

\$~35

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

+ **W.P.(C) 9359/2017**

ANOOP GEORGE CHAUDHARI

..... Petitioner

Through Mr Ashish Mohan, Mr Mohit Kumar and
Mr Akshit Mago, Advocates

versus

UNION OF INDIA & ORS

..... Respondents

Through Mr Kirtiman Singh, Mr Prateek Dhandra
and Mr Waize Ali Noor, Advocates for
Respondent No. 1

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

25.10.2017

CM No.38190/2017

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 9359/2017

3. The petitioner has filed the present petition, *inter alia*, impugning the Call Line Identification Restriction facility ("CLIR Guidelines") (hereafter 'CLIR') issued by the Government of India, Ministry of Communications & IT.
4. The learned counsel for the petitioner states that he has been enjoying CLIR facility since the past several years. This facility in effect ensures that the petitioner's mobile number is not disclosed to the person who is called

by the petitioner from his mobile. Thus, in effect, it permits the petitioner's identity to be kept anonymous from the call recipient. The petitioner is aggrieved by the recent guidelines issued in this regard as it postulates that such facility be restricted only in certain cases and it is not widely provided.

5. The said guidelines provides that CLIR should not be treated as phone plus facility and should be provided to individual customers to the bare minimum extent. The guidelines has specified three categories based on the status of subscribers, namely: (i) Normal Subscriber; (ii) Officers from Central Intelligence Agencies; and (iii) Dignitaries.

6. The petitioner, admittedly, falls in the category of a Normal Subscriber. In this regard, the guidelines provide as under:-

“3.1 Normal subscribers:

- a. CLIR request stating the reason must be furnished in original by the customer to the Telecom service Provider (TSP) along with valid Identity proofs like Proof of Residence (PoA) & Proof of Identity (PoI) as per the Customer Acquisition Form (CAF) norms and recommendation for CLIR from the Additional DGP (intl)/IGP (Intl), police from state government.
- b. TSP shall carry out the physical verification of the CLIR applicant and certify the same on the application before forwarding the application to the concerned Telecom Enforcement, Resources & Monitoring (TERM) Cell.
- c. The documentation of CLIR complete in all respect must be submitted to the DDG (TERM) of concerned LSA for approval in order to ensure the compliance of the process.
- d. After examining the cases in respect of request received, the DDG (TERM) will give his approval to the TSPs within three working days.

- e. In case DDG (TERM) does not agree with the recommendation, he can refer back the case once directly to the concerned Addl. DGP (Intl)/IGP (Intl), Police with reasons under intimation to concerned TSP & the customer. If it is still recommended, TERM Cell should approve it and send the approval to the TSP within three working days from the date of receipt of recommendation from police.
- f. After getting approval from the TERM cell, TSP should activate CLIR within two working days.
- g. The CLIR facility should be provided for a period of 12 months. After the end of aforesaid period it should be renewed only after repeating due process followed while activating CLIR for the first time. TSPs should intimate the CLIR subscribers prior to 30 days about expiry of CLIR facility through a SMS/Voice Call.”

6. The learned counsel for the petitioner submits that the aforesaid guidelines make it extremely difficult for any subscriber to obtain CLIR. He states that these restrictions itself amounts to violation of fundamental right enshrined under Article 21 of the Constitution of India inasmuch as it falls foul of a citizen's right to privacy.

7. This Court is of the view that the aforesaid contention is bereft of any merit. A distinction must be drawn between right to privacy and the desire to be anonymous. What the petitioner wants is not to defend its privacy but to ensure that he is able to make calls without disclosing his identity. This also implies that the recipient of the call is deprived of the knowledge of the person calling him/her.

8. Clearly, the Government of India has restricted the facility of providing CLIR only to certain persons that require such anonymity. This Court finds no infirmity with the Government’s decision to do so. The

procedure set in the guidelines is to ensure that only such persons who are in need of the same for valid reasons, are provided this facility.

9. The learned counsel for the petitioner is unable to point out any particular reason - apart from stating that the petitioner has enjoyed such facility for past several years – as to why such facility ought to be provided to the petitioner.

7. The petition and the pending applications are, accordingly, dismissed.

VIBHU BAKHRU, J

OCTOBER 25, 2017

pkv