



\$~71

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

+ W.P.(C) 888/2025 and CM APPL.4351/2025 (Stay)

A2Z INFRA ENGINEERING LIMITED & ANR.....Petitioners

Through: Mr. Sandeep Sethi, Sr. Adv., Mr.
Naman Singh Bagga, Mr. Gaurav Rai
and Ms. Astha Agarwal, Advs.

versus

BHARAT SANCHAR NIGAM LIMITED & ORS.....Respondents

Through: Ms. Leena Tuteja, Adv. for R-1.
Mr. Shashank Manish, Ms. Nidhi
Sahay and Mr. Chahana Charles,
Advs. for R-2.
Mr. Rohan Jaitley, CGSC, Mr.
Hussain Taqvi, GP, Mr. Dev Pratap
Shahi, Mr. Varun Pratap Singh and
Mr. Yogya Bhatia, Advs. for R-3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

28.01.2025

%

1. The present petition has been filed by the petitioner seeking that the respondents be directed to act in terms of the instructions of the respondent no.3 / Department of Telecommunications, Union of India and release the undisputed payment due to the petitioner no.1 in connection with maintenance services rendered by the said petitioner for Package F and Package G of the NFS-OFC Tender.
2. It is pointed out that the of non-release of the said outstanding payment, is not only detrimental to the petitioner, the same also severely prejudices the defence forces for whom the concerned Optical Fibre Cable (OFC) network, costing more than INR 30,000 Crores, has been created. As



such, it is contended that in the interest of national security, it is imperative that the stalemate as regards maintenance of the OFC network (on account of non-payment of the petitioner of the requisite maintenance charges) is brought to an end.

3. During the course of hearing, attention is drawn to a meeting convened by the Secretary (Telecom) on 01.03.2023 concerning the payment issues in respect of the said NFS-OFC project. The minutes of the said meeting records the following:

“5. After due deliberations, following decisions were taken:

I. The warranty period shall commence from 1st July, 2023 for the equipment which is part of NFS project and already in use by defence services, and BSNL and SO-in-C agree there too.

II. AMC Payment towards maintenance of Optical Fibre Cable for all period July 2019 to Sept 2020 and April 2021 to March 2023 for all completed working OFC Links (after completion of 3 years warranty), may be released from the already available funds in the NFS project with BSNL. Further, requisite provisions be made to make the payment of AMC charges from April 2023 onwards till taking over in September, 2023.

III. In the joint meeting co-chaired by Secretary (Telecom) and Secretary (Defence) held on 09th February, 2023, it was decided that AFNET being the operational air force network is critical for functioning of the air defence of the nation, funding of AFNET be continued till IAF would shift to NFS. Accordingly, bandwidth charges in the AFNET project shall be released for the year 2022-23 and thereafter till taking over of NFS project by MoD in September 2023.

IV. The capital expenditure on account of any void in the UNMS shall be included in the EFC Note after receiving the same from Army latest by 15th March, 2023. The ongoing NFS project should now be completed and taken over by Defence without delay. For any further demands for new items of work should be raised separately to BSNL as a separate project by the Defence, if any.



V. BSNL to take necessary actions and ensuring that NFS project should be maintained properly until taking over by defence (Sept 2023) to resolve any potential security threat.”

4. Despite the positive decisions taken in the aforesaid minutes, the dispute/s as regards the payment entitlement of the petitioner still continue to fester and there is no clarity as to whether the concerned respondent/s has even processed the request of the petitioner for necessary payment/s.
5. During the course of hearing, it has been sought to be contended by learned counsel for the respondent no.1 (BSNL) that the requisite payment has been released by it to the respondent no.2 (ITI Limited). On the contrary, learned counsel for ITI Limited submits that certain amount/s towards the same, is yet to be paid by BSNL.
6. In the circumstances, considering the importance of the project, and considering the dire necessity to ensure that the maintenance of the project is not jeopardised, it would be apposite if the Secretary, Department of Telecom convenes another meeting with all the concerned stakeholders (including the representatives of the petitioner, respondent no.1 and respondent no.2) so as to endeavour to resolve the outstanding issues, *inter-alia*, as regards the payment entitlement of the petitioner, and the maintenance of the project. It is directed accordingly.
7. It is made clear that in case no amicable resolution is arrived at, the parties shall be free to pursue their contractual/ legal remedies.
8. With the aforesaid directions, the present petition is disposed of.

SACHIN DATTA, J

JANUARY 28, 2025/cl