

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 36481 of 2015 (I)

PETITIONER:

KRIZTLE BATH & WELLNESS PVT. LTD.
REPRESENTED BY ITS MANAGING DIRECTOR M.K.ANSARI
KRIZTLE GALLERY, P.T.USHA ROAD, KOCHI-682011.

BY ADVS.SRI.H.HAMZA ROWTHER
SRI.V.K.PEERMOHAMED KHAN

RESPONDENT(S):

1. BHARATH SANCHAR NIGAM LIMITED
REPRESENTED BY ITS PRINCIPAL GENERAL MANAGER TELECOM
BSNL BHAVAN, KALATHIPARAMBIL ROAD, KOCHI-682016.
2. THE ACCOUNTS OFFICER, BSNL,
BSNL BHAVAN, KALATHIPARAMBIL ROAD, KOCHI-682016.
3. THE DISTRICT COLLECTOR, CIVIL STATION,
KAKKANADU, ERNAKULAM-682030.
4. DEPUTY TAHSILDAR (REVENUE RECOVERY)
TALUK OFFICE, KANAYANNOOR, ERNAKULAM.

R1 & 2 BY ADV. SMT.E.V.MOLY, SC, BHARAT SANCHAR NIGAM LIMITED
SRI.MATHEWS K.PHILIP,SC, BSNL
R3 & 4 BY GOVERNMENT PLEADER SRI R.RANJITH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : TRUE COPY OF THE BILL/INVOICE ISSUED BY THE RESPONDENTS 1 AND 2.
- P2 : TRUE COPY OF THE COMPLAINT SUBMITTED BY THE PETITIONER.
- P3 : TRUE COPIES OF THE REQUESTS SUBMITTED BY THE PETITIONER.
- P4 : TRUE COPY OF THE LETTER ISSUED BY THE DGM (GR)
- P5 : TRUE COPIES OF THE LETTERS SUBMITTED BY THE PETITIONER AND
SUBSEQUENT REMINDER.
- P6 : TRUE COPY OF THE LETTER ISSUED BY THE AGM UNDER THE 1ST
RESPONDENT.
- P7 : TRUE COPY OF THE PETITION SUBMITTED BY THE PETITIONER BEFORE THE
DISTRICT LEGAL SERVICE AUTHORITY, ERNAKULAM.
- P8 : TRUE COPY OF THE REQUISITION LETTER ISSUED BY THE 2ND
RESPONDENT TO THE 3RD RESPONDENT.
- P9 : TRUE COPY OF THE APPEAL/REQUEST SUBMITTED BY THE PETITIONER
BEFORE THE 1ST RESPONDENT.
- P10 : TRUE COPY OF THE DEMAND NOTICE ISSUED BY THE 4TH RESPONDENT.

RESPONDENT(S)' EXHIBITS

- EXT.R1(A): COPY OF LETTER DT.10.6.14.
- EXT.R1(B): COPY OF LETTER 27.5.14.
- EXT.R1(C): COPY OF LETTER 16.4.14.
- EXT.R1(D): COPY OF LETTER 28.2.14.

TRUE COPY

P.S. TO JUDGE

ANIL K.NARENDRA, J

W.P.(C.)No.36481 Of 2015

DATED THIS THE 11th DAY OF DECEMBER, 2015

JUDGMENT

The petitioner who is having a mobile connection with data usage facility provided by the BSNL has approached this Court in this Writ Petition seeking a writ of certiorari to quash Ext.P1 bill, Ext.P8 requisition for revenue recovery and Ext.P10 demand notice issued under the Revenue Recovery Act, by which he was asked to remit a sum of Rs.50,025/-.

2. The respondents have filed a counter affidavit justifying the demand made in Ext.P1, to which the petitioner has also filed a reply affidavit.

3. I heard arguments of the learned counsel for the petitioner, the learned Standing Counsel for respondents 1 and 2 and also the learned Government Pleader appearing for respondents 3 and 4.

4. The sole issue that arises for consideration in this Writ Petition is as to the legality or otherwise of Ext.P1 demand made by respondents 1 and 2 and the consequential recovery proceedings

initiated against the petitioner based on Exts.P8 and P10.

5. The specific stand taken by the 1st respondent in the counter affidavit is that the present Writ Petition is not maintainable in view of Section 7B of the Indian Telegraph Act.

Since the dispute, which is the subject matter in this Writ Petition can be referred to arbitration under Section 7B of the Indian Telegraph Act, I deem it appropriate to dispose of this Writ Petition with the following directions.

- (i) Within three weeks from the date of receipt of a certified copy of this judgment, the 1st respondent shall refer the dispute relating to Ext.P1 demand for arbitration in terms of Section 7B of the Indian Telegraph Act;
- (ii) On the petitioner depositing a sum of Rs.15,000/- within a period of one week from today, all recovery proceedings pursuant to Exts.P8 and P10 shall be kept in abeyance, till the completion of the arbitration proceedings; and
- (iii) the arbitrator appointed in terms of the order passed

by the 1st respondent shall pass an award after affording the petitioner a reasonable opportunity of being heard, within an outer limit of four months from today.

**Sd/-
ANIL K.NARENDRA,
JUDGE**

dsn

True copy

P.S.to Judge