



The Assam Cinemas (Regulation) Act, 1953

Act 14 of 1953

Keyword(s):
Cinematograph, Place

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**THE ASSAM CINEMAS (REGULATION) ACT,
1953 ***

(Assam Act XIV of 1953)

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**Published in the Assam Gazette, dated the 3rd June, 1953.*

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(Passed by the Assembly)

[Received the assent of the Governor on the 26th May, 1953]

An Act to make provision for the regulating exhibitions by means of cinematographs and the licensing of cinemas in the State of Assam

Preamble. Whereas it is expedient to make provision for regulating exhibition by means of cinematographs and the licensing of cinemas in the State of Assam;

It is hereby as follows:

COMMENTS

The general power to legislate with regard to cinemas is in the State Legislature and is covered by Entry 33, Part II of schedule VII of Constitution, and only a particular power is reserved for the Union Legislature in Entry 60 of List I, *viz.*, the sanctioning of films for exhibition. This Act contains specific

provisions for regulating exhibitions and licensing of cinemas. This Act came into force from 1st October, 1953 *vide* Notification no. GGN 42, dated 31-7-1953 (AG –II A, 5-8-1953, p. 1249).

1. Short title, extent and commencement.

- (1) This Act may be called the Assam Cinemas (Regulation) Act, 1953.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

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 serried of pictures;
- (b) “place” includes a house, building, tent and any description of transport, whether by river, ;and or air.

- (c) “prescribed” means prescribed by rules made under this Act.

COMMENTS

The definitions of “Cinematograph” and “place” in this Act are as provided in the Cinematograph Act, 1952.

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.

COMMENTS

The provisions of this Act or the conditions and restrictions imposed by the license must be observed by the person giving an exhibition by means of a cinematograph elsewhere than in a place licensed under this Act.

4. Licensing authority.

Subject to the provisions of S. 5 the District Magistrate within the jurisdiction of his district or any other authority constituted by the State Government by notification in the Official Gazette (hereinafter referred to as the Licensing Authority) for the whole or any part of the State may grant licenses under this Act.

Provided that no licence shall be issued by the Licensing Authority except with the previous approval of the State Government who shall take into consideration all applications for the licence in question and after such consideration may accord its approval to the proposal submitted by the Licensing Authority or direct such authority to grant a licence to any other applicant with or without such conditions as it may deem proper and in such cases such direction shall be deemed to be the previous approval of the State Government.

COMMENTS

Legislative changes. This section has been substituted by Assam Act XXII of 1956, published in the Assam Gazette, dated 14-11-1956, to come into force at once.

This section before amendment read as follows.

“4. The authority having power to grant licences 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 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 purposes of this Act.”

5. Restrictions on power of Licensing Authority.

(1) The Licensing Authority shall not grant a licence 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 exhibitions therein.

(2) The State Government may, from time to time, issue directions to licensees generally or to any licensee in particular for the purposes 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, or where any such direction have been issued, those directions shall be deemed to be additional conditioned and restrictions subject to which the licence has been granted.

COMMENTS

Legislative changes. Sub-section (2) was deleted by Assam Act XXII of 1956 and the present sub-S (2) has been re-numbered.

This section corresponds to S. 12 of the cinematograph Act, 1952. in the case of *Tajdin Javerbhai v. Union Territory* [AIR 1967 Goa 158], their Lordships observed that the order of the Licensing Authority on the application for license, is purely administrative and as such it cannot be assailed on the footing that before it was made no opportunity was given to the petitioner. The matter rests on the objective discretion of the Licensing Authority.

The Supreme Court held in the case of *State of Punjab v. Hari Kishan* [AIR 1966 SC 1081], that the State Government is not justified in assuming the powers which have been conferred on the Licensing Authority. The scheme of the Act is, that when an application for licence is made, it

has to be considered by the Licensing Authority, either to grant it or reject it.

Sub-section (3) of this section comprises two categories of films, one consisting of films which may be called the “cultural films” and the other “indigenous films”. The words “indigenous films”, in their ordinary sense, mean cultural as well as other films

The high Court of Assam and Nagaland held in the case of *Makunda Moham Talukdar v. K .K. Phukan* [AIR 1965 A and N 142], that as the grant or refusal of a licence may affect the fundamental right of a citizen, obviously the authority has to act in conformity with the principles of natural justice.

6. Power to direct licensee not to be exhibit certain films.

(1) The State Government in respect of the whole of the State or any part thereof or the Licensing Authority in respect of the area within its jurisdiction may, if it 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 films and during such suspension no person shall exhibit such films in any place in the area specified in the order.

- (2) When an order under sub-S (1) has been issued by the Licensing Authority a copy thereof together with a statement of reasons therefore shall forthwith be forwarded by the Licensing Authority to the State Government and the State Government may either confirm or discharge the order.
- (3) An order made under sub-S. (1) shall, unless discharged by the State Government under sub-S. (2), remain in force for a period of 2 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 it thinks fit.

