

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2015

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6032 of 2015

And

M.P.No.1 of 2015

M.Paneerselvam

...Petitioner

Vs.

1. Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
(Old Mint Road),
New Delhi - 110 002.
2. KAL Cables Private Limited
Formerly known as Sumangali Cable Vision (SCV)
No.229, Kutcheri Road, Mylapore,
Chennai - 4.
3. The Managing Director
Tamil Nadu Arasu Cable TV Corporation Limited (TACTV)
Dugar Towers, 24 (123), 6th Floor
Marshalls Road, Egmore
Chennai - 600 008.
4. State Rep. by
The Inspector of Police,
H5 New Washermenpet Police Station
New Washermenpet,
Chennai - 600 081.
5. L.R.Seenivasan
6. Neelakandan
7. Sekar

...Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to take action as against the respondents 3, 5 to 7 for their illegal acts of cutting the petitioner's cable TV signal sources by force and inserted illegal signals of TACTV and instructed the subscribers to pay the subscription charges to them based upon the petitioner's representation dated 19.02.2015 and allow the petitioner to do petitioner cable TV operator business peacefully at V.O.C.Nagar Tondiarpet, Chennai - 600 081.

For Petitioner : Mr.S.Kumara Devan

For Respondents : Mr.Su.Srinivasan for R1
Assistant Solicitor General of India
Mr.Abdul Saleem for R3
Standing Counsel
Mr.V.Jayaprakash Narayanan for R4
Special Government Pleader

O R D E R

Heard Mr.S.Kumara Devan, learned counsel for the petitioner and Mr.Su.Srinivasan, learned Assistant Solicitor General of India appearing for the first respondent, Mr.Abdul Saleem, learned Standing Counsel appearing for the third respondent and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader appearing for the fourth respondent. With the consent of the learned counsel on either side, the writ petition is taken up for disposal.

2.The petitioner has filed this writ petition praying for a direction upon the first respondent to take action against the respondents 3, 5 to 7 for their illegal acts of cutting the petitioner's cable TV signal sources by force and inserted illegal signals of TACTV and instructed the subscribers to pay the subscription charges to them based upon the petitioner's representation dated 19.02.2015 and allow the petitioner to do petitioner cable TV operator business peacefully at V.O.C.Nagar Tondiarpet, Chennai.

3.Though the petitioner lodged police complaint in this regard and it was acknowledged as C.S.R.No.676 of 2014, no action was taken on the complaint. Hence, the petitioner filed a petition before this Court under Section 482 of Cr.P.C. in CrI.O.P.No.28853 of 2014 to

direct the respondent police to register a case based on the complaint which was acknowledged as C.S.R.No.676 of 2014. This Court by order dated 05.11.2014 dismissed the criminal original petition by recording the submission made by the learned Additional Public Prosecutor that the complaint given by the petitioner was enquired and closed by the respondent police as prima facie there appears to have been no offence committed warranting investigation. Further, there is an observation that it is open to the petitioner to work out his remedy in the manner known to law. Subsequently, the petitioner made representation to the first respondent and has now sought for a direction to be issued to the first respondent to take action.

4.As rightly pointed out by the learned Standing Counsel appearing for the third respondent, the first respondent has no jurisdiction to enquire into the matter, rather it is outside the purview of the first respondent in the light of the provisions contained in the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as Act).

5.The petitioner is a local cable TV operator under the second respondent a Government of Tamil Nadu undertaking functioning under the provision of Telecom Regulatory Authority of India. Under Section 2 of the Act, Authorised Officer has been defined to mean a District Magistrate or a Sub-divisional Magistrate or a Commissioner of Police and includes any other Officer notified in the Official Gazette by the Central Government or the State Government to be an Authorised Officer for such local limits of jurisdiction as may be determined by that Government. Section 11 of the Act deals with power to seize equipment used for operating the cable television network. It states that if any Authorised Officer has reason to believe that the provisions of Section 3, Section 4-A, Section 5, Section 6 or Section 8 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network and no such equipment shall be retained by the Authorised Officer for a period exceeding ten days from the date of its seizure unless the approval of the District Judge, within the local limits of whose jurisdiction such seizure has been made or obtained for such retention.

6.Proviso under Section 11 of the Act states that in case of contravention to Section 5 and Section 6 of the Act, the Authorised Officer may seize the equipment being used by such cable operator for operating the cable television network which will result in terminating the service provided by the channel at the level of Cable TV operator.

7. Therefore, if the petitioner has any grievance that the provisions of the Act have been contravened by the private respondents, then the petitioner has to approach the Authorised Officer by way of appropriate complaint clearly setting out as to how power under Section 11 of the Act has to be invoked.

8. In such circumstances, no relief as sought for by the petitioner can be granted and the writ petition is dismissed. However, this will not prevent the petitioner from working out his rights under the Cable Television Networks (Regulation) Act, 1995

9. The writ petition is dismissed with the aforesaid observation. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. Telecom Regulatory Authority of India
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H5 New Washermenpet Police Station
New Washermenpet,
Chennai - 600 081.

1 CC to Mr.A.Manimaran, Advocate SR.No. 12976

1 CC to Mr.Abdul Saleem, Advocate SR.No. 12736

1 CC to Mr.S.Kumara Devan, Advocate SR.No. 12218

1 CC to the Government Pleader, SR.No. 12587

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MSM (CO)
PSI (19.03.2015)



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