

4

\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 2193/2016

RELIANCE BROADCAST NETWORK LIMITED Petitioner

**Through: Mr. Amit Sibal, Senior Advocate with
Mr. Kumar Sudeep and Mr. Nittin
Bhatia, Advocates.**

versus

PRASAR BHARTI & ANR

..... Respondents

**Through: Mr. Rajeev Sharma, Advocate for
respondent No.1.**

**Mr. Sanjeev Narula, Advocate with
Mr. Abhishek Ghai, Mr. Ajay Kalra and
Mr. Abhishek, Advocates for UOI.**

Date of Decision: 22nd March, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

CM Appl.9413/2016 (exemption) in W.P.(C) 2193/2016

Allowed, subject to just exceptions.

W.P.(C) 2193/2016 & CM Appl. 9412/2016

1. Present writ petition has been filed challenging the letters dated 10th November, 2015 and 05th January, 2016 whereby respondent No.1 has sought to revise petitioner's license fee for sharing the infrastructure of the respondents on migrating from Phase-II to Phase-III. Petitioner has also challenged the letter dated 09th March, 2016 whereby the petitioner was

requested to sign the agreement by 23rd March, 2016 failing which, the respondents threatened to initiate action to get the petitioner's premises vacated.

2. The relevant portion of the three impugned letters is reproduced hereinbelow:-

A. Letter dated 10th November, 2015

“Subject: Signing of Agreement by Prasar Bharati for sharing infrastructure with Private FM Broadcasters as per terms and conditions given under policy guidelines for expansion of FM Radio broadcasting services under Phase-III.

Reference: M/s. M/s Reliance Broadcast Network Ltd letter dated 10.10.2015 requesting Prasar Bharati to sign the Agreement.

Sir,

*This has reference to your letter dated 10.10.2015 requesting Prasar Bharati to sign the Agreement for infrastructure sharing at cities listed below. M/s Reliance Broadcast Network Ltd. has submitted copies of LOI issued by Ministry of Information & Broadcasting for enabling them for Radio Broadcasting at cities listed below. The Agreement to be signed with Prasar Bharati for infrastructure sharing is available on Ministry of I&B website **mib.nic.in**.*

- | | |
|---------------|------------------|
| 1. Pune | 2. Lucknow |
| 3. Nagpur | 4. Patna |
| 5. Varanasi | 6. Ahmednagar |
| 7. Aurangabad | 8. Gorakhpur |
| 9. Kolhapur | 10. Muzzaffarpur |
| 11. Shillong | 12. Agartala |
| 13. Aizwal | 14. Itanagar |

In stipulation to clause 3 & 4 of Agreement under reference, Invoices have been prepared (enclosed) against advance annual license fees and security deposit. M/s

Reliance Broadcast Network Ltd. is requested to submit demand draft issued by a scheduled bank in favour of Prasar Bharati payable at New Delhi for amount mentioned in invoice, two non-judicial stamp papers of Rs 100 each for each site and authorisation for signing the agreement from the Board of Directors of company.”

B. Letter dated 05th January, 2016

“This has reference to Private FM broadcasters/AROI letters cited under reference above wherein it has been stated that they have perused the Agreement for Phase III published on website of Ministry of I&B and they have serious concerns regarding certain clauses included in Agreement.

It is hereby stated that some rates of license fees in Phase III have been modified w.r. to Phase II to rationalize it and to make it more reasonable with respect to city category wise. Prasar Bharati has finalized the Agreements and rates of license fees after considering every aspect in association with Ministry of I&B who has also got examined rates etc. through Chief Advisor Cost (Ministry of Finance).

The request of M/s. Reliance Broadcast Network Limited for considering changes in the Agreement as per their remarks in above referred letter has been examined and same could not be acceded to.”

C. Letter dated 09th March, 2016

“Ministry has issued offer of migration on 24.09.2015 to Broadcasters who have opted for the same directing them to sign the agreement with Prasar Bharati (available on MIB website) and BECIL for Phase-III which was a sequential process. Subsequently you have signed GOPA under Phase III with Ministry of I&B which resulted in ceased to be existence of GOPA under Phase II. As agreement with Prasar Bharati was valid till the validity of GOPA under Phase II, it also ceased at the same time. Since then 87 agreements have been signed with 9 Broadcasters who have accepted offer of migration to ph-III.

M/s Reliance Broadcast Network who has accepted offer of migration to Phase III are requested to sign agreement with Prasar Bharati by 23.03.2016 as per approved agreement placed on website of Ministry of I&B for Financial Year 2015-16. If you fail to sign the agreement within above mentioned date, Prasar Bharati shall initiate action to get vacated it's premises.

This communication may please be treated as notice from Prasar Bharati to above mentioned Pvt. Broadcasters."

(emphasis supplied)

3. After some arguments, Mr. Amit Sibal, learned senior counsel for petitioner states that though in the letter dated 05th January, 2016 the decision making process has been disclosed, yet no reasons and/or documents have been disclosed. He states that the petitioner would be satisfied in case the reasons and the documents mentioned in the letter dated 05th January, 2016 are disclosed.
4. Mr. Sibal also assures this Court, that without prejudice to the rights and contentions of the petitioner, the licence infrastructure agreements under Phase-III for the forty-four existing Radio stations which are migrating under Phase-III shall be executed on or before 23rd March, 2016 and further, if any additional licence fee is to be paid, the same shall be paid on or before 23rd March, 2016.
5. Learned counsel for respondents state that they have no objection to disclosure of the documents mentioned in the letter dated 05th January, 2016.
6. The statements made by the learned counsel for parties are accepted by this Court and parties are held bound by the same.
7. In the event, the petitioner wishes to challenge the reasons furnished by the respondents, petitioner shall be at liberty to file appropriate proceedings in accordance with law. Rights and contentions of all parties are

left open. In view thereof, present writ petition and application are disposed of.

Order dasti under the signature of Court Master.

MANMOHAN, J

MARCH 22, 2016

js

