

\$~26 & 27

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

+ **LPA 327/2018**

ASIANET DIGITAL NETWORKS PVT LTD & ANR Appellants

Through: Mr. Jayant Bhushan, Sr. Adv. with
Mr. Jayant Mehta, Mr. Shirin
Khajuria, Mr. Vinod Shankar,
Mr. Atul Shankar, Ms. Ayushi Gaur
Mr. Ketan Paul, Mr. Shubhankar and
Ms. Amrita Cheema, Advocates.

versus

STAR INDIA PVT LTD & ANR Respondents

Through: Mr. P. Chidambaram and Mr. Amit
Sibal, Sr. Advocates with Mr. Kunal
Tandon, Mr. Shashank Shekhar,
Ms. Niti Jain, Mr. Siddharth Chopra,
Ms. Sneha Jain, Mr. Ranjeet Singh,
Mr. Aditya Swarup and Mr. Ambur
Bhushan, Advocates.

+ **LPA 329/2018**

ASIANET SATELLITE COMMUNICATIONS LTD Appellant

Through: Mr. Jayant Bhushan, Sr. Adv. with
Mr. Jayant Mehta, Mr. Shirin
Khajuria, Mr. Vinod Shankar,
Mr. Atul Shankar, Ms. Ayushi Gaur
Mr. Ketan Paul, Mr. Shubhankar and
Ms. Amrita Cheema, Advocate

versus

STAR INDIA PRIVATE LIMITED Respondent

Through: Mr. P. Chidambaram and Mr. Amit

LPA 327/2018 & 329/2018

Page 1 of 4

Sibal, Sr. Advocates with Mr. Kunal Tandon, Mr. Shashank Shekhar, Ms. Niti Jain, Mr. Siddharth Chopra, Ms. Sneha Jain, Mr. Ranjeet Singh, Mr. Aditya Swarup and Mr. Ambur Bhushan, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER
% **06.07.2018**

CM APPL. 25766/2018 in LPA 327/2018
CM APPL. 25764/2018 in LPA 329/2018

Allowed, subject to all just exceptions.

CM APPL. 25765/2018 in LPA 327/2018
CM APPL. 25763/2018 in LPA 329/2018

Issue notice of applications.

Mr. Jayant Mehta, Advocate accepts notice on behalf of the appellants/non-applicants.

These are the respondents' applications seeking modification of the order dated 01.06.2018 which had disposed of the appeal. It is urged that the appellants are in fact seeking to take advantage of the order and not signing the agreement – which was implicit, though not expressly spelt out, for the continuation of the signals by the applicant upon payment of ₹2.5 Crores per month as a purely interim measure. The applicant urges that since it insisted upon the signing of such agreement the appellants approached this Court in contempt

proceedings, which were disposed of on a statement that the signals would be provided without prejudice to the contentions of the parties.

Mr. Jayant Bhushan, Sr. Advocate appearing for the appellants urged that the signing of the agreement would preclude challenge to the terms, especially with respect to the controversy as to the question of discrimination. It was also urged additionally that for the placement of a channel, which is insisted upon by the respondent-Star India Private Limited, certain signals are to be placed in a particular order, thus, impinging on the autonomy of the appellants as an MSO and its existing commitment with other parties.

The order of 01.06.2018 was rendered in the context of a concurrent determination as it were by the Telecom Disputes Settlement and Appellate Tribunal (TDSTAT) and the learned Single Judge that the appellants' contention that the refusal of Star India Private Limited to continue its previous arrangement was illegal. The basis of the TDSTAT's order was that the appellants ought to enter into a negotiated agreement or sign a Reference Interconnect Offer (RIO). Apparently, previous arrangement was based upon a negotiated agreement. Having regard to these circumstances, the Court's order recording the parties agreement that the appellants would pay ₹2.5 Crores per month, without prejudice to its rights and contentions, implicitly meant that it entered into an agreement in that regard with Star India Private Limited. The issue of placement of a channel was not urged at that stage.

Having regard to the submissions made, the Court is of the opinion that in the event the appellants enter into an agreement with all the conditions that it is offered, it would still be open to it to challenge any of the terms, including placement of the channel. The rights and contentions of the parties, to urge their submissions in this regard as to the legality of the action of Star India Private Limited, are kept open.

The applications are disposed of with the above modification which shall be read with the order of 01.06.2018. The appellants shall be granted two weeks to sign the offer with Star India Private Limited.

Copy of order be given *dasti* under the signatures of the Court Master.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

JULY 06, 2018

nn