

TDSAT'S ROLE IN
ENSURING FAIR
PRACTICES AND QUALITY
SERVICE IN
BROADCASTING SECTOR
INVOLVING CABLE AND
TELEVISION SERVICES IN
INDIA

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Introduction

The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) plays a crucial role in ensuring fair practices and quality service in the broadcasting sector in India. By resolving disputes, protecting consumer rights, and promoting fair competition, TDSAT contributes to a healthier and more transparent broadcasting landscape.

Some key aspects of TDSAT's functions and impact are given in the below slides.

Dispute Resolution

- ◆ TDSAT provides a platform for resolving disputes between service providers, consumers, and regulatory authorities.
- ◆ This helps ensure that grievances related to service quality, unfair practices, and contractual obligations are addressed promptly.

Regulatory Oversight

TDSAT reviews and appeals decisions made by regulatory bodies like the Telecom Regulatory Authority of India.

By doing so, it helps maintain checks and balances within the system, ensuring that regulations are fairly implemented and adhered to.

Consumer Protection

- ◆ The tribunal's rulings often emphasize consumer rights, promoting transparency and accountability among broadcasters and service providers.
- ◆ This includes ensuring that consumers receive quality service and are not subjected to misleading practices.

Promoting Competition

TDSAT's interventions help foster a competitive environment by addressing anti-competitive practices, such as monopolistic behaviors.

This leads to better choices and improved services for consumers.

Upholding Ethical Standards

By scrutinizing practices and enforcing standards, TDSAT champions integrity in broadcasting.

This means ensuring that content is not just entertaining but also respectful and responsible.

TDSAT's role in promoting ethical standards helps cultivate a media landscape that values quality and responsibility.

Formation of Telecom Disputes Settlement and Appellate Tribunal

- ◆ In order to bring in functional clarity and strengthen the regulatory framework and the disputes settlement mechanism in the Telecommunication sector, the TRAI Act of 1997 was amended.
- ◆ In the year 2000 TDSAT was set up to adjudicate disputes and dispose off appeals with a view to protect the interests of service providers and consumers of the telecom sector and to promote and ensure orderly growth of the telecom sector.
- ◆ In January 2004, the Central Government included broadcasting & cable services also within the purview of TRAI act. After coming into force of the relevant provisions of the Finance Act 2017, the jurisdiction of TDSAT stands extended to matters that lay before the cyber appellate tribunal and also the airport economic regulatory authority appellate tribunal.

Powers and Jurisdiction

- ◆ The Tribunal Exercises Jurisdiction over Telecom, Broadcasting, IT and Airport Tariff matters under the TRAI act, 1997 (as amended), the Information Technology Act, 2008 and the Airport Economic Regulatory Authority of India Act, 2008.
- ◆ The Tribunal exercises original as well as appellate jurisdiction in regard to Telecom, Broadcasting and Airport Tariff Matters.
- ◆ In regard to cyber matters the tribunal exercises only the Appellate Jurisdiction.
- ◆ TDSAT has also ensured Fairness and Competence which is explained in the slides below.

Fairness and competence

Historical Background

Earlier an elongated trial procedure was conducted for adjudication of disputes pending before TDSAT in similar lines of civil court despite the acts provide that :-

1. The tribunal is not bound by the procedure laid down by the code of civil procedure, 1908 and Indian Evidence Act 1872,
2. Tribunal has power to regulate its own procedure;
3. It is to be guided by the Principles of Natural Justice.

Fairness and competence

TDSAT formulating it's own procedure to expediting the adjudication process.

- ◊ When former Hon'ble Mr. Justice Shiva Kirti Singh assumed the office of chairperson of TDSAT in 2017, TDSAT got recognized for doing-away with the mandatory procedure adopted by the tribunal for lengthy evidence submission with sole objective to expedite the redressal /adjudicatory process because the unnecessary and hyper technical procedure for recording evidence only leads to delays in the resolution of cases.

Fairness and competence

Efforts to enforce effective process for ensuring the Appearance of Non-Appearing party resulting in ex-parte proceedings.

- ◆ When our present chairperson Hon'ble Mr. Justice D.N Patel assumed his office in 2022, he observed that the Respondent in many cases have been absconding from participation in day to day proceedings/hearing in order to frustrate the orders passed by the tribunal from time to time which were resulting into miscarriage and subversion of justice and the mandate of the Act.
- ◆ The Hon'ble chairperson has adopted certain out of box procedures which was generally not exercised earlier like issuance ofailable and Non-Bailable warrants to the non-appearing parties, which also includes passing of orders for the appearance of the opposite side through summoning the DSP, SP, or other officers of the state. This power has been used by Hon'ble TDSAT to fairly and effectively adjudicate telecom pending disputes in just and expeditious manner.

Fairness and competence

Constitution of additional bench facilitating early disposal of pending matter.

- ◆ Looking into the long pendency of matters in the tribunal especially, matters involving recovery proceedings in Broadcasting Petitions where whose money involving various service providers are withheld, an additional bench has been established which is headed by the Judicial Member Hon'ble Justice Ram Krishna Gautam for fast and fair adjudication.

Fairness and competence

Streamlining the mediation process.

- ◆ Attention has also been paid in channelizing the mediation process so that *“parties may amicably resolve their pending dispute effectively and quickly.”*
- ◆ *Special attention has also been paid that no party to misuse the mediation process to delay the pending recovery proceedings by fixing the time period in which the mediation process has to be completed.”*

Fairness and competence

Creating easy accessibility to approach the Hon'ble TDSAT

- ◆ To ensure the fairness and accessibility to service providers across the country, the Hon'ble TDSAT conducts virtual hearings every Monday

Fairness and competence

Securing the bonafide right of the aggrieved party in the best interest of Justice

- ◆ In cases involving illegal disconnection of channels, the TDSAT has adopted a swift approach of reconciling disputes at the very first instance by passing interim measures i.e. Reconnection of channels to ensure that the viewers of television channels do not suffer due to disputes between broadcasters and service providers.

Fairness and competence

Creating Easy accessibility in the changing world of information and technology

- ◆ Online case e-filing procedure has been setup for easy and smooth functioning.

Fairness and competence

Securing the recovery process

- ◆ In cases of recovery of dues where a prima facie case is established by a litigant, the Hon'ble TDSAT directs that a certain percentage of the amount in dispute be deposited by the defaulter before the Tribunal in order to secure the interests of the parties involved.

Fairness and competence

- ♦ That any delay in execution mean that the Decree/Judgment Holders have to wait longer for their disputes to be resolved which does not have only adverse economic effect but subvert the whole purpose of the legislation.
- ♦ We are grateful to Hon'ble Mr. Justice D.N Patel for having exercised the powers to execute its orders/decrees and not refer the order/decrees to be executed in district cum-civil court under the stringent provision of the CPC, 1908.
- ♦ By exercising the power for deposit of the money in the interim the same has ensured that there is no delay or frustration of the execution process.
- ♦ That the telecom sector is a vital part of the Indian economy, and it is important for the sector to have a strong, speedy and effective dispute resolution mechanism especially in terms of execution of its own decrees or orders.

Suggestions/recommendations

- ◆ A legal aid assistance to be provided to small cable operators usually who are paupers.
- ◆ Implementation of regular hybrid mode system for daily hearings.

THANK YOU