

102.

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

CWP-14378-2022

Date of Decision: 14.07.2022

SHIVA CABLE NETWORK

.... Petitioner

Versus

M/S FASTWAY TRANSMISSIONS PVT. LTD. AND ANR

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Kinshu Mittal, Advocate, for the petitioner.

JAISHREE THAKUR.J (Oral)

The instant writ petition has been filed seeking to challenge the order dated 18.05.2022 (Annexure P-7) passed by the Telecom Disputes Settlement and Appellate Tribunal, New Delhi, whereby the petitioner has been fastened with a liability of depositing Rs.24 lakhs with the Registry by 30.07.2022.

Learned counsel appearing on behalf of the petitioner would contend that the said order is harsh considering that the petitioner had taken only one opportunity to file reply and on the second date, the impugned order requiring him to deposit an amount Rs.24 lakhs with the Registry came to be passed on account of non-filing of the written statement. It is argued that the petitioner herein is a Local Cable Operator and transmits the signals as transmitted by the Multi Systems Operator (MSO) to various subscribers. It is contended that the petitioner had entered into an agreement with the MSO M/s Fastway Transmissions Private Limited, which agreement would be

regulated by a notification dated 27.05.2013. As per the said notification, the Set Top Boxes were to become the property of the subscriber after a period of 3 years from the date of expiry and, therefore, the claim of respondent No.1 herein to recover the said Set Top Boxes is unsustainable. It is also argued that once the question of recovery is in dispute, the condition imposed by the Tribunal is an onerous one.

Notice of motion to respondent No.1 only.

Mr. Aayush Gupta, Advocate, already present in this Court, has put in appearance on behalf of respondent No.1-M/s Fastway Transmissions Private Limited. He would contend that the condition, as imposed, is only on account of the fact that the petitioner herein had already availed of an opportunity of six weeks to file its reply. It is contended that respondent No.1 herein, apart from recovery of Set Top Boxes, is also entitled to outstanding subscription charges, which are also the subject matter of dispute between the parties herein. It is also argued that the agreement between the parties itself specify that the Local Cable Operator, on the termination or the expiry of the agreement, is to hand-over to the MSO all properties and assets belonging to it, which contention is objected to.

At this stage, it is also pointed out by counsel for respondent No.1 that there is a provision under the Telecom Regulatory Authority of India Act, 1997 which provides for a review of any decision taken by the Appellate Tribunal. Counsel would rely upon Section 16(f) of the said Act in this regard. It is contended that the writ petition would not be maintainable at this juncture as the petitioner has a remedy of filing a review before the said authority.

I have heard learned counsel for the parties and without going into any of the contentions raised by either party or giving an opinion on its merit, deem it appropriate to direct the petitioner herein to avail of his remedy as provided under Section 16(f) of the aforesaid Act. In case the petitioner files the review application on or before 20.07.2022, let the review application be decided within a period of 5 working days thereafter. On a statement made at the bar, no adjournment will be sought by either side.

The present petition is disposed of accordingly.

14.07.2022

sanjeev

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No