

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2015

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THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.No.10674 of 2015
and M.P.No.1 of 2015

K.R.Rajendran

... Petitioner

Vs.

1. The Managing Director,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Chennai.

2. The Special Tahsildar/Manager,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Erode.

... Respondents

* * *

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of Writ of Mandamus directing the respondents to conduct a survey for the number of connections possessed by the petitioners KALAIVANI CABLES for the enrollment No.LCO 17869 and fix and subscription fees as per the TRAI regulations and Cable TV Network Regulation Act.

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For Petitioner : Mr.B.Prasannavinot
For Respondents : Mr.Pattabiraman
Govt. Advocate

ORDER

Mr.Pattabiraman, learned Government Advocate takes notice for the respondents. With the consent of both sides, the writ petition is taken up for final hearing at the admission stage, in view of the earlier order dated 18.07.2014 in W.P.(MD)Nos.10975 of 2014 etc. batch.

2. Heard both sides.

3. The petitioner is a cable TV operator in Erode and he has registered himself with the respondents and he has been allotted Enrollment No.LCO 17869.

4. According to the petitioner, he has also deposited three months deposit amount based on the number of points, which are being

serviced by him. While so, the respondents have demanded higher contribution from the petitioner by increasing the service points without reference to the petitioner and without conducting any survey.

5. The learned counsel appearing for the petitioner submitted that the points increased by 50% is not in consonance with TRAI regulations and the overall increase of points in entire Tamil Nadu is also illegal. Further, it is stated that the petitioner was not put on notice before such enhancement and the second respondent did not conduct any survey to verify the number of points which is being serviced by the petitioner. Only when the petitioner received the bill through Internet, he found that there was a 50% hike without any prior intimation. Therefore, it is stated that the increase of 50% in connection is not in consonance with the TRAI Regulation and Cable Television Network Regulation Act. It is submitted that as per the said Act, a contract for fixation of point is fixed between MSO and LCO should subsist for three years and if the same is increased by the MSO, it is for the MSO to prove that the LCO has suppressed the material which was given to them. Thus, the grievance of the petitioner is that the respondents have unilaterally increased the points, without any notice to the petitioner.

6. In the light of the said grievance, this Court is of the view that the aspect as to whether the arbitrary increase of 50% is in consonance with the regulation, need not be gone into it at this stage. As the petitioner can be afforded an opportunity to rebut the action of the respondents in increasing the service points of 50% consumption. This could be done by conducting a survey of the service area of the petitioner by the second respondent in the presence of the writ petitioner.

7. The learned counsel for the petitioner expresses his grievance that when this Court disposed of an earlier batch of cases, the second respondent conducted the survey with the assistance of the police, as a result of which, on several occasions, the Cable TV operators were put to threat and compulsion to sign across the dotted lines.

8. The service points are fixed pursuant to an agreement or arrangement between the petitioners and the respondent Cable TV Corporation. Therefore, this Court is surprised to note as to what is the role of the police in deciding the matter in a civil dispute, however, if there is any criminal offence or law and order problem, the second respondent is justified in requesting the police for necessary assistance. As a matter of course, while fixing the service points, the police authorities cannot interfere, as it is purely a contract between the petitioner and the respondents and in view of the direction, the Writ Petition is disposed of by directing the second respondent to conduct a survey of the area of operation in the presence of the petitioner to ascertain extra number of service

points within the jurisdiction of the petitioner. On completion of such survey, the third respondent shall prepare a survey report giving all details and submit the same to the first respondent, simultaneously the petitioner should be furnished a copy of the survey report so as to enable him to make any representation or objection on the report to be submitted by the second respondent. Thereafter, the first respondent shall consider the survey report and further the representation/objection, if any, and pass orders on the same as expeditiously as possible. Since this Court has issued direction for conducting fresh survey in the presence of the petitioner, all the demands raised by the Petitioner, as per the original survey shall be complied with by the petitioner as demanded. The petitioner shall continue to remit the charges without any default. The claim for additional amount shall be subject to the further orders to be passed by the first respondent.

9. The learned Government Advocate submitted that the police assistance is required, since the petitioner is a member of an Association and at the time of conducting survey, there is interference in the discharge of the duties by the second respondent, who is a public servant. If that be the case, then it is open to the respondents to make a request to the police authorities for adequate protection. However, if there is no such disturbance, there shall not be any police protection. No costs. Consequently, connected Miscellaneous Petitions is closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

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To

1. The Managing Director,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Chennai.

2. The Special Tahsildar/Manager,
Tamil Nadu Arasu Cable TV Corporation Ltd.,
Erode.

+1 CC to Mr.R.Thiagarajan, Advocate SR.NO. 20665

W.P.No.10674 of 2015

LRS (CO)

PKS : 19/05/2015