

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL**

**NEW DELHI**

**DATED 6<sup>th</sup> OCTOBER, 2010**

**Petition No. 79 (C) of 2008**

M/s. Rama Communications ... Petitioner  
Vs.  
Eenadu TV ... Respondent

**BEFORE :**

**HON'BLE MR. JUSTICE S.B. SINHA, CHAIRPERSON  
HON'BLE MR. G.D. GAIHA, MEMBER**

For Petitioner : Ms. Vibha Dutta Makhija, Advocate  
Mr. Philemon Nongbri, Advocate  
For Respondent : Ms. Neelima Tripathi, Advocate  
Mr. Prabhat Ranjan, Asst. Manager (Legal)

**JUDGMENT**

**G.D. Gaiha, Member**

This Petition has been filed on or about 29.4.2008 with the following prayers :-

- (i) direct respondent to provide uninterrupted good quality signals of its ETV and ETV2 channels to the petitioner's network.

- (ii) direct the respondent to enter into an agreement with the petitioners for extension of area of operation to 6 additional mandals in Khammam district.
- (iii) direct respondent to enter into a proper agreement as required by law without any discriminating terms as per the present subsisting connectivity.
- (iv) direct respondent to furnish the agreement dated 24<sup>th</sup> November 2007 entered upon between both parties.
- (v) direct respondent to provide the proper and legal written agreement duly signed by both parties.
- (vi) pass such order or orders as this Tribunal may deem just and proper under the facts and circumstances of the matter.

The matter has been listed before this Tribunal since 30<sup>th</sup> April 2008 on several occasions and directions have been issued by this Tribunal for sorting out the disputes and differences between the parties, which has resulted in narrowing down to only one dispute between the parties and that is in regard to the issue of providing signals in six additional mandals in Khammam district.

In this context the petitioner was to submit the requisite documents to the respondent for it to consider the granting of signals in the additional areas as per the request of the petitioners.

Pursuant to orders dated 2<sup>nd</sup> July 2010, a meeting was convened to sort out the disputed issues between the parties on 14<sup>th</sup> July 2010 at Hyderabad. The learned counsel for the petitioner, Ms. Makhija submits that the following documents have been submitted to the respondent for seeking the expansion of its network in the new areas.

- (A) No Objection Certificates from the Gram Panchayats of the areas of 6 Mandals of Khammam district.
- (B) Cable connection and wanted subscriber list for the new areas.
- (C) Industries map without any demarcation.
- (D) Four photographs of electric post without any specifications.

The learned counsel for the respondent, Ms. Neelima Tripathi would submit that the petitioner has yet to submit the relevant documents as mentioned below to consider the request of the petitioner for the extension of its network :-

- (1) Valid Cable Registration Certificate issued by the Postal authorities for the new areas.

- (2) Pole permission details from the authorities concerned along with the details of the cable laid that is (overhead or underground) for the new areas.
- (3) Duly certified map from the municipalities of the new areas with the demarcation of the area of operation of the petitioner.
- (4) Control room/equipment/insurance details.
- (5) Details of the cable operators along with their Postal Registration Certificate/Income Tax Returns/Bank statement for the past six months/ Entertainment Tax and Service Tax Registration Certificates.
- (6) Optical Fibre Cable details along with the distance.

It is recorded in the minutes of meeting that the petitioner stated during meeting that the Postal Registration Certificate is not necessary and the petitioner will provide the signals from the existing control room. In regard to the details of the cable operators, the petitioner stated that he is not having any cable operators.

The said minutes of meeting appear to have been drawn out with the consent of the parties since the same has been signed by the representative of the petitioner as well as by the representative of the respondent.

The learned counsel for the petitioner, Ms. Makhija would submit that as far as the Postal Registration Certificate is concerned, the same has been renewed while in the Petition the Postal Registration Certificate, which is valid up to the year 2008, has been placed. The learned counsel would further contend that in this certificate the address of

the location of the head and has been mentioned and the same has been issued by the competent Post Office meant for this purpose and, therefore, this shortcoming in regard to the documents may not be considered by the respondent.

