

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No. 11100 of 2019 (O&M)
Date of decision: 30.04.2019**

M/s Bharti Airtel Limited

... Appellant

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Sh. Akshay Bhan, Senior Advocate, with
Mr. Arshit Goel, Advocate, for the appellants.

Mr. Sharad Aggarwal, AAG, Haryana,
for respondents No.1 and 3.

Mr. Lokesh Sinhal, Advocate,
for respondent No.2.

KRISHNA MURARI, CHIEF JUSTICE (Oral)

This petition has been filed under Article 226 of the Constitution of India challenging the alleged action of the respondents in issuing show cause notice dated 22/23.4.2019, whereby it is alleged that unilateral penalty has been assessed by the respondents, which is to be invoked from bank guarantee and performance guarantee submitted by the petitioner. It is further alleged that a penalty of ₹8,13,28,000/- imposed on the petitioner-company is in total violation of the principles of natural justice and thus bad in law.

Learned senior counsel for the petitioner has made a reference to an E-mail message dated 25.4.2019, making a request to extend the validity of the bank guarantee up to 30.6.2019, pending final calculation of the penalty. In pursuance of our order passed yesterday, a statement has been made before us that the bank guarantee has been extended by the petitioner till 30.6.2019.

Sh. Lokesh Sinhal, learned counsel appearing for respondent No.2, has made a statement before us that the issue of imposition of penalty and its quantum shall be adjudicated upon after hearing the petitioner and only thereafter, realisation of the same shall be made by invoking the bank as well as performance guarantee.

In view of the fact that the petitioner-company has already extended the bank guarantee and the statement made by learned counsel for respondent No.2 in respect of the determination of the liability and quantum of the penalty, after opportunity of hearing to the petitioner, we see no reason for this petition to continue any further on the board and the same is disposed of, by directing that respondents shall take a decision with respect to the imposition of penalty and its quantum, after associating the petitioner with the process, if possible within a period of six weeks from today. The bank guarantee having already been extended shall remain in force till 30.06.2019. It is further provided that in case the respondents decide to impose a penalty, the bank guarantee shall not be invoked for a period of two weeks from the date of such decision, giving a fair opportunity to the petitioner to challenge the said order, if it so chooses. In case, for any unforeseen circumstances the respondents are not able to decide the issue within six weeks, it shall be open to them to make an application seeking extension of time.

With the aforesaid observations and direction, the petition stands disposed of.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

April 30, 2019

AK Sharma

Whether speaking / reasoned:
Whether Reportable:

YES
NO