The Sikkim Cinemas (Regulation) Act, 1978

Act 20 of 1978

Keyword(s):
Cinematograph, Place, Public Exhibition

Amendment appended: 2 of 1986
SIKKIM' CINEMAS (REGULATION) ACT, 1978

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SIKKIM    CINEMAS
(REGULATION) ACT 1978
ACT NO. 20 OF 1978

AN

ACT

to make provisions for regulating exhibitions by means of Cinematographs' in the State of Sikkim.

[25th September, 1978]

WHEREAS it is expedient to make provision for regulating exhibitions by
Means,' of Cinematographs in the State of Sikkim:
It is hereby enacted in the Twenty-ninth Year of the Republic of India by the Legislature of
Sikkim as follows:

Short title, extent & commencement. 1 (1) This Act may be called the Sikkim' Cinemas (Regulation)

(2) It extends to the whole of Sikkim.

(3) It shall come into force on such date as the State Government
may, by notification in the Official Gazette, appoint.

Definitions 2. In this Act, unless there is anything repugnant in the subject or
context:

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

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

(c) "prescribed” means prescribed by rules made, under this
Act;

(c) "public exhibition” means an exhibition to which persons are
admitted on payment.
3. (1) Save as otherwise provided in this Act, no person shall give a public exhibition by means of a cinematograph elsewhere than in a place in respect of which a license has been granted under this Act or, otherwise than in compliance with any conditions and restrictions imposed by such license.

(2) The State Government may, if it considers it necessary to do so, make an order for regulating exhibitions other than public exhibitions and prescribe rules and conditions.

4. The authority having power to grant licenses (hereinafter referred to as the licensing authority) shall be the District Magistrate within whose jurisdiction the place, where the exhibitions by means of cinematograph are proposed to be given, is situated:

Provided that the State Government may, by notification in the Official Gazette constitute, for the whole or any part of the State, such other authority, as it may specify in the notification, to be the licensing authority for the purpose of this Act.

5. (1) The licensing authority shall not grant licenses under this Act, unless it is satisfied that

(a) the rules made under this Act have been substantially complied with, and

Prescribed precautions have been taken in the place,

(b) in respect of which the license is to be given, to provide or the safety of persons attending exhibitions therein:

Provided that the licensing authority shall, before refusing to grant a license under this Act, give the applicant, an opportunity of showing cause.

Cinematograph exhibitions to be licensed.

Licensing Authority.

Restrictions on powers of licensing authority.
6. (1) 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 a 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.

(2)' Subject to the provisions of this Act and the rules made, there under, the licensing authority may grant licenses 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)' The State Government may, from time to time, issue directions to licensees generally or, if in the opinion of the State Government circumstances so justify, to any licensee in particular, for the purpose of regulating the exhibition of any film or class of films and in particular the exhibition of scientific films, films intended for educational purposes, films dealing with news and current events, documentary films and where any such directions have been issued, those directions shall be deemed to be additional conditions and restrictions subject to which the license has been granted.

(4) Any person aggrieved by the decision of a licensing authority granting or refusing to grant a license or by any other order of a licensing authority which is declared by rules made under this Act to be appealable or by the terms and conditions on which or the restrictions subject to which a license is granted” 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.
When an order under sub-section (1) has been issued by a District Magistrate, a copy thereof together with a statement of reasons therefor, shall forthwith be forwarded by the District Magistrate to the State Government, and the State Government may either confirm or annul the order.

Any order made under sub-section (1) shall, unless it is annulled by the State Government under sub-section (2), remain in force for a period of two months, 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 it thinks fit.

If the owner or person in charge 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 the rules made there under, or of the conditions and restrictions upon or subject to which any license has been granted under this Act, or if any person makes any exhibition of a film contrary to any order under section 6 or to any order or direction under this Act or the rules made there under, he shall be punishable with fine which may extend to one thousand rupees and, in the case of a continuing offence, with a further fine which may extend to one hundred rupees for each day during which the offence continues.

If the holder of a license has been convicted of an offence under section 7 of the Cinematograph Act, 1952 (XXXVII of 1952), or of an offence under section 7 of this Act, or has obtained the license by misrepresentation of facts, or acts in contravention of any of the provisions of this Act or of the rules made there under or of the conditions and restrictions upon or subject to which the license has been granted, the licensing authority may revoke the license or suspend it for such period as it may think fit.

Penalties.

Power to revoke or suspend license.
(2) Any person aggrieved by the order of the licensing authority revoking or suspending a license may, within such time as may be prescribed, appeal to the State Government or such officer as the State Government may specify in this behalf, and the State Government or the officer, as the case may be, may pass such order in the case as it or he thinks fit. The order so passed shall be final.