In regard to the permission for laying the overhead cable, the learned counsel for the petitioner would contend that no such permission is issued and in case the respondent can mention the authority, from which the certificate is to be obtained, the petitioner would try to obtain the certificate from the concerned authority for the purpose of completing the requirement of this particular document.

In regard to the maps supplied by the learned counsel for the petitioner, the learned counsel for respondent has raised objections since the geographical map of Khammam District is of no significance from the point of view of the assessment of the exact areas which are likely to be covered for providing signals by the petitioners in the extended areas. In regard to the line diagram of the areas to be covered along with the distance mentioned therein, the learned counsel for the respondent would raise serious objection from the point of view of subscribers to be fed by the petitioners after creating a network which is approximately covering a very large distance of not less than 50 to 60 kms in the extended areas around the headend. The learned counsel for the respondent would extend the argument by bringing to our notice that the number of subscribers as shown for providing signals by the petitioners are only are 32 in Thallada, 25 in Kalluru 20 in Penubali 27 in Eukuru 22 in Julurupadu and 20 in Konijerla. The learned counsel for the respondent would further extend the argument by stating that a network which had been created by laying cables for a distance of several kilometres will not serve only for

a meager number of subscribers as mentioned by the petitioner in its letter dated 8<sup>th</sup> July 2010 issued prior to holding the meeting on 14<sup>th</sup> July 2010. The learned counsel would further contend that the ground connectivity for six new mandals is 42219 and, therefore, the figures projected by the petitioner is grossly under-declared and cannot, in any case, become the basis for providing signals.

From the above arguments, we are inclined to believe that petitioner is not trying to disclose its potential subscriber base which is likely to be benefitted by the creation of a massive network spreading more than 100 kilometers around the head end.

In regard to asking for the maps of the cable network laid by the petitioner in different localities of the 6 new mandals, we are of the opinion that these maps should be provided by the petitioner to the respondent so as to make an assessment of the areas and the likely subscriber base which is possible to be served by the petitioner after obtaining signals from the respondent.

We also feel that at this stage when the petitioner is going to start the services in these new areas, it is not possible to provide the details of the cable operators and their Postal Registration Certificate, Tax Return etc. as desired by the respondents.

In regard to the poles, where the petitioner has laid overhead cables, it is known to the petitioner, as to who is the owner of these poles and, therefore, to obtain a certificate from these authorities shall not be a difficult job. The demand of the

respondent about the certificate from the authorities owning the poles is quite genuine because if there is any spurious emission from the cables of the cable operator laid on these poles, it is very likely that the respondent could be held responsible for its consequences as per law. The permission granted to the petitioner by the authorities owning the poles shall safeguard the interest of the respondent in certain contingencies.

In regard to the control room equipment, we feel that the petitioner should have no difficulty in providing the details. The plea of the petitioner that the same are not required because this is not the CAS area and, therefore, as per law, it is not obligatory on its part to provide these details is quite valid, but on the other hand, to provide details, in case the petitioner has set up the head end, is not a serious handicap which cannot be cured by merely providing its details. We, therefore, direct that it should provide the following information to the respondent to consider its application for providing signals in right earnest :

- (1) Valid Cable Registration Certificate up-to-date.
- (2) Pole permission details.
- (3) A map showing the exact details of the cable network laid out by the petitioners in the new areas.
- (4) Optical Fibre Network diagram and details for connecting the distantly located Mandals.

We are confident that after providing these details and predicting a realistic subscriber base compatible to the network created by the petitioner, the respondent will consider the request of the petitioner for providing signals at the earliest.

We, therefore, direct that the parties to faithfully fulfill their respective obligations in right spirit, and to negotiate for signing an agreement on the basis of reasonable conditions without obviating any regulations.

However, in case of any discrimination and/or imposition of unreasonable conditions by anyone of the parties, this Tribunal will not hesitate to intervene.

The petition is disposed of accordingly and in the present circumstances. There is no order as to costs.

.....,J

**(S.B. Sinha)**  
**Chairperson**

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**(G.D. Gaiha)**  
**Member**

Pk/rkc