

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

**DATED 03<sup>RD</sup> OCTOBER, 2012**

**Petition No.577 of 2012**

M/s Bharti Airtel Limited & Anr. ...Petitioners  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.578 of 2012**

Vodafone South Ltd. ...Petitioner  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.579 of 2012**

Vodafone Digilink Ltd. ...Petitioner  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.583 of 2012**

Idea Cellular Ltd. ...Petitioner  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.584 of 2012**

M/s Bharti Airtel Ltd & Anr. ...Petitioners  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.586 of 2012**

Tata Teleservices Limited .....Petitioner  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No. 612 of 2012**

Reliance Communications Ltd. ...Petitioner  
Vs.  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.620 of 2012**

Reliance Communications Ltd. ...Petitioner  
Vs.  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.655 of 2012**

Reliance Communications Ltd. ...Petitioner  
Versus  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.660 of 2012**

Aircel Limited Ltd. & Ors. ...Petitioners  
Vs.  
Bharat Sanchar Nigam Ltd. ...Respondent

**Petition No.666 of 2012**

Reliance Communications Ltd. ...Petitioner  
Vs.  
Bharat Sanchar Nigam Ltd. ...Respondent

**BEFORE:**

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

For Petitioner (in P.Nos.577/12, 578/12, 579/12, 583/12, 584/12, 612/12) : Mr.Maninder Singh,Sr. Advocate  
Mr. Navin Chawla, Advocate  
Mr.Ninad Dogra,Advocate

For Petitioner (in P.No.586/12) : Mr. Ramji Srinivasan, Sr.Advocate  
Mr. Nitin Kala, Advocate  
Mr.Sadapurna Mukherjee,Advocate

For Petitioner (in P.Nos.620/12 655/12 and 666/12) : Ms.Manali Singhal,Advocate  
Mr.Santosh Sachin,Advocate

For Petitioner (in P.No.660/12) : Mr.Meet Malhotra,Sr.Advocate  
: Mr.Ravi S.S.Chauhan,Advocate

For Respondents : Mr.A.S.Chandhiok,ASG  
Ms. Maneesha Dhir,Advocate  
Mr.K.P.S.Kohli, Advocate  
Mr.Abhishek Kumar,Advocate  
Mr.Piyush Sanghi,Advocate

**ORDER**

The Petitioners herein are licensees. They entered into Interconnect Agreements with the Respondent herein, for availing the infrastructural facilities from the Respondent, which is a public sector undertaking.

2. The controversy between the parties hereto centres round an order of the Respondent dated 23.8.2012, whereby and whereunder

the infrastructural charges have been increased with effect from 1<sup>st</sup> April, 2009.

3. The factual matrix involved in the present cases is not in dispute.

In terms of the Agreement, the Respondent is entitled to levy the infrastructural charges from time to time.

We may notice Clause 6.3.3 thereof.

*“6.3.3 Other charges*

*It shall not be mandatory for BSNL to provide any infrastructure to BSO which BSO himself is supposed to arrange. In case the BSO is not able to bring his interconnecting transmission link upto the BSNL’s designated exchange for the POI, BSNL may subject to availability and payment of the prescribed charges by BSO, provide inter exchange junctions on PCMs from the exchange upto which the BSO has brought its transmission link to the location of POI. These charges shall be same as prescribed by TRAI for leased lines from time to time or on R& G & conditions as the case may be.*

*For any other infrastructure like space in BSNL’s building, provision of power supply, air conditioning, mounting of antenna on towers or building tops if*

*feasible, the charges and other terms & conditions for the same shall be as prescribed by BSNL from time to time separately.”*

4. Reliance having been placed by the Respondent on clause 7.3.1 of the said Agreement, we may also notice the same :-

*“7.3.1 BSNL AND THE RIL AGREE THAT:*

*iv) If the bill issuing authority subsequently finds that some charges have been omitted from the bills issued, he will include the omitted charges in the subsequent bills at any time, but within 6 months from the date of issue of the relevant bill except in cases where additional billing becomes necessary due to the tariffs/rates changes notified subsequently with retrospective effect by the appropriate authority.”*

5. Indisputably on or about 30.5.2006, relying on or on the basis of a circular letter issued by Government of India in the year 2004 on classification of various cities, the Respondent herein also has made its own classification; however in stead and in place of six categories of the towns, it only sub-divided them in four categories.

The validity of the said circular letter dated 30.5.2006 is not in question.

6. We may, however, notice some of the provisions thereof as a tool of interpretation of the impugned circular also.

“1. In view of various references received in this office on the subject, the competent authority has reviewed the infrastructure sharing charges prescribed vide Circular No.116-14/96-PHC(pt) dated 19<sup>th</sup> February, 2001 and decided to revise the charges as given below:-

As the rates of electricity and capital expenditure of BSNL in developing these facilities is varying as per the size of the city, the rates for one transmission bay in these categories of cities will be as under:

<b>Categories of City</b>	<b>Charges</b>
<i>A cities</i>	<i>Rs.2,00,000 per bay per annum</i>
<i>B cities</i>	<i>Rs.1,80,000 per bay per annum</i>
<i>C cities</i>	<i>Rs.1,50,000 per bay per annum</i>
<i>Unclassified cities</i>	<i>Rs.1,20,000 per bay per annum</i>

*Tower Charges: Charges per antenna will be as under:*

<b>S.No.</b>	<b>Tower Height</b>	<b>All Cities</b>
<i>1.</i>	<i>Up to 30 meters</i>	<i>Rs.1,20,000 per annum</i>
<i>2.</i>	<i>31-60 meters</i>	<i>Rs.2,50,000 per annum</i>

