

GAHC010007522015



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/367/2015

BHARAT SANCHAR NIGAM LIMITED BSNL
REP. BY THROUGH THE GENERAL MANAGER, TELECOM DIBRUGARH
TELECOM DISTRICT P.O. DIBRUGARH, MONCOTTA ROAD, PIN - 786001.

VERSUS

MD. HUSSAIN KHAN
S/O LT. AMIRULLAH KHAN R/O TULSIRAM ROAD, TINSUKIA P.S. and DIST.
TINSUKIA, ASSAM.

Advocate for the Petitioner : MR.B PATHAK

Advocate for the Respondent :

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

18.01.2024

Heard Shri B Pathak, learned counsel for the BSNL.

The grievance raised in this writ petition was with regard to certain orders passed by the District Consumer Disputes Redressal Forum, Tinsukia in a consumer case whereby compensation was awarded in a dispute regarding

telephone bills.

The challenge was structured in view of the law laid down by the Hon'ble Supreme Court in the case of *General Manager, Telecom Vs. M. Krishnan & Anr.*, reported in (2009) 8 SCC 481.

Shri Pathak, learned counsel has, however, submitted that during the pendency of this writ petition, a larger Bench of the Hon'ble Supreme Court in the case of *Vodafone Idea Cellular Ltd. Vs. Ajay Kumar Agarwal*, reported in (2022) 6 SCC 496 has overruled the earlier view expressed in *General Manager, Telecom Vs. M. Krishnan & Anr. (supra)* by holding that since the Consumer Protection Act is a specialized enactment, the same would prevail upon the general clauses which govern the parties.

In view of the aforesaid submission and the law settled by the Hon'ble Supreme Court, this Court is of the opinion that the instant challenge may not be maintainable and accordingly, the writ petition is dismissed.

It is, however, made clear that in case, the petitioner wants to avail the remedy in law under the particular enactment, the fact of pendency of this case may be taken as a ground to explain the delay.

JUDGE

Comparing Assistant