

In the High Court of Judicature at Madras

Dated: 11.8.2015

Coram:

The Hon'ble Mr. Justice M. Jaichandren

Writ Petition No. 32410 of 2012

A. Venkatesan

.. Petitioner

vs.

1. The Managing Director,
Tamil Nadu Arasu Cable TV Corpn. Ltd.,
Chennai-34.

2. The Special Tahsildar/Manager,
Tamil Nadu Arasu Cable TV Corpn. Ltd.,
Tiruvannamalai.

.. Respondents

Prayer: Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents to conduct a survey for the number of connections possessed by the petitioner's Golden Cable Network for the enrollment No. LCO 30301 and fix the subscription fees as per the TRAI Regulations and cable Television Network Regulation Act.

For petitioner : Mr. R. Thiagarajan

For respondents : Mr. Abdul Saleem

O R D E R

Heard the learned counsel appearing on behalf of the parties concerned.

2. At this stage of the hearing of the Writ Petition, the learned counsel appearing on behalf of the respondents had submitted that the issues, which have been raised in the present Writ Petition, had been dealt with by a learned single Judge of this Court in W.P. [MD] No. 10975 of 2014, etc. [batch], dated 18.7.2014. Paragraph Nos. 6 to 9 of the said order, dated 18.7.2014, reads as follows:-

"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 prior regulation, need not be gone into it at this stage. As the petitioners 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 each of the petitioners by the third respondent in the presence of the writ petitioners.

7. The learned counsel for the petitioner expresses his grievance that when this Court disposed of an earlier batch of cases, the third 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 third 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 petitioners and the respondents and in view of the direction, the Writ Petitions are disposed of by directing the third respondent to conduct a survey of their respective area of operation in the presence of the petitioners to ascertain extra number of service points within the jurisdiction of each of the petitioners. On completion of such survey, the third respondent shall prepare a survey report giving all details and submit the same to the second respondent, simultaneously the petitioners should be furnished a copy of the survey report so as to enable them to make any representation or objection on the report to be submitted by the third respondent. Thereafter, the second 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 Petitioners, as per the original survey shall be complied with by the petitioners as demanded. The petitioners 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 Additional Government Pleader submitted that the police assistance is required, since the petitioners have formed an Association and at the time of conducting survey, there is interference in the discharge of the duties by the third 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."

3. A perusal of the order, dated 18.7.2014, made in W.P. [MD] No.10975 of 2014, etc. [batch], makes it clear that that a survey ought to be conducted, with regard to the number of Cable TV connections possessed by the petitioner therein and an appropriate decision, with regard to the increase in the subscription, to be made thereafter. Since the issue on hand is similar to the issue dealt with by this Court, in W.P. [MD] No.10975 of 2014, etc. [batch], dated 18.7.2014, this Court is of the view that a similar order could be passed in the present Writ Petition, following the order, dated 18.7.2014, made in W.P. [MD] No.10975 of 2014, etc. [batch].

4. In the result, the Writ Petition stands disposed of, following the observations made in W.P. [MD] No.10975 of 2014, etc. [batch], dated 18.7.2014. No costs. M.P.No.1 of 2012 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1.The Managing Director,
Tamil Nadu Arasu Cable TV Corpn. Ltd.,
Chennai-34.

2.The Special Tahsildar/Manager,
Tamil Nadu Arasu Cable TV Corpn. Ltd.,
Tiruvannamalai.

+1 cc to Mr.Anand david, Advocate(sr.42079)

Lrs(co)
cp 07/09/2015

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