

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated 03rd June 2011.

Petition No. 239 (C) of 2011

Shiv Cable Network	Petitioner
	Vs.	
Star Den Media Services Pvt. Ltd.	Respondent

BEFORE:

HON'BLE MR. JUSTICE S.B. SINHA, CHAIRPERSON

HON'BLE MR. G. D. GAIHA, MEMBER

HON'BLE MR.P.K. RASTOGI, MEMBER

For Petitioner

Mr.Tejveer Singh Bhatia

For Respondent :

Mr. Gaurab Juneja, Advocate

Ms.Garima Sharma, Advocate

JUDGMENT

S.B. Sinha

Petitioner is a Multi Service Operator. It is a partnership firm. The said firm started its operation w.e.f. 19.1.2011 as would appear from a deed of partnership dated 19.1.2011. It, however, purported to have filed an application for grant of certificate with a view to operate as a Local Cable Operator from the

Post Master of Head Post Office, Panipat and the requisite certificate was granted on 28.12.2010.

Petitioner made a request to respondent for supply of its channels on 9.2.2011 without furnishing any details as is required under the Telecommunication (Broadcasting and Cable Services) Interconnection Regulations, 2004 (the Regulations) and in particular the provisions of Clause 9.2 thereof.

It annexed some documents with its letter dated 14.2.2011 including the aforementioned partnership deed, the registration certificate, the map showing its area of operation including Sector 11 and Sector 12, some house numbers where it supplies the signals of some of the broadcasters.

Respondent by its letter dated 21.2.2011 sought for further information. A copy of the application form as has been prescribed by it was also supplied. The said application, however, is not complete as several blanks have not been filled up.

The said application was received by respondent on 2.5.2011. This petition was filed on 5.5.2011. Mr. Gaurab Juneja, learned counsel appearing on behalf of respondent would submit that the period of 60 days having not expired from the date of receipt of the first request of petitioner and moreover, the list of subscriber supplied by it may not be verifiable as it does not tally with the area of

operation and furthermore in view of the fact that the application form is not complete, this petition is not maintainable.

Mr. Tejveer Singh Bhatia, learned counsel appearing on behalf of petitioner, however, would urge that it is not necessary to file an application in the prescribed form. The learned counsel would contend that the respondent having received the informations from the petitioner in terms of its letter dated 14.3.2011, which has been dispatched on 17.2.2011 and it having not made 'offers' to petitioner on reasonable terms and having not sought for any other or further informations, its request must be held to have fulfilled the requirements of Clause 3.2 of the Regulations.

The petitioner being a MSO was required to have a postal registration certificate in terms of the provisions of Section 3 of the Cable T.V. Networks (Regulations) Act, 1995 and Rule 3 of the Cable T.V. Network Rules, 1994. The form appended to the said Rules postulates an application to be filed by a 'person'.

The application for registration is to be filed in the prescribed form as laid down in Rule 5 of the Rules. Such an application is required to be filed by an 'individual', 'firm', 'company', association of persons or body of individuals.

The petitioner having commenced its business from 19.1.2011, it could not have filed any application for grant of a registration certificate in terms of Section 3 of the 1995 Act and Rule 3 of the 1994 Rules prior to the said date.

Moreover, although, the list of subscribers contains some details; they are not verifiable. It is confined to Sector 11 and Sector 12 of the town although, the petitioner's area of operation is larger.

It also does not fulfil the requirements of Clause 9.1 and 9.2 of the Regulations.

The petitioner was entitled to furnish the informations which were required of it by respondent in terms of its letter dated 21.2.2011. It is not the case of the petitioner that the information sought for by the respondent which was required to be supplied and as contained in the application form are not relevant. Some of the relevant information has not been supplied.

We, therefore, are of the opinion that this petition is not maintainable. it is dismissed accordingly. We, however, are of the view that in the event the petitioner files a fresh application furnishing all the details, the same may be considered by the respondent as early as possible and preferably within a period of four weeks from the date of receipt thereof.

We are aware that ordinarily such an application is required to be dealt with by the Broadcaster within a period of 60 days but keeping in view that this

petition remained pending before this Tribunal for some time and furthermore in view of the fact that the petitioner has furnished some details to respondent, it may consider the desirability of responding to such an application within the aforementioned period.

This direction of ours, however, is not imperative in character.

It, however, goes without saying that the petitioner, as a firm, must apply for grant of a registration certificate afresh. This petition is dismissed with the aforementioned observations with 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)
Member

June 03, 2011

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