or is required to be prescribed, and
- (h) generally for carrying out the purposes of this Act.

<sup>6</sup>[(2) In making rules under this section, the State Government may provide that any person failing to comply with or contravening the provisions of any rule, shall on conviction, be punished with fine which may extend to one hundred rupees.

1 Inserted by section 3 of Rajasthan Act No. 3 of 1983.

2 Substituted by section 2 of Rajasthan Act No. 8 of 1971

3 Substituted by section 4 of Rajasthan Act No. 3 of 1983.

4 Renumbered vide section 2 of Rajasthan Act No. 14 of 1966.

5 Substituted by section 4 of Rajasthan Act No. 27 of 1957.

6 Renumbered and inserted by Raj. Act No. 14 of 1966.

(3) The power to make rules under this section shall be subject to the condition of previous publication.

(4) All rules made under this section shall be laid as soon as may be after they are so made, before the House of the State Legislature, while it is in session, for a period of not less than fourteen days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which they are so laid or of the session immediately following, the house of the State Legislature makes any modification in any of such rules or resolves that any such rule should not be made, such rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.]

**11. Power to exempt.**—The State Government may by order<sup>1</sup> in writing exempt subject to such conditions and restrictions as it may impose, any cinematograph exhibitions or class of cinematograph exhibitions from any of the provisions of this Act or any rules made thereunder <sup>1</sup>[if in the opinion of the State Government reasonable grounds exist for doing so.]

**12.** <sup>2</sup>[XXX]

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1 Inserted by section 5 of Rajasthan Act No.21 of 1955.

2 Omitted vide item No.19 of the Schedule of Rajasthan Act No. 27 of 1957