

**TELECOM DISPUTES SETTLEMENT AND APPELLATE
TRIBUNAL NEW DELHI**

DATED THE 13th AUGUST, 2001

APPEAL NO. 2 of 2001

(With M.A.No. 16 of 2001, MA Nos. 33, 34 & 35 of 2001)

Cellular Operators Association of India & Ors ... Appellants

Versus

Bharat Sanchar Nigam Ltd. & Ors. ... Respondents

BEFORE:

HON'BLE MR. JUSTICE SUHAS C. SEN,

CHAIRPERSON

MR. R.U.S. PRASAD, MEMBER

MR. P.R. DASTUPTA, MEMBER

For the Appellants : Mr. Deepankar Gupta, Senior Advocate

Ms. Pallavi S. Shroff

Mr. T. Srinivasan Murthy,

Mr. P.K. Prabhat, Advocates with him

For the Respondents : Mr. Kirit Rawal, Addl. Solicitor General

BSNL Mr. C.S. Vaidyanathan, Sr. Advocate

Mr. Maninder Singh

Mr. Ankur Talwar and Ms. Ritikia Anand,
Advocates with him.

ABTO Mr. Ramji Srinivasan, Advocate

Ms. Narendar Singh, Advocate

Ms. Geeta Nair, Advocate

ORDER

Application was made to withdraw the appeal filed by the Appellants which we have allowed today. But can the appellants be allowed to get away scot-free after making blatant false statements on affidavit verified as true to the knowledge of T.V. Ramachandran who is stated to have been authorised by Cellular Operators Association of India (COAL) and four other appellants namely, (1) Tata Cellular Limited, (ii) BPL Cellular Limited, (iii) Birla AT & T Communications Limited (iv) Aircel Limited by Power of Attorney to file an appeal and also to swear affidavit in support thereof. It has been pointed out by the Respondents that the statements made in the affidavit verified on 7th May, 2001 on behalf of the appellants in the present appeal is to the following effect:

“.....It is further submitted that COAL was not invited in the meeting held on 24.8.2000 and 25.8.2000 wherein the views putforth by respondent No. 2 on various interconnect issues were discussed.....”

I, Mr. P.V. Ramachandran, aged about 55 years, s/o late Shri T.R. Vishwanathan, R/o 22, Poorvi Marg, Vasant Vihar, New Delhi-110 057 do hereby solemnly affirm and state as under:

That I am duly authorized and I am conversant with the facts of the case and am competent to swear the present affidavit.

That I have perused the accompanying rejoinder being filed on behalf of the Appellant and that the contents thereof are true and correct to the best of my knowledge.

That the Annexures annexed to the rejoinder are true copies of their originals.

Solemnly Affirmed at New Delhi

Sd/-

on this 7th Day of May 2001

Deponent”

This statement has been made in Para-4 at page-16 of the rejoinder filed on behalf of the Appellants. The avermenti is that the contents of the affidavit is true to the knowledge of the Deponent.

It has been pointed out by the Respondents that TRAI by communication dated 14.8.2000 and 22.8.2000 invited the COAL to attend the meeting which

was to be held on 24.8.2000. In fact the notice dated 14.8.2000 was personally addressed to, amongst others, T.V. Ramachandran, Secretary General, COAL. The meeting was duly held on 24.8.2000 and continued on till 25.8.2000. T.V. Ramachandran, who has sworn this affidavit that no notice was given, was personally present at the hearing.

The question is why did Ramachandran state on affidavit that no notice of hearing was given by TRAI. Ramachandran is an another affidavit verified and filed on 29.5.2001 at paragraphs 4 and 5 has explained:

“4. It is not respectfully submitted that the above submission was made inadvertently, due to oversight, and without any intent whatsoever to mislead this Hon’ble Tribunal and the Deponent and the Appellants express their sincerest and humblest regrets.

After filing of the aforesaid rejoinder and upon subsequent verification of facts it was found the Appellants have in fact attended the meetings dated 24.8.2000 and 25.8.2000.”

It has not been clarified when did it dawn upon Ramchandran that TRAI in fact had issued a notice of hearing and he had personally attended the meeting pursuant to those notices, There is no doubt that Ramachandran had tried to mislead this Tribunal and induce the Tribunal to pass a wrong order on the ground of denial of natural justice on the basis of the false averments made by him. He is representing five appellants. He is also a responsible person holding the post of Director General of COAL. It is very surprising that such a person will make a false statement to get a favourable order. Process of law has been thoroughly abused by Ramachandran and the parties who have authorised Ramachandran to file this blantly false affidavit. We will be failing in our duty if we accept the belated apology now tendered by Ramachandran and ignore the false averments solemnly made on an affidavit to mislead this Tribunal.

This application has been made by the respondents to initiate proceedings under the provisions of Section 340 of Criminal Procedure Code and also for appropriate action under Section 195 of the Cr. P.C. for punishing the appellants for committing offence under Sections 193 and 199 of the Indian Penal Code.

We are of the view that a person particularly of the high status of T.V. Ramachandran should not be allowed to get away on the basis of an apology tendered by him after being found out. We do not propose to initiate any action under Section 340 of the Cr. P.C. in view of the apology tendered. We have

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allowed the appeal to be withdrawn. But Mr. T.V. Ramachandran as also the five appellants namely; (i) Cellular Operators Association of India, (ii) Tata Cellular Limited, (iii) BPL Cellular Limited, (iv) Birla AT & T Communications Limited (v) Aircel Limited must each pay Rs. 20,000 as cost to the Registrar of this Tribunal within four weeks. The Registrar will forthwith deposit the entire amount in the Prime Minister's Relief Fund.

The application is disposed of as above.

Sd/-

(Suhas C. Sen)

Chairperson

Sd/-

(R.U.S. Prasad)

Member

Sd/-

(P.R. Dasgupta)

Member

