

\$~38.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 6856/2016

ORTEL COMMUNICATIONS LTD.

..... Petitioner

Through: Mr.Ankur Sood, Adv. with
Mr.Kaushik Mishra, Mr.Uday Bedi, Ms.Romila
Mandal, Advs.

Versus

TELECOM REGULATORY

AUTHORITY OF INDIA & ANR

..... Respondents

Through: Mr.Kirtiman Singh, CGSC for TRAI.
Mr.Ajay Digpaul, CGSC with Ms.Mohita, Adv.
for UOI.

Mr.Rajiv Nayar, Sr.Adv. with Mrs.Aayushi
Khazanchi, Ms.Niyati Kohli, Advs. for Tata Sky in
I.A.No.38173/2016.

Mr.Abhishek Malhotra, Adv. with Ms.Rijul
Taneja, Adv. for IBF.

Mr.Saurabh Srivastava, Adv. with Mr.Ranjeet
Singh Sidhu, Ms.Arпита Singhal, Advs. for Star
India Pvt. Ltd.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

07.12.2016

%

1. This petition has been received on transfer by the High Court of Orissa at Cuttack pursuant to the order of the Supreme Court dated 01.04.2016 in Transfer Petition (C) No.430-444/2016 filed by the Union of India, Ministry of Information and Broadcasting.
2. We have heard the learned counsel for both the parties.
3. The petitioner is aggrieved by the cut off date fixed for implementation of Digital Addressable System (DAS) in Phase-III areas.

The very same issue was considered by us in W.P.(C) No.7178/2016 titled *The Rohtak Cable Operator Association Vs. Union of India & Anr.* and by order dated 01.12.2016 it was held:

"17. The learned CGSC appearing for the respondent No.1 has brought to our notice that in identical circumstances, W.P.(C) No.7185/2016 was disposed of by this Court by order dated 03.11.2016 with the following directions:-

“10. The petitioner shall ensure that all analogue connections are converted to digital by installation of digital set top boxes within a period of three weeks from today. The petitioner shall duly inform the subscribers that on expiry of the period of three weeks, all analogue signals would be discontinued and the subscribers will be required to switch over from the analogue mode of transmission to digital mode of transmission on or before the cut-off date. To facilitate the change-over, the petitioner shall also display a scroll, in all analogue channels being transmitted by them, informing the subscribers that they have to change over to digital system within the stipulated timeframe.”

18. As noticed above, the consistent plea of the respondents that sufficient STBs are readily available could not be disputed by the petitioner. However, a request for grant of some more time for digitization has been made by the learned counsel for the petitioner on the ground that some of the members/Cable Operators are yet to procure STBs. As we could see, the decision of implementation of DAS is a policy decision taken by the Government of India on the basis of the recommendations of TRAI, an expert body, primarily with the object of reformation of the existing analog regime and to address its drawbacks and thus to provide a

system of transparency in the interest of consumers. The Notification was issued by the Government of India on 11.11.2011 informing the Cable Operators that they have to change over to DAS. The cut-off date for implementation of DAS in Phase-III areas notified as 30.09.2014 by the Notification dated 11.11.2011 itself. The said deadline was again extended till 31.12.2015. In spite of long time granted, it is surprising that no substantial explanation is forthcoming on behalf of the petitioner as to why it is still unable to change over to DAS. Be that as it may, the petitioner has not challenged the validity of the Notification dated 11.11.2011 making implementation of DAS obligatory but the only grievance is that the Cable Operators are unable to implement DAS for want of sufficient number of STBs. Even the said plea of non-availability of sufficient number of STBs is found to be factually incorrect. We are, therefore, of the view that the writ petition need not be kept pending any longer.

19. Accordingly, the writ petition is disposed of placing on record the statement of the learned counsel for the respondent No.4 that the required number of STBs would be provided as and when required by the members of the petitioner Association and directing the members of the petitioner Association to complete the installation of STBs and change over to DAS within a period of two weeks from today. The changeover shall be informed to their respective subscribers in advance in terms of the directions in para-10 of the order dated 03.11.2016 in **W.P.(C) No.7185/2016** titled ***Victory Digital Pvt. Ltd. vs. MIB & Ors.***"

4. For the reasons stated in the aforesaid order, this petition need not be kept pending any longer. Accordingly, the writ petition is disposed of with a direction that the petitioner shall complete the installation of STBs and changeover to DAS within a period of two weeks from today. The

changeover shall be informed to the respective subscribers in terms of the directions in para-10 of the order dated 03.11.2016 in W.P.(C)No.7185/2016 titled *Victory Digital Pvt. Ltd. Vs. MIB & Ors.*

6. The writ petition and all the pending applications shall stand disposed of accordingly.

CHIEF JUSTICE

DECEMBER 07, 2016/‘anb’

SANGITA DHINGRA SEHGAL, J