

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

DATED : 1ST DECEMBER, 2011

Petition No. 406 (C) of 2011

M/s. Ajaya Cable Petitioner

Vs.

M/s. MAA Television Network Ltd. Respondent

Petition No.407(C) of 2011

M/s. Ajaya Cable Petitioner

Vs.

M/s. Sun 18 Media Services Pvt. Ltd. Respondent

Petition No.408(C) of 2011

M/s. Ajaya Cable Petitioner

Vs.

M/s. Ushodaya Enterprises (P) Ltd. Respondent

BEFORE :

**HON'BLE MR. JUSTICE S.B. SINHA, CHAIRPERSON
HON'BLE MR. P.K. RASTOGI, MEMBER**

In Petition No. 406 (C) of 2011

For Petitioner : Mr. B. S. Sai, Advocate

For Respondent : Mr. Y. Rajagopala Rao, Advocate
Ms. Vismai Rao, Advocate

In Petition No. 407 (C) of 2011

For Petitioner : Mr. B. S. Sai, Advocate
For Respondent : Mr. Nitin Bhatia, Advocate
Mr. Angad Singh Dugal, Advocate

In Petition No. 408 (C) of 2011

For Petitioner : Mr. B. S. Sai, Advocate
For Respondent : Ms. Jaikriti Jadeja, Advocate

J U D G M E N T

The petitioner desirous of obtaining supply of signals of the channels of the respondent herein, has filed this petition on or about 04.11.2011 purported to be in terms of Clause 3.2 of the Telecommunication (Broadcasting & Cable Services) Interconnection Regulations, 2004, as amended from time to time ('The Regulations').

2. The basic fact of the matter is not in dispute.

The factual matrix involved in Petition No. 407 (C) of 2011 for the purpose of disposal of these matters is being considered in this petition.

3. The petitioner had made a request to the respondent(s) herein for supply of signals of their channels in a cryptic manner on or about 13.04.2011 and 07.07.2011.

With the later request, the petitioner annexed (i) Postal Registration Certificate, (ii) Service Tax Registration Certificate, (iii) Entertainment Tax. (iii) Registration Certificate, (iv) Pan Card, (v) Firm Registration Certificate, and (vi) Municipal Corporation Trade License.

By reason of a letter dated 26.7.2011, the respondent asked for the following documents from the petitioner :-

- (i) SLR Report*
- (ii) Network Details with Photos*
- (iii) Track record of Pay Channels*
- (iv) Service Tax Details*
- (v) POL Tax & Entertainment tax details*
- (vi) Partnership Deed*
- (vii) Address Proof*
- (viii) Details of other Operators in the area*
- (ix) IT returns for the last three years*
- (x) Fiber Root Map highlighting the area of operations*

4. In terms of its letter dated 02.8.2011 the petitioner contended :-

- “1. 239 SLR (Subscriber Line Report) here attach with this letter
2. Not Necessary
3. No pay channels.
4. We are already submitted on 07.07.2011 letter Service Tax Certificate.
5. We are already submitted on 07.07.2011 letter APSEB Permission and Entertainment Tax Certificate.
6. We are already submitted on 07.07.2011 letter Firm Registration Certificate.
7. We are already submitted on 07.07.2011 letter Postal Registration Certificate.
8. No LCO's.
9. Our company newly started no IT returns.
10. Guntur Urban & Rural areas by the Government norms.”

5. On the premise that the valid request of the petitioner had not been acceded to, as is statutorily required in terms of Clause 3.2 of 'The Regulations', these petitions have been filed by the petitioner before this Tribunal even before expiry of 60 days from the date of making a request.

6. By an order dated 18.8.2011, this Tribunal passed the following order :-

“Although none appears for the respondent, having heard the learned counsel for the petitioner, we are of the opinion that the petitioner having supplied only a few documents by its letter dated 7.7.2011 (his earlier request in terms of his letter dated 13.4.2011 being a cryptic one) the petitioner may be permitted to withdraw this petition and make a fresh request in compliance with the provisions of the Regulations including Clause 9.2 of the Regulations.

It is made clear that the petitioner is not required to supply the documents once again which have already been supplied. We are sure that the respondent shall consider the petitioner’s request as expeditiously as possible.”

7. By a letter dated 14.9.2011, while referring to the said order dated 18.8.2011, it merely asked the respondent(s) to execute agreement(s) by giving the Decoders and Viewing Cards within 7 days from the said date.

8. The respondents herein, except M/s. Sun 18 Media Services (P) Ltd., in their reply contended that these petitions are pre-mature ones; the petitioner having not complied with the directions of this Tribunal dated 18.8.2011.

Although the matter was fixed for framing of issues, at the request of the learned counsel appearing on behalf of the respondents, we have heard learned counsel appearing for the parties on merit of the matter.

9. Mr. B.S. Sai, learned counsel appearing on behalf of the petitioner, would contend that the aforementioned Petition No. 331 (C) of 2011, Petition No. 332 (C) of 2011 and Petition No. 330 (C) of 2011 were withdrawn mainly on the ground that the period of 60 days from the date of making a request had not expired.

10. We have noticed heretofore that no document was annexed with the first request made by the petitioner on or about 13.04.2011. In fact, the same could not have been done as the petitioner had received a copy of the postal registration certificate only after 28.04.2011.

The respondent vide its letter dated 26.07.2011 asked for the copy of partnership deed. The petitioner vide its letter dated 02.08.2011 contended that the Firm Registration has been annexed.

11. In our order dated 18.08.2011 we had mentioned that the petitioner has not supplied all the documents but only few documents were supplied. The petitioner should supply additional documents also and make a fresh request in compliance of the regulations including clause 9.2 of the regulation. It was made clear that the petitioner was not required to supply the documents once again which have already been supplied.

This shows that the documents supplied earlier were not to be supplied again in order to avoid duplication. The documents sent earlier for supply of signal were to be considered along with other documents which were to be supplied.

The petitioner itself having withdrawn the petition was bound by the directions issued therein and, thus, was obligated to supply such documents which were necessary for obtaining supply of signals on reasonable terms.

According to the petitioner, he has already annexed the documents as required under the Regulations to the respondent earlier itself, but having regard to this Tribunal's order dated 18.08.2011, such a contention cannot be accepted.

12. The petitioner has supplied most of the informations as were required under the Regulations. It may file other documents which are necessary according to it. If additional informations are required by the respondent it may also seek for the same from petitioner.

13. We have no doubt in our mind that the respondent shall consider the petitioner's application within a reasonable time and preferably within a period

of four weeks from date. It may also meet the authorized representative of the petitioner.

14. This petition is disposed of with the aforementioned observations and directions without any order as to costs.

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(S.B. Sinha)
Chairperson

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(P.K. Rastogi)
Member

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