

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

**Petition No.132 of 2005**

**Dated 3<sup>rd</sup> May, 2006**

1. Tata Teleservices Ltd.  
10<sup>th</sup> Floor, Tower 1,  
Jeevan Bharti  
124, Connaught Circus  
New Delhi – 110 001

also at:

Indicom Building  
2-A, Old Ishwar Nagar  
Main Mathura Road  
New Delhi – 110 065

2. Tata Teleservices (Maharashtra) Ltd.  
Ispat House, B.G. Kher Marg  
Worli, Mumbai – 400 018

.....Petitioners

Versus

1. Bharat Sanchar Nigam Ltd.  
611, Statesman House  
B-148, Barakhamba Road  
Connaught Place  
New Delhi – 110 001
2. Telecom Regulatory Authority of India  
A-2/14, Safdarjung Enclave  
New Delhi – 110 029

.....Respondents

**BEFORE:**

**HON'BLE MR.JUSTICE N.SANTOSH HEGDE  
CHAIRPERSON  
MR.VINOD VAISH, MEMBER  
LT.GEN.(Retd) D.P. SEHGAL, MEMBER**

For Petitioner : Mr.Ramji Srinivasan with  
Mr.Md.Akram, Advocates

For Respondent No.1 : Mr.Maninder Singh with  
Mr.Yoginder Handoo and  
Mr.Tejevver Singh, Advocates

For Respondent No.2 : Mr.Meet Malhotra with  
Mr.Raghvinder Singh, Advocates

### **ORDER**

This is a petition filed seeking the following prayers:-

- (a) hold and declare that in the interest of Level Playing Field, the Judgment dated 03.05.2005 would apply equally to the Petitioners as it did to the CMSPs therein and the Petitioners are entitled to be treated similarly as the private Cellular Mobile Service Providers and be permitted to have direct interconnection with BSNL's Cellone Network without payment of the Transit Charges of Rs.0.19 paise w.e.f. 03.05.2005 for traffic originating from their Unified Access Services Networks;
- (b) set aside the impugned Demands raised by BSNL Circles for Transit Charges @ Rs.0.19 paise for the period w.e.f. 03.05.2005 being the date when the Regulatory Regime as declared by the Hon'ble TDSAT came into effect;
- (c) direct Respondent No.2 TRAI to amend / modify its Regulation dated 08.06.2005 to apply a uniform Regulatory Regime applicable to all Service Providers including the Petitioners as UASPs as being exempted from payment of Transit Charges for accessing BSNL's Cellone Network/ Subscribers wherever the MSCs of both BSNL's Cellone and the Petitioners' MSCs are connected to the same BSNL Switch.
- (d) Award costs of the Petition.
- (e) Pass such other and further orders as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case."

2. The foundation of this petition is an order of this Tribunal made in Petition No.20 of 2004 filed by the Cellular Operators Association of India wherein this Tribunal had declared that in consideration of a level playing field, BSNL should stop charging any such transit charges for accessing BSNL Cellone Subscribers, wherever the MSCs of both BSNL Cellone and the Cellular Mobile Service Providers were connected to the same BSNL Switch. In the said order the Tribunal had also directed the respondent Authority to make the direction of this Tribunal as a part of the regulatory regime.

3. Petitioner in this petition is offering both fixed as well as mobile services which it contends are similarly placed in as much as they have also not been provided direct connectivity to BSNL Cellone

network, hence in view of the earlier order of this Tribunal dated 3<sup>rd</sup> March, 2005 in Petition No.20 of 2004 it is also entitled for the relief granted to the cellular operators in that case.

4. It is also necessary to note herein that after the order of this Tribunal dated 03.05.2005 on which reliance has been placed by the Petitioner, the Petitioner has entered into fresh Interconnection Agreements (Addenda) dated 01.12.2005 in regard to old circles and dated 10.01.2006 in regard to new circles for direct connectivity with the BSNL. Therefore, the terms and conditions of direct connectivity are now governed by those Regulations (Addenda).

5. In similar circumstances in Appeal No.8 of 2005 filed by Bharti Televentures Ltd., this Tribunal on 10<sup>th</sup> February, 2006 taking into consideration the factum of belated approach to this Tribunal and the subsequent agreement entered between the petitioner therein and the BSNL, rejected the petition without going into the question whether basic service providers can be construed as similar to the cellular operators.

6. The review petition filed against the said order of this Tribunal in RA No.1 of 2006 in Appeal No.8 of 2004 has also since been dismissed. We are informed that the original order of this Tribunal dated 3<sup>rd</sup> May, 2005 is in appeal before the Hon'ble Supreme Court of India which appeal has since been admitted. In our opinion the reasons assigned by us for rejecting the Appeal No.8 of 2005 squarely apply to the facts of this case also.

7. Hence this petition fails. The same is dismissed.

.....J  
**(N. Santosh Hegde)**  
**Chairperson**

.....  
**(Vinod Vaish)**  
**Member**

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**(D.P. Sehgal)**  
**Member**