

The petitioner is a Multi Service Operator. The respondent transmits signals of various channels of which it is the content aggregator to the distributors of TV channels.

The petitioner requested the respondent herein to supply the signals of one of its channels. The said request was made by an undated letter.

It, moreover, alongwith the said letter did not send any particulars and/or documents which are ordinarily required by a broadcaster for the purpose of supply of its channels.

2. The respondent, however, by its letter dated 15.12.2009, while acknowledging the petitioner's aforementioned letter, asked it to send the following documents:

“1. Postal Registration Certificate.

2. Details of direct connections/ details of subscribers, Subscriber Line Report (SLR) and in case there is no SLR then please provide evidence to corroborate your subscriber base (including local survey).

3. List of cable operators who are/ will be getting signals from your network alongwith their subscriber base.

4. Copy of the latest monthly invoice showing the dues, if any, from the presently affiliated multi system operator, or from any agent/ any other intermediary to show that no payments are due. Please note that neither this communication nor your submission of the ‘application for Affiliation’ or for that matter furnishing of the information detailed above purports to admit your eligibility of entitlement to receive the ‘The One Alliance’ channels.”

3. The parties thereafter entered into various correspondences. However, by a reason of letter dated 09.06.2010, the aforementioned request of the petitioner was rejected by the respondent inter-alia, stating:

- *“ A copy of latest P & T Registration Certificate (the one which you have provided seems to be tampered as the overwriting on the dates is not counter signed by the officials authorizing the same);*
- *A detailed diagram/map of your Cable Network as well as the locations of your head ends /control rooms (the map provided by you is not clear and specific. Further, in the Application Form for Affiliation in the Column **Area of***

Operation you wrote only Bihar Sharif, whereas, it is stated without prejudice to our rights and contentions that in one your letter dated nil received by us on 06.04.2010, you wrote names of two additional areas as Deepnagar & Murora {Barbigha Road}, which is not clear to us to what reasons it was been mentioned, further at point no. 3 in the same letter you gave a list of Cable Operators with their addresses, which were never been mentioned);

- Details of direct subscribers/ connectivity along with their addresses and such other relevant details. The entire universe (number of cable homes / households) in the proposed area of t Operation and the declared connectivity / subscriber base of these franchisee/ cable operators vis-a-vis the said universe (you have not provided any SLR as per the Regulation and also did not mentioned the number of subscribers you would be catering to the Application Form for Affiliation, which please note that to provide with the details of the number of subscribers

You will be catering to, as per the Regulation i.e., SLR, is a pre-requisite and

without which we cannot in any case sign the Affiliation Agreement with you.

Further it is stated without prejudice to our rights and contentions that in one of your letter dated nil received by us on 06.04.2010, at point nio.03 you gave a list of Cable Operators attached to you, with their respective areas, whereas in the Application Form for Affiliation you have clearly mentioned that you have no Franchisees, thus giving contradictory statements , resulting into creating an ambiguity);

- *Declaration before Entertainment/ Service Tax Authorities (in one of your letter dated nil received by us on 06.04.2010, at point no. 17 you state that service tax authorities are in procedure, which is not a complete detail and is proper);*
- *Details of the Mode of Transmission of signals (Whether over head or underground) and the copy of permissions from competent authorities in this regard (No details of the instruments has been provided by you);*
- *Certification showing the equipments used by you and your franchisee cable operators as prescribed under CATV Act, 1995;*

- *Registration Certificate issued under Service Tax;*
- *Details of the Control Room (you state in one of your letter dated nil received by us on 06.04.2010 that once we give you signals then only you will establish your control room, which is not proper);*
- *Names of your Franchisees/ Operators;*

4. Ms. Priyadarshani, learned counsel appearing on behalf of the petitioner would contend that the aforementioned letter of rejection issued by the respondent herein is wholly unsustainable, as it had failed to consider that the petitioner being a new multi service operator had not only applied for its registration before the Entertainment/ Service Tax Authorities, but also for permission from the Commissioner of the Municipalities for transmission of signals through over head.

