

PRESENTATION

1. Hon'ble Justice Shri J.K. Maheshwari, Judge, Supreme Court of India, Chief Guest of the Seminar,
2. Hon'ble Justice Shri Ravi Malimath, Chief Justice, Madhya Pradesh High Court, Guest of honor.
3. Shri Omprakash Saklecha, Hon'ble Minister of MSME, Science & Technology, Govt. of Madhya Pradesh.
4. Shri Prashant Singh, Advocate General, Govt. of Madhya Pradesh, Special Guest.
5. Hon'ble Justice Shri D.N. Patel, Chair Person & Other members of the Telecom, Disputes Settlement and Appellate Tribunal.
6. Other Dignitaries on the Dias & off the Dias & Ladies and Gentleman.

First of all, I am thankful to the organizers of this Seminar at Indore, it is possibly being conducted for the first time at Indore. And the topic for the session today is "Telecom Dispute, Settlement & Appellate Tribunal". I feel extremely grateful for getting the opportunity to participate in the seminar.

So far as topic assigned to me is "Regulatory Mechanism in Telecom & Broad Casting Sectors under the TRAI Act " in which I would like to highlight some key points of relevant act & rules on the basis of which the Tribunal is established and is functioning.

1. As per the provisions of the Telecom Regulatory Authority of India Act 1997, Telecom Regulatory Authority of India is established under Section 3 of the Act.
2. As per Section 14 of the Act, Telecom Dispute Settlement and Appellate Tribunal is established which is having original jurisdiction under the Act of 1997 to adjudicate any dispute between ;
 - (i) Licensor and a Licensee.
 - (ii) Between two or more service providers;

- (iii) Between a Service Provider and a Group of Consumers.

The act of 1997 provides definition of Licensor, Licensee, service provider and Tele Communication Service in Section 2.

The Tribunal also having the jurisdiction in respect of other acts i.e.

- (i) The Information & Technology Act, 2000.
- (ii) Aadhar (Targeted Deliveries of Financial And Other Subsidies, Benefits and Services,) 2016,
- (iii) Airport Economy Regulatory Authority of India Act, 2008.

The Tribunal also exercises its appellate jurisdiction in regard to Cyber Matters.

Section 16 of the Act, provides procedure and powers of Appellate Tribunal although said section provides that Appellate Tribunal shall be bound by procedure laid down by the Code of Civil Procedure but shall be guided by the principles of natural justice and the appellate tribunal shall have powers to regulate its own procedure but sub section 2 of the Section 16 provides that which procedure of CPC can be applied by the Tribunal i.e.;

- (a) Summoning and enforcing the attendance of any person and examining him on oath i.e. order 16 of CPC.
- (b) Requiring Discovery and production of documents i.e. order 11 of CPC
- (c) Receiving evidence on affidavit order - 18 of CPC.
- (d) Issuing commission for the examination of parties
- (e) Reviewing its decision - order 47.
- (f) Dismissing application for default or deciding its ex-parte order 9.

Therefore in view of the aforesaid provisions it can be said that although Tribunal is not bound to follow strict procedure prescribed under CPC, however for the limited purpose Tribunal has to follow procedure prescribed under CPC.

Section 17 of Act of 1997 provides applicant/ appellants to seek the right of legal representation before the Tribunal through Chartered Accountants, Company Secretaries, Cost Accountant and Legal Practitioners apart from appearance by applicant or appellant-in-person.

It is worthwhile to mention that Indore is a commercial capital of state of Madhya Pradesh and is having good infrastructural as well as other facilities for regular circuit sitting of TDSAT.

And by regular functioning at Indore at one hand, Licensee, Licensor and service Providers as defined under the Act may get their disputes settled here only and on the other hand, large number of professionals like Chartered Accountant, Company Secretary, Cost Accountant and Legal Practitioners of city Indore and Madhya Pradesh may get an opportunity to appear before the Tribunal. At this stage, it is not out of place to mention that our Bar Association of Indore which is having more than 4000 Advocates which includes Designated Senior Advocates, established Lawyer and many young lawyers who has passed out from various National Law Universities and Prestigious Law colleges of all over India and their assistance to the Tribunal will be helpful for setting up new dimensions in the legal field of Telecom, Broad Casting & Cyber Sector. Coming back to the topic

Section 19 of Act provides that order passed by the Tribunal to be executable as a Decree.

Section 20 provides penalty for failure to comply with the orders of the Tribunal.

As far as Appellate Jurisdiction of the Tribunal is concerned, it is prescribed under Section 48 of the Information & Technology Act, 2000 which provides that TDSAT is the Appellate Tribunal for the purpose of this Act and Tribunal shall exercised the jurisdiction powers and authority conferred on it by or under this Act. It is relevant here to mention that under Section 18 of the Telecom Regulatory Authority of India 1997 against any order passed by the Appellate Tribunal appeal shall lie before the Hon'ble Supreme Court of India on one or more of the grounds specified in Section 100 of CPC. meaning thereby for challenging the order of the Tribunal there has to be substantial question of law may arise in appeal, however exceptions has been carved out that it is subjected to any other law. Therefore,, if Tribunal passes an order under the provisions of the Information & Technology Act 2000 as per section 62 appeal is provided to the aggrieved persons against the order of Tribunal before the Hon'ble High Court.

Conclusion:

The unprecedented rise in usage of telecommunication has led to the evolution of set of laws which govern the telecommunication and media activities in India, Article 19 of the Constitution of India guarantees the right to freedom of speech and expression. The Medium used for communication of information such as Internet platforms, press, telephones mobile phone network etc. plays a vital role in determining the applicable laws that apply to it in today's scenario

telecommunication and Internet have evolved and become interconnected in many ways the term media is a wider connotation that covers various aspects such as telecommunication, advertisement, broadcasting etc the entry of private entities and service providers in telecommunications sector warranted establishment of an independent regulator and the regular circuit sitting of TDSAT at Indore would be able to resolve all the conflicts related to the same.

Jai Hind, Jai Bharat.

Date: 15.07.2023

Thank you,

Umesh Gajankush

Additional Advocate General,

M.P. High Court Bench At Indore.