

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL**

**NEW DELHI**

**DATED 2<sup>ND</sup> NOVEMBER 2012**

**Petition No. 545 of 2012**

Bharati Airtel Ltd. ...Petitioner

Vs.

Union of India ...Respondent

**Petition No. 546 of 2012**

Bharati Hexacom Ltd. ...Petitioner

Vs.

Union of India ...Respondent

**BEFORE:**

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

For Petitioner : Ms. Nidhi Parashar, Advocate  
Mr. Navin Chawla, Advocate

For Respondents : Mr. K.P.S. Kohli, Advocate  
Mr. Abhishek Kumar, Advocate  
Mr. T. S. Nanda, Advocate, for  
Ms. Maneesha Dhir, Advocate

**ORDER**

The Petitioners are holders of licenses granted under Section 4 of the Indian Telegraph Act. They have, by reason of these

applications inter-alia have questioned the order of penalty issued by the Respondents herein by way of letters of demand.

The said order of penalty was issued inter-alia on the premise that the Petitioners have failed and /or neglected to comply with various circular letters issued by the Respondent herein with regard to verification of CAF forms.

2. In Petition No. 545 of 2012, a penalty for a sum of Rs.43,60,00,000/- (Rupees forty three crores and sixty lakhs only) has been imposed; whereas in Petition No. 546 of 2012, the amount of penalty imposed is Rs.54.00 lakhs.

3. Identical questions raised in these petitions and similar prayers were also made, before this Tribunal in Cellular Operators Association of India Vs. Union of India & Anr. (Petition No. 15 of 2012 and other connected matters).

4. By reason of an order dated 01.11.2012, the said petitions have been allowed upon setting aside the orders of penalty.

5. We may, however, notice that the Respondent has *inter-alia* raised a contention that the Petitioner No. 3 of Petition No. 545 of 2012 by its letter dated 30.9.2010 stated, thus:-

*“The list of documents for acceptable PoA & PoI defined for J&K as given in the security safeguards contains some specific documents specific to J&K only. Similarly, we are already accepting documents specific to the States of Meghalaya, Mizoram and Tripura which were specifically approved by DOT vide letter dated 7<sup>th</sup> October, 2009, viz. Certificates of photo identity issued by Village Panchayat head or its equivalent authority (for rural areas), Caste and Domicile Certificate with photo and address issued by State Government like Assam and other States. Certificate of address having photo issued by MP/MLA/Group-A Gazetted Officer in letter head, Electricity Bills, Vehicle Registration Certificate, Registered Sale/Lease Agreement, etc. All these documents are very critical to address the peculiar local requirements of rural population in the North East Service Area under your jurisdiction (i.e. NE1) and hence we will accept the documents as per DoT’s letter dated 7<sup>th</sup> October, 2009”*

6. Mr. Abhishek Kumar, learned counsel appearing for the Respondent would contend that the security instructions issued by the Respondent herein by way of various circular letters have, thus, been flouted with impugnty.

7. In Petition No. 15 of 2012, this Tribunal inter-alia held that the action on the part of the Respondent herein in issuing the letters of demand imposing penalty on the Petitioners inter-alia on the premise that they have, while verifying the CAFs, relied upon on or acted on the basis of the certificates issued by the Gram Panchayat, the caste certificates and the Election ID Cards issued by the Election Commission of India, are bad in law.

In that view of the matter, I am of the opinion, that the Petitioners cannot be said to have violated the security conditions as laid down in the instructions issued by the Union of India.

Following the said decisions, the impugned orders of penalty are set aside.

8. These Petitions, therefore, are allowed and the impugned demands of penalty are set-aside without any order as to costs.

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

*HKC/*