COMMENTS

This section also corresponds with S. 13 of the Cinematographs Act, 1952.

The high Court of Assam and Nagaland held in the case of *Mukunda Mohan Talukdar v. K. K. Phukan* [AIR 1966 Assam and Nagaland 142], that mere recommendation of the Licensing Authority to the State Government that the licence should not be renewed and the notice to the licensee upon the direction of the government rejecting the application for renewal is not an order passed by the Licensing Authority himself.

It was held in *State of Punjab v. H. K. Sharma* in an unreported case [CA no. 763 of 1963, dated 9-12-1965], that the State government cannot exercise original powers of Licensing Authority. The Government can only exercise the powers of an Appellate Authority.

7. Penalties for contravention of this Act.

If the owner or person in charge of 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 and Rules made thereunder or of the conditions and restriction upon or subject to which any licence has been given under the Act, he shall be punishable with the fine which may extend to one thousand rupees and in the case of a continuing offences, with a further fine may extend to one hundred rupees for each day during which the offence continues.

COMMENTS

This section provides for penalties for contravention for the provisions of this Act, or the rules framed thereunder.

8. Power to revoke licence.

In the event of any contravention by the holder of a licence of any of the provisions of this Act or Rules made there under or any of the conditions or restrictions upon or subject to which the licence has been granted to him under this Act or in the event of his conviction of an offence under S.7 of this Act or under S.7 of the cinematograph Act, 192 (XXXVII of 1952), the Licensing Authority may revoke the licence or suspend it for such period as it may think fit.

COMMENTS

This section has given ample powers to the Licensing Authority to revoke or suspend the licence in the event of conviction of any offence under S.7 of this Act or under S.7 of the Cinematograph Act, 1952

9. Appeals and reviews.

(1) Any person aggrieved by the decision of the Licensing Authority under any provision of the Act except an order passed under S. 4 may appeal to the State Government or such officer as the State Government may authorize in this behalf and the State Government

or such officer, as the case may be, may make such orders as it he deems proper.

- (2) Appeals under sub-S. (1) shall be filled within 15 days from the date of the order excluding the period required in obtaining the copy of the order; provided that the Appellate Authority may extend the time for reasons found sufficient to its satisfaction.
- (3) Any person considering himself aggrieved by an order passed under S. 4 for granting a licence with the approval of the State Government may file an application for review of an order and the approval, to the State Government within a period of 30 days from the date of the order and thereupon the State Government may after giving a hearing to the parties concerned, may -
 - (i) reject the application; or
 - (ii) where it is of opinion that sufficient ground for review has been established, grant the same -
 - (a) by withdrawing its approval or direction issued under S.4; and
 - (b) remand the applications to the Licensing Authority concerned for fresh enquiry; or

- (iii) direct the Licensing Authority to issue the licence to any of the applicants.
- (4) All appeals pending on the date of the commencement of this Act shall be disposed of in accordance with the provisions of this Act and for that purpose all appeals against an order under S. 4 of the principal Act shall be deemed to be application for review under sub-S. (3) of S. 5 of this Act.

COMMENTS

Under this Act, the State Government is the Appellate Authority or such officer as the State Government may prescribe in this behalf. The present section has been substituted by Assam Amendment Act XXII of 1956.

Section 9 before its amendment by Act XXII of 1956 of effective from 14-11-1956 read as follows:

- “9. Any person aggrieved by the decision of the licensing authority under any provision of this Act within such time as may be prescribed, appeal to the State Government or to such officer as the State Government may prescribe 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.”

10. Power to make rules.

- (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 powers, rules made under this Act may provide for -
 - (a) the procedure in accordance with which a licence may, be obtained and the terms, conditions and restrictions, if any, subject to which a licence may be granted under this Act;
 - (b) the regulation of cinematograph exhibitions for securing public safety.
 - (c) the time within which and the conditions subject to which an appeal under S. 9 may be preferred;
 - (d) regulating the means of entrance and exit at places licensed under this Act and providing for prevention of disturbances thereat;
 - (e) regulating or prohibiting the sale of any ticket or pass for admission by whatever name called to a place licensed under this Act.

11. Power to exempt.

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

12. Repeal and saving.

The Cinematograph Act, 1918 in its application to the state of Assam and in so far as it relates to the regulation of exhibition by means of cinematograph (including licensing of places in which cinematograph films are exhibited) is hereby repealed:

Provided that any appointment, notification, order, scheme, rule, form or by-law, made or issued under the repealed Act, shall, so far it is not inconsistent with the provisions of this Act, continue in force and be deemed to have made or issued under the provisions of this Act, unless and until it is superseded by any appointment, notification, order, scheme, rule, form or bye-law made or issued under this Act.
