

Laxmi Talkies Ltd. Through Kashi ... vs Collector, Allahabad on 18 November, 1952

Equivalent citations: AIR1953ALL444, AIR 1953 ALLAHABAD 444

JUDGMENT

Sapru, J.

1. This application has been presented on behalf of the Laxmi Talkies Ltd., through its managing Director, Shri Kashi Bishambhar Agarwal. The relief claimed under Article 226 of the Constitution is that this Court may be pleased to issue a writ or suitable direction quashing the order of requisition passed by the opposite party, on 26-5-1952 under Section 3 of the U. P. (Temporary) Storage Requisition Act, 1947.

2. The applicant is a limited company incorporated for purposes of exhibiting films at Allahabad. It is admitted that the building in question was never used for storage purposes. The building is not meant for storage purposes and it consists of delicate fittings. Nevertheless, on 26-5-1952 an order of requisition was passed by the Collector. This order could be passed under Section 3 of the U. P. (Temporary) Storage Requisition Act of 1947 only with the prior sanction of the State Government. Section 3(1) empowers the Collector to requisition any storage accommodation for storing foodgrains within a period which shall not be less than 3 days from the date of service of the order; provided that no accommodation which is not ordinarily used for storage shall be requisitioned without the prior sanction of the Provincial Government.

3. The position in this case is that no prior sanction of the Provincial Government was obtained. After the writ application had been filed, the sanction of the Government was obtained on 2-6-1952. The question is whether this subsequent sanction can ratify the act of the Collector. In our opinion, importance has to be attached to the word 'prior'. We cannot, in considering the question whether the sanction was in fact obtained, ignore the word 'prior'. When the Legislature used that word it intended that, before the requisition order was passed, the Collector should have obtained the sanction of Government. In these circumstances there is no doubt, in our mind, that the order passed by the Collector was, at the time it was made, an illegal order. But, in the circumstances of this case, we do not think it necessary to make an order as to costs.