

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

1024 WRIT PETITION NO.10690 OF 2021

M/S BHUSAWAL CABLE NETWORK PVT. LTD.
THROUGH ITS DIRECTOR MOHAMMAD SALIM MAHMOOD KASIM

VERSUS

THE UNION OF INDIA AND OTHERS

...
Mr. Rajendra S. Deshmukh, Senior Counsel, i/b Mr. Vinod Prakash Patil,
Advocate for Petitioner.

Mr. A. G. Talhar, Advocate for Respondent No.1.

Mr. P. K. Lakhotiya, AGP for Respondent Nos.2 to 7.

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CORAM : S. V. GANGAPURWALA &
R. N. LADDHA, JJ.

DATE : 28th September, 2021.

PER COURT:

. Mr. Rajendra Deshmukh, learned senior counsel submits that the action of the respondent authority in sealing the premises of the petitioner is *per-se* illegal and beyond the jurisdiction as engraved under Section 11. The learned senior counsel submits that no illegality has been committed by the petitioner in running his business. Since 20 years the petitioner is running his business in the name and style as M/s. Bhusawal Cable Network Private Limited. The learned senior counsel submits that the petitioner has about 8000 to 10000 customers. The petitioner is providing services through 22 operators in Bhusawal city. All of a sudden, on 17th September, 2021, the premises

were sealed by the police force of 200 constables. No reasons are provided. According to the learned senior counsel, the impugned action is not maintainable. The petitioner has under an agreement authority to telecast the channels. Various agreements are also placed on record. On the day the raid was conducted, the petitioner had only one agreement, which was provided to the authority. The objection of signature of other party not being present, is because of Covid-19 wherein online agreements were being executed. The petitioner has placed on record receipts showing the payments made. No illegality is committed.

2 The learned AGP submits that for seizure of the equipment, the sealing of the premises is necessary. The Committee on 17th September, 2021 visited the premises of the petitioner's cable network as per the complaint and directions of the Central Government. During the visit, it was found that various channels free to air are telecast by the petitioner by using private Dish with his own logo BCN. Many channels were run under petitioner's own label and logo i.e. BCN without registration, licence or without any authority or having any Program Code. The petitioner could not demonstrate any licence or copyright permission to show that he is having authority to telecast the channels on air. The petitioner violated Rule 6 of the Cable Television Network Rules, 1994 and Rule 9(a) of the Cable

Television Network Rules, 1995. The sealing is necessary for seizure of the equipment. Thereafter, show cause notice is issued to the petitioner. The petitioner has filed reply and now the matter is with respondent No.1. No illegality is committed.

3 The authorized officer has a power to seize the equipment if the business is being run by the cable operator in contravention of Sections 5 and 6. Seizure of equipment as per the proviso to Section 11 is limited to the programming service provided on the channel generated at the level of the cable operator. The provision nowhere prescribes sealing the entire business premises. In view of that, the sealing of premises certainly was improper.

4 If the petitioner has committed illegality, the respondents have every power to seize the equipment that was used in contravention of Sections 5 and 6 limiting it to the programming service.

5 In view of that, we set aside the order sealing the premises of the petitioner. The respondents are at liberty to take action with regard to the equipment of the petitioner if the same is being used in contravention of Sections 5 and 6. Seizure would be limited to the programming service provided by the petitioner on the

channel generated at the level of the cable operator and may take further steps as contemplated under Section 12 and all other provisions of the Act and statutes. The petitioner shall also not indulge in illegal activity as apprehended by the respondents in the *Panchanamas*. The petitioner will have to convince the respondent authority its entitlement to telecast various channels under its logo "BCN".

6 The show cause notice is already issued. Reply is given. The authority may take decision upon the show cause notice as may be permissible under law on its own merits.

7 This order would not preclude the respondent authority to proceed ahead in accordance with law.

8 The writ petition is accordingly disposed of. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]