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

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Decided on: 3rd February, 2021

+ W.P.(C) 3330/2020 & C.M.No.11699/2020 (*interim relief*),
C.M.No.23557/2020 (*for intervention*) & CM No.30301/2020 (*delay of 3 days in filing affidavit by Respondent No. 2*)

ONE97 COMMUNICATIONS LIMITED & ANR Petitioners

Through: Mr.Dushyant Dave, Sr. Adv. with
Ms.Neha Sangwan & Ms.Ruchira Goel, Advs.for
petitioner No.1.

Ms.Karuna Nundy with Mr.Rahul Narayan,
Ms.Ragini Nagpal & Mr. Utsav Mukherjee, Advs.
for petitioner No.2

Versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr.Chetan Sharma, ASG with
Mr.Anurag Ahluwalia, CGSC, Mr. Abhigyan
Siddhant & Mr. Viprav Acharya, Advs. for R-1.

Mr.Arjun Natarajan with Mr.N.Sasank Iyer, Advs.
for R-2.

Ms.Shikha Sarin, Adv. for R-4 & 9.

Ms.Anuradha Dutt with Mr.Anish Kapur,
Ms.Suman Yadav, Ms.Nikhita Suri, Advs. for R-5.

Mr.Harsh Kaushik, Adv. with Mr.Abhay
Chattopadhyay & Ms.Nikita Chitale, Advs. for
Respondent No.6.

Mr.Dayan Krishnan, Sr.Adv. with
Mr.K.R.Sasiprabhu, Mr.Raghav Shankar,
Mr.Vishnu Sharma & Mr.Tushar Bhardwaj, Advs.
for R-7.

Ms.Suruchi Suri, Adv. with Mr.Varun Singh
Thapa, Adv. for R-8.

Mr.Ashim Sood, Adv. with Ms.Senu Nizar, Adv.
for the applicant in C.M.No.23557/2020.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

1. This writ petition has been preferred with the following prayers:-

- “a) Declare that Regulations 25(5) and 25(6) of the Telecom Commercial Communications Customer Preferences Regulations, 2018 insofar as they allow the imposition of a graded penalty on identified unregistered telemarketers as unconstitutional and ultra vires the Telecom Regulatory Authority of India Act, 1997;*
- b) Declare that under Reg. 23(1)(b) of the Telecom Commercial Communications Consumer Preferences Regulations, 2018, the Respondents Nos. 3 to 9 are obligated to put in place mechanisms to register reports of violations from customers like the Petitioners.*
- c) Direct the Respondent No. 2 Authority to ensure complete and strict implementation of provisions of the Telecom Commercial Communications Customer Preferences Regulations, 2018 and any other related regulations issued from time to time to curb fraudulent unsolicited commercial communication sent over the respective networks of the respondent telecom service providers;*
- d) Direct the Respondent no. 2 Authority to take action against the Respondents no. 3 to 9 Telcos under Regulations 21, 27 and 28, for violations of their primary obligations of prevention and verification under the Telecom Commercial Communications Consumer Preferences Regulations, 2018;*

- e) *Direct the Respondent No.1 Department to take action to ensure that no sim card is sold without proper verification by effective implementation of the Department of Telecommunications Circular dated 09.08.2012 titled “Instructions on Verification of New Mobile Subscribers (Pre-paid and Postpaid)”;*
- f) *Direct the Respondent No.1 Department to ensure effective implementation by the Respondent Telcos of their obligations under their Unified Access License Agreements pertaining to verification and reporting of frauds taking place over their networks;*
- g) *Direct the Respondents Nos. 1 and 2 to establish an Inter - Agency Task Force that includes Computer Emergency Response Team (Ministry of Information and Technology) the Ministry for Home Affairs, Leading Banks and Leading PPI Wallet issuers to coordinate action limiting fraud over telecom networks;*
- h) *Direct the Respondents Nos. 3 to 9 Telcos to take effective action under the Telecom Commercial Communications Consumer Preference Regulations 2018, to block the phone numbers of UTMs sending unsolicited commercial communication including through phone calls, to the Petitioners’ customers.*
- i) *Direct the Respondent No. 3 to 9 Telcos to pay damages of 100 crores to the Petitioners for damage to their brand and reputation and loss of good will;*
- j) *Pass such other or further order as this Hon’ble Court may deem fit in and proper in the circumstances of the case.”*

2. Having heard learned counsels for the parties and looking at the interim orders passed by this Court and the affidavits filed by respondent No.2, it appears that adequate steps have been taken by respondent No.2 with regard to the grievances raised in this writ petition. Mr. Dushyant Dave,

learned Senior Counsel appearing for the petitioner agrees that requisite steps are being taken and submits that the petition can be disposed of by directing respondent No. 2 that it shall continue to comply with and implement the mandate of The Telecom Commercial Communications Customer Preference Regulations, 2018 (hereinafter referred to as 'the Regulations, 2018'), strictly and scrupulously in future and in case of any violation of the provisions of the said Regulations, penal action shall be taken against the violators.

3. We have also heard counsels for respondent Nos. 3 to 9, who are the Access Providers. It is submitted by the counsels that respondent Nos. 3 to 9 are complying with the provisions of Regulations, 2018.

4. Learned counsel appearing for respondent No.2 reiterates that an affidavit has been filed by respondent No. 2, wherein it is categorically stated that action has already been initiated by them against the violators and that they will strictly implement the provisions of Regulations, 2018.

5. In view of the above and in view of the limited submission made by learned Senior Counsel appearing for the petitioners, we hereby direct respondent No.2 to ensure compliance and strict implementation of the provisions of the Telecom Commercial Communications Customer Preference Regulations, 2018 and other related Regulations, issued from time to time, to curb unsolicited commercial communication sent over the respective networks of the telecom service providers.

6. We expect that in case of any violation, respondent No.2 shall take action against the violators in accordance with law, especially, the Regulations, 2018. We have also taken note of the fact that respondent Nos. 3 to 9/Access Providers are compliant with the provisions of the

Regulations, 2018 and we expect that they shall continue to strictly comply with the provisions of the Regulations, 2018.

7. With these observations, writ petition is disposed of.
8. All the pending applications are also disposed of.

CHIEF JUSTICE

J YOTI SINGH, J

FEBRUARY 03, 2021
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