



W.P.(MD).No.11606 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P.(MD).No.11606 of 2017
and
W.M.P(MD).Nos.8936 and 8937 of 2017

Cyril John
S/o.Kulanthaisamy

... Petitioner

Vs.

- 1.The Secretary,
Government of India,
Ministry of Information and Broadcasting,
'A' Wing Shastri bhavan,
Dr.Rajendra Prasad Road,
New Delhi-110 001.
- 2.M/s.Tamil Nadu Arasu Cable TV Corporation Limited,
Represented by General Manager,
"Dugar Towers",
6th Floor, Old No.34, New No.123,
Marshalls Road,
Egmore,
Chennai-600 008.
- 3.The District Collector,
District Collector Office,
Pudukkottai District,
Pudukkottai.



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4.The Revenue Divisional Officer,
Illuppur,
Illuppur Division,
Pudukkottai District.

5.The Special Tahsildar,
Tamil Nadu Arasu Cable TV Corporation,
Pudukkottai,
Pudukkottai District.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned notice issued by the fifth respondent in proceedings No.Na.Ka.267/2016 Tha.Na.A.K.T Pudhu/2016 dated 15.04.2017 and quash the same.

For Petitioner	: Mr.B.Prasanna Vinoth
For R1, R3, R4 and R5	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	: Mr.S.Devasena

ORDER

The petitioner is a Cable TV Operator. He has filed this writ petition challenging the show cause notice issued by the fifth respondent in proceedings No.Na.Ka.267/2016 Tha.Na.A.K.T Pudhu/2016 dated 15.04.2017.



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2. The learned counsel for the petitioner submits that the cable TV corporation has issued a show cause notice that the petitioner, who is the LCO of the Tamil Nadu Arasu Cable TV Corporation has committed breach of Sections 3, 4, 5 and 6 of the Cable TV Regulation Act. He further submits that the respondents while issuing the show cause notice, sealed the petitioner's premises on 15.06.2017 and as on date, the premises is locked. According to him, the respondents are not having any power to seal the premises under Section 11 of the Cable TV Regulation Act. The learned counsel for the petitioner has also relied upon the Hon'ble Division Bench order in W.P(MD).No.17940 of 2015 dated 06.01.2016.

3. The learned counsel for the respondents submits that this petitioner is the LCO registered with the Tamil Nadu Arasu Cable Corporation and he has committed the breach of Sections 3, 4, 5 and 6 of the Cable TV Regulation Act. Therefore, the impugned notice was issued to the petitioner calling for explanation that he is running the cable TV without obtaining valid permission as required under Sections 3, 4, 5 and 6 of the Cable TV Regulation Act.



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4. The learned counsel for the fifth respondent has filed a counter affidavit, wherein it is stated that the petitioner is a LCO under the Tamil Nadu Arasu Cable TV Corporation. But, the petitioner and 11 others have created their own control room for telecasting the channels through unlawful mode in Pudukkottai District. Hence the Managing Director of the Tamil Nadu Arasu Cable TV Corporation, requested the third respondent to take action against those persons through a letter dated 21.12.2016. On the basis of the order passed by the third respondent, on 15.06.2017 the fourth respondent sealed the premises, wherein the petitioner was illegally running the control room.

5. Admittedly, the petitioner was recognized as LCO by the Tamil Nadu Arasu Cable TV Corporation. If any of the person is recognized as LCO, then there is no violation under Sections 3, 4, 5 and 6 of the Cable TV Regulation Act. Based on the request of the Tamil Nadu Arasu Cable TV Corporation, the District Collector directed the Revenue Divisional Officer to seal the petitioner's premises. Accordingly, the petitioner's premises was sealed.



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6. A similar issue was discussed by the Hon'ble Division bench of this Court in W.P(MD).No.17940 of 2015 dated 06.01.2016 and the relevant paragraph is extracted as under:

" 13. The order dated 28.09.2015 of the District Collector, has been passed in exercise of the power conferred under Section 11 of the Cable Television Networks (Regulation) Act, 1995. Section 11 reads as follows:

"11. Power to seize equipment used for operating the cable television network.- If any authorised officer has reason to believe that the provisions of section 3, section 4-A, section 5, section 6, section 8, section 9 or section 10 have been or are being contravened by any cable operator, he may seize the equipment being used by such cable operator for operating the cable television network:

Provided that the seizure of equipment in case of contravention of section 5 and 6 shall be limited to the programming service provided on the channel generated at the level of the cable operator."



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14. Therefore any order of seizure of equipments passed in exercise of the power conferred by Section 11 of the Act, should conform to the grounds on which the power could be exercised under Section 11. A look at Section 11 would show that the equipments of a Cable Operator could be seized by the authorised officer, if any of the following grounds exist:

(i) A violation of the provisions of Section 3, which mandates registration as a Cable Operator;

(ii) A violation of the provisions of Section 4-A, in cases where the Central Government had issued a notification mandating every Cable Operator to transmit programmes in an encrypted form through a digital addressable system;

(iii) A violation of the provisions of Section 5 which mandates the transmission in conformity with the prescribed programme code;

(iv) A violation of the provisions of Section 6 which mandates conformity with advertisement code;

(v) A violation of the provisions of Section 8 which mandates compulsory transmission of certain channels, such as, Doordharsan, Rajyasabha, etc.

(vi) A violation of the provisions of Section 9 which mandates the use of standard equipments or digital addressable system; and



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(vii) A violation of the provisions of Section 10 which mandates that the Cable Television Network should not interfere with any telecommunication system.

15. A careful look at Section 11 would show that it is a complete code in itself. It clearly defines violations for which an order of seizure of the equipments could be passed. There is no omnibus provision under Section 11 to enable the authorised officer to seize the equipments for any ground other than what is mentioned in Section 11.

16. Coming to the case on hand, it is seen that the order of the District Collector states three reasons. The first reason is that the petitioner is guilty of violation of Section 3. But the said ground is no more available to the respondents in view of the common order passed by us in a batch of writ petitions and writ appeal in W.A.(MD)No.1340 of 2015 and W.P(MD)No.1039 of 2015, etc., on 05.01.2016.

17. Hence the first reason on account of which the District Collector passed the order dated 28.09.2015 goes.

18. The second reason stated by the District Collector in his order dated 28.09.2015 is that the petitioner has not



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obtained a licence as a Multi-System Operator. But unfortunately that is not one of the grounds traceable to Section 11.

19. Similarly the third reason that the petitioner is in arrears of amount to the Tamil Nadu Arasu Cable Television Corporation Limited, is also not a ground traceable to Section 11.

20. Therefore we find that the impugned order dated 28.09.2015 passed by the District Collector is wholly without jurisdiction and completely arbitrary. As a matter of fact, we have found in our order dated 05.01.2016, passed in W.A.(MD)No.1340 of 2015 and batch, that the Post Master himself had acted in an arbitrary and malicious manner. Therefore we are of the view that the order dated 28.09.2015 of the District Collector should be set aside. Hence W.P(MD)No.17940 of 2015 is allowed and the order dated 28.09.2015 passed by the District Collector is set aside."

7. In view of the above order passed by the Hon'ble Division Bench of this Court in W.P(MD).No.17940 of 2015 dated 06.01.2016, impugned notice issued by the fifth respondent in proceedings No.Na.Ka.



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267/2016 Tha.Na.A.K.T Pudhu/2016 dated 15.04.2017 is set aside.

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Accordingly, this Writ Petition is allowed. If the respondents are having any arrears with the petitioners, they can recover the same in the manner known to law. No Costs. Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No
Internet: Yes/No
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To

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B.PUGALENDHI, J.

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