According to the learned counsel, the respondent has wrongly asked it to supply certificate showing that the equipments used by it and its franchisee cable operators conform to BIS standard as prescribed under the CATV Act, 1995 and/or details of control room, inasmuch as the instruments are yet to be purchased.

5. Keeping in the view the stand taken by the petitioner that it does not have a control room and/or purchase is yet to the equipments, we are of the opinion that that no exception can be taken to the aforementioned contention of the respondent herein.

6. The Parliament enacted the Cable Television Network, Act, 1995; Section 3 of the Act envisages that Cables Television Network must be operated only upon registration as a cable operator thereunder.

The Central Government has made Rules in terms of the provisions of the said Act known as the Cable Television Network Rules, 1994, Rule 3 whereof reads as under:

“3. Application for registration as a cable television network in India.—

(1) Every application for registration as a cable television network in India shall be made in writing in Form 1 and shall be renewable after every twelve months.

(2) The application shall be addressed to the Registering Authority and delivered to his officer in Form 1.

(3) (a) Every application for registration or renewal of registration shall be accompanied by—

(i) a fee of rupees five hundred only; and

(ii) the requisite documents mentioned in Forms 1

and 2.

(b) Every application for issue of duplicate certificate of registration shall be accompanied by—

(i) a fee of rupees two hundred and fifty only; and

(ii) the requisite documents mentioned in Form 1.

(4) The amount of fee shall be deposited under the Head Post Office where the application for registration or renewal of registration or issue of duplicate certificate of registration is being made.

(5) The amount of the fees shall be deposited under the head 'un-classified receipts (U.C.R.)'

7. The petitioner has not annexed with this petition, its application submitted in Form-I.

We may notice paragraphs 8 and 9 of the said Form:

“8. (a) Whether using Television Receive Only
(TVRO) Yes/
No

(b) If yes, number and size of TVRO.....

(c) Location.....

9. Names of Doordarshan satellite channels included in cable service.....”

8. The matter relating to supply of signals by a broadcaster is governed by the provisions of the Telecom Regulatory Authority of

India, Act, 1997. The Regulator (TRAI) in exercise of its power conferred upon it under Section 11 (1) (b) (iii) and (iv) as also Section 36 of the said Act made Regulations known as “the Telecommunication (Broadcasting and Cable Services) Interconnection Regulations, 2004”.

Clause 3.2 mandates a broadcaster to provide on request signals of its TV channels on non-discriminatory terms. So as to enable a broadcaster to enter into an agreement on the commercial terms as may be agreed to by the parties thereto, the essential ingredients thereof as laid down in the Regulations must be satisfied that is to say:

- 1) It is not a defaulter.
- 2) It has complied with the requirements of Regulation 9.2 of the Regulations; and
- 3) Must furnish the requisite details so as to enable the broadcaster to verify and/or satisfy itself about the efficacy of the supply of the signals.

9. For the purpose of the supply of signals, the Local Cable operator must have a head-end containing the equipments in order to enable it not only to receive transmission of supply of signals of the channels of the broadcasters but also to retransmit the same by laying down the cables to its local cable operators, who in turn must have their head-ends so as to enable them to retransmit the said signals to their ultimate subscribers.

The equipments installed in their head-ends must, furthermore, be in conformity with the standard laid down by Bureau of Indian Standards. It is therefore, in our opinion, imperative for a local cable operator to have its head-end.

10. We, therefore, without going into any other questions are of the opinion the petitioner has not made out any case for issuance of a direction on the respondent herein to supply signals of its channels to the network of the petitioner.

There cannot, however, be any doubt and dispute that as and when the petitioner sets up a head-end, it would be open to it to file a fresh application to the respondent for supplying the signals of its channels.

11. For the reasons aforementioned, this petition is dismissed. However, in facts and circumstances of the case, there shall be no order as to costs.

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**(S.B.
Sinha)**

Chairperson

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(G.D. Gaiha)

Member

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(P.K. Rastogi)

**/AS/
Member**