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

+ **W.P.(C) 12240/2024**

BHARAT SANCHAR NIGAM LIMITED

.....Petitioner

Through: Mr. Tejveer Singh Bhatia and
Mr. Faisal Hasan, Advocates.

versus

PLINTRON INDIA PRIVATE LIMITED & ORS.Respondents

Through: Mr. Sandeep Arya and Ms. Rupali
Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

22.05.2025

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REVIEW PET. 67/2025

1. The present review petition, instituted pursuant to the liberty granted by the Division Bench of this Court *vide* order dated 16th January, 2025, has been filed by Respondent No. 1 – Piltron India Private Limited, seeking review of the judgment dated 3rd September, 2024¹ passed in W.P.(C) 12240/2024. By the said judgment, this Court set aside a series of interim orders passed by the Telecom Disputes Settlement and Appellate Tribunal,² whereby the Tribunal had restrained the Petitioner - Bharat Sanchar Nigam Limited³ – from disconnecting the interconnection facilities extended to Respondent No. 1.

¹ “Impugned Judgment”

² “TDSAT”

³ “BSNL”



2. Counsel for the Review Petitioner / Respondent No. 1 submits that the judgment under review suffers from a material error apparent on the face of the record, insofar as several critical facts and documents were not brought to the attention of the Court. It is contended that the Empanelment Agreement dated 23rd October 2017⁴ and the Commercial Agreement dated 13th July, 2018⁵ were valid and subsisting on the relevant date. In this context, it is contended that BSNL made misleading assertions regarding the subsistence and automatic renewal of the said agreements, while failing to place on record not only the agreements themselves, but also other relevant documents, including the Unified Licence dated 11th May 2017 and the TRAI's recommendation dated 1st May 2015. This omission, it is submitted, materially affected the outcome of the impugned judgment. Furthermore, it is argued that the judgment failed to consider the TRAI's Interconnection Regulations, 2020 as well as the terms of Respondent No. 1's licence, both of which impose continuing regulatory obligations and mandate uninterrupted interconnection service.

3. Counsel for the Non-Applicant/Petitioner, on the other hand, controverts the contentions raised by the Review Petitioner, and argues that they are wholly misconceived and the Impugned Judgment do not warrant interference. It is argued that all relevant agreements were brought to the notice of this Court, during the course of the arguments, and were handed over across the board. Specifically, concerning the assertion that the Empanelment Agreement and the Commercial Agreement were not submitted, it is contended that although these documents were not filed with

⁴ "Empanelment Agreement"

⁵ "Commercial Agreement"



Writ Petition No. 12240 of 2024, true copies were physically handed over to the Court during the hearing. Additionally, it is submitted that, in any event, the material clauses from the aforementioned agreements were already reproduced and placed on record in earlier proceedings, including W.P.(C) No. 16448/2022, instituted by the Review Petitioner, and Telecom Petition No. 5 of 2024, filed before TDSAT. Accordingly, there was no concealment, nor any material omission, as alleged. Thus, counsel for Petitioner emphasizes that the Impugned Judgment was rendered after due consideration of the agreements and relevant contractual clauses. In fact, the arguments advanced by Senior Counsel for Respondent No. 1 (now Review Petitioner) were duly recorded and considered in the body of the judgment.

4. It is further submitted that the Empanelment and Commercial Agreements had, in any event, expired by efflux of time, and no enforceable right survived that could justify continued interconnection. In the guise of a review, it is argued, the Review Petitioner seeks a re-hearing on merits, which is impermissible in law. The Review Petition, it is urged, is an abuse of process, and seeks to re-litigate issues that have already attained finality.

5. The Court has considered the rival contentions. As regards the allegation that key contractual documents were not placed on record by BSNL, it merits emphasis that this claim stands rebutted on the face of the record. In its affidavit-in-reply, BSNL has categorically asserted that true copies of both the Empanelment Agreement and the Commercial Agreement were made available to the Court during the course of oral arguments. Be that as it may, relevant clauses from these agreements had already been extracted in the earlier writ petition (W.P. (C) No. 16448/2022), filed by the and were also referred to in Telecom Petition No. 5 of 2024 filed before the



TDSAT, both of which were filed by the Review Petitioner itself. Both of these documents and the replies to these petitions have been annexed with the main petition [W.P.(C) 12240/2024]. Thus, the material necessary to assess the subsistence or otherwise of the contractual relationship was very much before the Court while passing the impugned judgment.

