

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 27-09-2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petitions Nos.14330 and 14331 of 2013
and
M.Ps.Nos.1 + 1 of 2013

A.Ashok Kumar ... Petitioner in W.P.No.14330 of 2013

N.Sundarganesan ... Petitioner in W.P.No.14331 of 2013

Vs

1.The Telecom Regulatory Authority of India
Represented by its Senior Research Officer C & B
Mahanagar Doorsanchar Bhawan
Jawaharlal Nehru Marg
New Delhi-110 002.

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

3.The Special Tahsildar/Manager
Tami Nadu Arasu Cable TV Corporation Ltd.
Palthurai Vazhagam
Ariyalur.

... Respondents in both the petitions

Prayer in W.P.No.14330 of 2013 : The writ petition is filed under Article 226 of the constituting of India to issue a Writ of Mandamus, directing the respondents to conduct a survey for the number of connections possessed by the petitioner Sri Murugan Cable for the enrollment No.LCO 19801 and fix the subscription fees as per the TRAI regulations and Cable Television Network Regulation Act.

Prayer in W.P.No.14331 of 2013 : The writ petition is filed under Article 226 of the constituting of India to issue a Writ of Mandamus, directing the respondents to conduct a survey for the number of connections possessed by the petitioner Mani Cable for the enrollment No.LCO 35483 and fix the subscription fees as per the TRAI regulations and Cable Television Network Regulation Act.

For Petitioner
in both the petitions : M/s D.Prasanna Vinoth

For Respondent No.1
in both the petitions : Mr.M.Devendran

For Respondent Nos.2 & 3 : No appearance
in both the Petitions

O R D E R

Heard the learned counsel, appearing on behalf of the petitioners, as well as the learned counsel, appearing on behalf of the first respondent.

2. At this stage of the hearing of the Writ Petitions, the learned counsel, appearing on behalf of the first respondent had submitted that the issues, which have been raised in the present Writ Petitions, 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 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 Petitions, following the order, dated 18.7.2014, made in W.P. [MD] No.10975 of 2014, etc. [batch].

4. In the result, the Writ Petitions stand disposed of, on similar terms, following the observations made in W.P. [MD] No.10975 of 2014, etc. [batch], dated 18.7.2014. No costs. Consequently, connected M.Ps. are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Telecom Regulatory Authority of India
Represented by its Senior Research Officer C & B
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3.The Special Tahsildar/Manager
Tami Nadu Arasu Cable TV Corporation Ltd.
Palthurai Vazhagam
Ariyalur.

+2cc to Mr.R.Thiagarajan, Advocate Sr.55492,55491
+1c c to Mr.Devendran, Advocate Sr.54954
+1cc to the Government Pleader Sr.55380

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tm[co]
srg 15/11/2016