

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION Nos.1738, 1803, 1829 and 2599 of 2017

COMMON ORDER:

Heard learned counsel for petitioners and learned Advocate General for the State of Andhra Pradesh.

In view of the order, which is agreed upon, proposed to be passed in the present Writ Petitions, this Court does not feel it necessary to go into the facts and other merits of the matters.

In all these Writ Petitions, principally, the petitioners are placing reliance on Section 4B of the Cable Television Networks (Regulation) Act, 1995 (for short 'the Act'), which reads as under:

“4B. Right of way for cable operators and permission by public authority.—

(1) Subject to the provisions of this Act, any cable operator entitled for providing cable services may, from time to time, lay and establish cables and erect posts under, over, along, across, in or upon any immovable property vested in or under the control or management of a public authority.

(2) Any public authority under whose control or management any immovable property is vested may, on receipt of a request from a cable operator permit the cable operator to do all or any of the following acts, namely:—

(a) to place and maintain underground cables or posts; and

(b) to enter on the property, from time to time, in order to place, examine, repair, alter or remove such cables or posts.

(3) The facility of right of way under this section for laying underground cables, and erecting posts, shall be available to all cable operators subject to the obligation of reinstatement or restoration of the property or payment of

reinstatement or restoration charges in respect thereof at the option of the public authority.

(4) When a public authority in public interest considers it necessary and expedient that the underground cable or post placed by any cable operator under the provisions of this section should be removed or shifted or its position altered, it may require the cable operator to remove it or shift it or alter its position, as the case may be, at its own cost in the time frame indicated by the public authority.

(5) The Central Government may lay down appropriate guidelines to enable the State Governments to put in place an appropriate mechanism for speedy clearance of requests from cable operators for laying cables or erecting posts on any property vested in, or under the control or management of, any public authority and for settlement of disputes, including refusal of permission by the public authority.

(6) Any permission granted by a public authority under this section may be given subject to such reasonable conditions as that public authority thinks fit to impose as to the payment of any expenses, or time or mode of execution of any work, or as to any other matter connected with or related to any work undertaken by the cable operator in exercise of those rights.

(7) Nothing in this section shall confer any right upon any cable operator other than that of user for the purpose only of laying underground cable or erecting posts or maintaining them.”

While referring to sub-section (4) of Section 4B of the Act, it is the submission of the learned Advocates for the petitioners that without recourse to sub-section (4), now the action under challenge is proposed to be pressed into service.

On the other hand, it is the submission of the learned Advocate General for the State of Andhra Pradesh that in view of the provisions of sub-section (7) of Section 4B of the Act, the petitioners cannot claim the request, as a matter of right.

In the light of the above, these Writ Petitions are disposed of, keeping it open for the petitioners to submit their representations to the Chief General Manager (Operations) of the respective Distribution Companies, within one week from the date of receipt of a copy of this order. It is also open for the Chief General Manager (Operations) to consider and take a decision on the representations in accordance with Section 4B of the Act, within two weeks from the date of receipt thereof. Till the decision is taken, interim order, dated 19.01.2017, shall continue. It is made clear that if the petitioners do not approach the Chief General Manager (Operations) in terms of the above order, it is open for the respondents to take action as per law.

Consequently, Miscellaneous Petitions, if any pending in these Writ Petitions, shall stand closed. No order as to costs.

A.V.SESHA SAI, J

13th FEBRUARY, 2017.

Note: issue c.c. in two days.

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