6. Turning to the allegation that the contract was still in force and that the Court erred in concluding it had expired - thus allegedly invalidating the basis for setting aside the interim orders passed by the TDSAT - it is important to first consider the background against which the Impugned Judgment was delivered. The Impugned Judgment set aside a series of interim orders passed by the TDSAT on 1st February 2024, 8th February 2024, 28th February 2024, and 1st March 2024, whereby BSNL was restrained from disconnecting interconnection facilities extended to the Review Petitioner.

7. A perusal of the first three orders passed by the TDSAT reveals that the directions restraining disconnection were issued without recording any reasons or undertaking even a *prima facie* examination of the subsistence of contractual obligations. The first such order, dated 1st February 2024, was passed at the threshold stage of issuing notice, yet it granted *ad-interim* stay without assigning any rationale. The subsequent orders dated 8th and 28th February 2024 merely extended that interim arrangement in mechanical fashion.

8. It was only in the order dated 1st March 2024 that the Tribunal recorded submissions of both parties and made reference to the contractual framework. The said order acknowledged, in particular, the argument advanced by BSNL that the Empanelment Agreement, had expired by efflux



of time, and that the Tribunal cannot not re-write the contract. It also took note of the submission that the Commercial Agreement was based on the Empanelment Agreement, which had already expired, and therefore could not stand alone. Despite taking note of this objection, the Tribunal proceeded to grant interim stay in favour of the Review Petitioner, without rendering any definitive finding on the validity or enforceability of the contractual arrangement. In the absence of such a determination, the direction to maintain *status quo* or continued interconnection facilities amounts to a grant of substantive relief, which could not have been done by way of interim protection.

9. It is in this backdrop that the judgment dated 3rd September 2024 was rendered, and the present Review Petition must be tested. The contention that material documents were not placed before the Court or considered while deciding the matter does not pass muster, particularly when the operative clauses of the agreements were already on record and considered by this Court. The Impugned Judgment was rendered on a holistic appraisal of the material available, including the interim directions issued by the Tribunal. There, thus, existed reasonable basis for this Court to conclude that the underlying agreements had lapsed by efflux of time. Accordingly, the legal question that arose was whether, in the absence of a subsisting contract, interim relief could have been granted restraining disconnection of services. This Court has already examined, in detail, this issue and has given its reasons for finding such a directive impermissible. It is therefore not necessary to reiterate those reasons here.

10. Thus, the present review petition seeks, in effect, a re-argument on points already considered and decided. Having rendered a reasoned



judgment after taking into account the materials then available, this Court finds no occasion to revisit the same merely because the Review Petitioner now seeks to place an alternative gloss on those very documents.

11. Further, the orders that were under challenge before this Court were interim in nature, and the limited question before the Court was whether the TDSAT had, at the interim stage, applied correct legal standards while directing the continuation of interconnection facilities. The Court was not required to undertake a detailed interpretative exercise of the licence terms or policy documents. The scope of judicial review at the interlocutory stage extends only to examining whether a *prima facie* case had been made out and whether the Tribunal's exercise of discretion in granting interim relief was legally tenable. Thus, even if the aforesaid documents were placed on record, they would not have materially altered the outcome, given the limited ambit of review at that stage.

12. Nonetheless, it is further relevant to note that the substantive proceedings remain pending before the TDSAT. If Respondent No. 1 contends that the agreements in question continue to subsist by operation of law or regulatory mandate, it is open to them to assert and substantiate those claims before the Tribunal. Nothing in the Impugned Judgment forecloses such arguments. In order to rule out any ambiguity, it is clarified that the observations made by this Court in the judgment dated 3rd September, 2024, are confined solely to the validity of the interim relief granted by the TDSAT. The TDSAT shall be at full liberty to adjudicate the question of subsistence and enforceability of the agreements based on the evidence and arguments presented before it.

13. In view of the foregoing and the time-sensitive nature of



interconnection disputes, this Court requests the TDSAT to dispose of the main petition expeditiously, preferably within a period of three months from the date of receipt of this order. The parties are expected to cooperate fully to enable timely adjudication.

14. With the above direction, the review petition is disposed of.

SANJEEV NARULA, J

MAY 22, 2025

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