

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL**

**NEW DELHI**

**Dated 1.6.2012**

**MA No.176/2012 in Petition No.450/2011**

M/s Videocon Telecommunications Ltd, Haryana ... Petitioner

Vs.

Union of India ... Respondent

**MA No.177/2012 in Petition No.458/2011**

M/s Videocon Telecommunications Ltd, Haryana ... Petitioner

Vs.

Union of India ... Respondent

**MA No.178/2012 in Petition No.462/2011**

M/s Videocon Telecommunications Ltd, Kerala ... Petitioner

Vs.

Union of India

... Respondent

**MA No.179/2012 in Petition No.463/2011**

M/s Videocon Telecommunications Ltd, Maharashtra ... Petitioner

Vs.

Union of India

... Respondent

**MA No.180/2012 in Petition No.465/2011**

M/s Videocon Telecommunication Ltd, Andhra Pradesh ... Petitioner

Vs.

Union of India

... Respondent

**MA No.181/2012 in Petition No.466/2011**

M/s Videocon Telecommunications Ltd, Tamil Nadu ... Petitioner

Vs.

Union of India

... Respondent

**BEFORE:**

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

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

For Petitioners : Mr.Dayan Krishan, Advocate  
Mr.Kirtiman Singh Advocate  
Mr.Zartab Anwar, Advocate.

For Respondent : Mr.Ruchir Mishra, Advocate

**ORDER**

These applications have been filed in terms of Section 20 of the Telecom Regulatory Authority of India At, 1997 (hereinafter referred to for the sake of brevity the said Act) for non-compliance of this Tribunal's order dated 10.1.2011.

2. The operative portion of the said order reads as under:-

27. We, therefore, are of the opinion that interest of justice would be sub-served, if the interim relief prayed for by the Petitioners is disposed of in the following terms:-

(i) The Respondent shall return the Performance Bank Guarantees in respect of circles of Gujarat, Karnataka,

Maharashtra and Tamil Nadu within two weeks from date.

(ii) The Petitioners shall, however, furnish an undertaking supported by affidavit that in the event any further demand for liquidated damages is raised, the Petitioners shall securitise the same.

iii) So far as circles of Haryana and Andhra Pradesh is concerned, the Petitioners shall furnish bank guarantees to the extent of unpaid amount, i.e., Rs.0.10 crores and Rs.0.62 crores.

(iv) As regards the circles in regard whereto the liquidated damages claimed by the Respondent is in issue, namely, Madhya Pradesh, West Bengal, Karnataka and U.P., the Petitioners shall furnish two separate bank guarantees, one covering the balance amount of Rs.0.16 crores, Rs.1.34 crores, Rs.0.66 crores and Rs.0.78 crores, and shall also furnish bank guarantee to the extent of 50% in respect of all the circles which are in Category 'B' of the above chart.

(v) This order shall however, be subject to the undertaking furnished by Petitioners supported by affidavits in respect of each circles separately that in the event any other or further demand is raised by the Respondent, Petitioners shall either deposit the same or secure the same within two weeks from the date of raising of the demand."

3. It is not in dispute that the Petitioners had furnished the requisite performance bank guarantees in terms of the aforementioned order but despite the same the bank guarantees in question have not been returned.

4. Notice on these applications were issued on or about 4.5.2012.

5. A reply had been filed by the Respondent contending that in a similar matter of Etisalat DB being Petition No.243/2011, this Tribunal has modified its earlier interim order inter alia keeping in view the judgment of the Supreme Court of India dated 2.2.2012 passed in W.P. (C) No.423/2010. In the case of Etisalat the interim order was modified on an application for modification filed by the Respondent in the peculiar facts and circumstances of the case. Respondent has not filed any application for modification in these matters.

6. The interim order was passed as far back on 12.1.2012.

7. We find no justification whatsoever as to why the same has not been complied with.

8. We may notice that the Supreme Court of India in the case of Maninderjit Singh Bitta vs. Union of India reported in (2012) 1 SCC 273, opined as under :-

" 26 It is also of some relevance to note that disobedience of court orders by positive or active contribution or non-obedience by a passive and dormant conduct leads to the same result. Disobedience of orders of the court strikes at the very root of the rule of law on which the judicial system rests. The rule of law is the foundation of a democratic society. Judiciary is the guardian of the rule of law. If the judiciary is to perform its duties and function effectively and remain true to the spirit with which they are sacredly entrusted, the dignity and authority of the courts have to be respected and protected at all costs (refer T.N. Godavarman Thirumulpad case SCC p 6 para

5). The proceedings before the highest court of the land in a public interest litigation, attain even more significance. These are the cases which come up for hearing before the court on a grievance raised by the public at large or public-spirited persons. The State itself places matters before the Court for determination which would fall, statutorily or otherwise, in the domain of the executive authority.”

9. In that view of the matter, we are of the opinion that interest of justice would be sub-served at this stage if the Respondents are directed to return the performance bank guarantees to the Petitioners forthwith.

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

**(P.K. Rastogi)**  
**Member**

**June 1, 2012**  
**`ns'**