9. (1) The State Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for

(a) the procedure in accordance with, which a license may be obtained and the terms, conditions, and restrictions, if any, subject to which licenses may be granted under this Act and the fees payable therefor;

(b) regulation of cinematograph exhibitions for securing public safety;

the time within which and the conditions subject to which an appeal under sub-section (4) of section 5 and under sub-section (2) of section 8 may be made and the procedure for such appeals and the fees payable therefor;

(d) regulating the means of entrance and exit at places licensed under this Act and providing for the prevention of disturbances thereat;

(e) regulating prohibiting the sale of any ticket or pass or admission, by whatever name called, to a place licensed under this Act;

(f) delegation of the power of hearing appeals under sub-section (4) of section 5 and sub-section (2) to any section 8 to any officer subordinate to the State Government.
(3) All rules made under this Act shall come into force with effect from the date of their publication in the Official Gazette, unless a specific date is given in the notification.

10. The State Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Act or any rules made there under.

11. No suit or proceeding shall lie against the State Government and no suit, prosecution or proceeding shall lie against any officer of the State Government for anything in good faith done, or intended to be done, under this Act or any rules made there under.

12. Any fees or other amounts realized or purported to have been realized in respect of a license or renewal thereof or in respect of any matter relating to cinemas prior to the coming into force of this Act, shall always be deemed to have been realized validly and under proper legal authority.

13. Notwithstanding anything contained in this Act or the rules made there under, a license granted prior to the coming into force of this Act, shall be deemed, for all purpose, to have been granted under this Act and the conditions and restrictions prescribed by the rules under this Act shall, until a new license is granted under this Act and the rules made there under, be deemed to have been incorporated in such license:

Provided that the licensing authority may grant time, or extend the time, so granted, for compliance with any such condition or restriction.

(ACT NO.2 OF 1986)

AN ACT

[21.1.1986]

To amend the Sikkim Cinemas (Regulation) Act, 1978 (No. 20 of 1978).

Be it enacted by the Legislature of Sikkim in the Thirty-sixth Year of the Republic of India, as follows:

1. (1) This Act may be called the Sikkim Cinemas (Regulation) Amendment Act, 1985.

(2) It extends to the whole of Sikkim.

(3) It shall come into force at once.

2. In the Sikkim Cinemas (Regulation) Act, 1978 (hereinafter referred to as the principal Act), in section 2,

(a) in clause (e), after the words 'a film on' and before the words 'screen' the word 'television' shall be inserted;

(b) after clause (e), the following clause shall be inserted, namely:

(c) 'Video Library' means a place, by whatever name called, where the business of selling, letting on hire, distribution, exchange or putting into circulation, in any manner whatsoever, of film for purposes of exhibition is carried on.'
4. In the principal Act, after section 3, the following section shall be inserted, namely:

3A. (I) No person shall keep any Video Library except under and in accordance with a licence granted under sub-section (1) above.

(2) Where a person keeps more than one Video Library, whether in the same town or Village or in different towns or villages, he shall obtain a separate licence in respect of each Video Library.

(3) Every person keeping a Video Library under this Act shall, in respect of each film in his possession, produce when demanded by an officer authorised by Government in this behalf, a letter of consent from the person who is the first owner of the Copyright of the Cinematograph film under section 17 of the Copyright Act, 1957 (Act XIV of 1957) and in case such copyright has been assigned under section 18 of the said Act, from the assignee of such copyright;

(4) No person who is granted a licence shall sell, let to hire, distribute, exchange, or put into circulation in any manner whatsoever, any film other than a film which has been certified as suitable for public exhibition, by the authority constituted under section 3 of the Cinematograph Act, 1952 (Act 37 of 1952) and which, when exhibited, displays the prescribed mark of that authority, and has not been altered or tampered with in any way since such mark was affixed thereto.

5. In the principal Act, in section 4, after the words proposed to be given and before the words is situated, the words "or the Video Library is proposed to be opened" shall be inserted.

6. In the principal Act, in section 4A, after the words 'Video exhibition' and before, the word "shall" the, words "and for keeping a Video Library" shall be inserted.

7. In the Sikkim Entertainment Tax Act 1980, after section 3B, the following section shall be inserted, namely:

3BB. Any officer authorised by the Government in this behalf, by notification, may
(a) enter, if necessary by force, whether by day or night, with such assistance as he considers necessary, any premises, which he has reason to suspect, are being used for purposes connected with the exhibition of films on the television screen through Video Cassette Recorder or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and the rules made thereunder;

(b) search the premises and persons whom he may find therein;

(c) take into custody and produce before the Magistrate mentioned in section 3C, all such persons as are concerned or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of their having been concerned with the exhibition of film or keeping a Video Library in contravention of the provisions of the Sikkim Cinemas (Regulation) Act, 1978 and rules made thereunder;

(d) seize all things found therein which are intended to be used or reasonably suspected to have been used in connection with such exhibition of film or keeping a Video Library."