3.	More than 60 meters	Rs.4,00,000 per annum
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*The above charges will be multiplied by no. of antennas in case multiple antennas are installed by Licensed Telecom Service Providers.*

#### **4. Applicability of above charges –**

*a) These revised rates will be applicable w.e.f. 1<sup>st</sup> April, 2006 with a provision of 10% annual increase every year, i.e., 01.04.2007 onwards. Billing cycle shall be from 01.04. to 31.03 of every year. Hence, billing cycle for **all existing links may be shifted to the new** arrangement.*

*b) All these charges will be leviable in advance every year.*

*c) In case of change of classification of cities, higher classification will be applicable at the time of yearly renewal only. The charges will be applicable financial year wise;*

*d) No cash refunds shall be made and any excess payments received by BSNL, due to difference in charges based on old and new formula, shall be adjusted in future bills of party concerned.”*

7. The Rajasthan circle of the DOT relying on or on the basis of the Government of India Order dated 29.8.2008, which came into force w.e.f 01.9.2008 purported to levy additional charges in terms of its letter dated 01.3.2012, which reads as under:-

*“Sub:- Annual Bills of Port and Infra for the year 2012-13 and supplementary bills of Infra for the period from 01-04-2009 to 31-03-2012.*

*On the subject cited above please find enclosed herewith the annual port bill for the year 2012-13, annual Infra bill for the year 2012-13 and supplementary infra bill for the **period** from **01.04.2009** to **31.03.2012** for making payment. In respect of Infra bills it is intimated that infra charges up to 31.03.2012 were charged as per city classification as ‘A’, ‘B’, ‘C’, and ‘UC’ as mentioned in the BSNL HQ. letter No. 103-1/2006-Comml. dated 30.05.2006. In this regard please refer para 4 (c) of the above letter, where in, it is mentioned that; in case of change of classification of cities, higher classification will be applicable at the time of yearly renewal. The classification of cities have been revised as ‘X’ for A, ‘Y’ for B and ‘Z’ for C & UC by Govt., of India vide O.M. No. 2 (13)/2008-E.II(B) dated 29-08-2008. The revised classification is effective from 01-09-2008. Hence the revised rate of infra for UC cities is applicable at par with C cities w.e.f 01.04.2009, i.e next renewal date after revision of city classification. Accordingly the revised rate has been charged in annual bill for the period from 01.04.2012 to 31.03.2013 and supplementary bill issued for the period from **01.04.2009** to 31.03.2012. Copies of the BSNL HQ letter and Govt. Of India. OM are enclosed for ready reference please.”*

8. M/s Bharati Airtel Ltd., however, invoking clause 7.3.1 (iv) of the Interconnect Agreement raised a question of limitation that the said purported supplementary bill should have been raised within a period of six months and as the requirement thereof have not been complied with, no amount is payable thereunder.

9. The Respondent herein, however, by its letter dated 09.3.2012 contended that the supplementary bill relates to a revised rate as per the notification issued by the Government of India dated 29.8.2008 and, thus, the limitation of six months' period is not applicable, the relevant portion whereof reads as under:-

*“2 Based on the recommendations of the Sixth Central Pay Commission, the earlier classification of cities has been revised viz, A-1 to “X”; A, B-1 & B-2 to “Y” and C & Unclassified to “Z”. In determining the revised classification, the population of Urban Agglomerate area of the city has been taken into consideration. Accordingly, the rates of House Rent Allowance shall be as under:-*

<i>Classification of Cities/Towns</i>	<i>Rate of House Rent Allowance as a percentage of (Basic pay + NPA where applicable)</i>
<b>X</b>	30%
<b>Y</b>	20%
<b>Z</b>	10%

10. The Petitioner herein by its letter dated 20.3.2012 however, raised another contention that the revision of rate so far as the infrastructural charges are concerned could be done only at the time of renewal of the agreement and not prior thereto.

When in regard thereto a representation was made to the Headquarter of the Respondent, the impugned internal circular dated 12.06.2012 was issued.

11. Keeping in view the aforementioned backdrop of events, we may notice the impugned circular letter dated 12.6.2012.

*In view of re-classification of cities and revision of rates of house rent vide Govt, of India, Department of Expenditure letter No. 2(B)/2008-E-II (B) dated 29.08.2008, the existing rental charges **for Infrastructure Sharing by the other licensed service providers fixed vide BSNL HQ No.. 103-1/2006- Comml. Dated 30.05.2006 has been***

*reviewed by Competent Authority and it has been decided to revise the charges w.e.f.01.04.2009, as details given below:*

**1. Charges for building space.**

*(Rates for one transmission bay including space for **one box OF** transmission and DDF as required)*

<i>S.No</i>	<i>Classification of Cities/Towns</i>	<i>Charges W.e.f 01.04.2009</i>
<i>1</i>	<i>X</i>	<i>Rs.61,606 per annum per bay</i>
<i>2.</i>	<i>Y</i>	<i>Rs.47,916 per annum per bay</i>
<i>3.</i>	<i>Z</i>	<i>Rs.26,620 per annum per bay</i>

12. Mr. Maninder Singh and Mr. Ramji Srinivasan in support of the interim prayer made by the Petitioners *inter-alia* contended:-

- (i) The Interconnect Agreement being a commercial document, no retrospective effect could be given thereto.
- (ii) By reason of the impugned circular or otherwise, no unilateral revision in the rates of infrastructural charges was permissible in law.

- (iii) The reasonableness of the infrastructural charges being justiciable, this Tribunal may have to consider the reasonableness of the levy.
- (iv) The impugned circular being an internal document no levy can be imposed thereby and thereunder.
- (v) The contention of the Respondent as contained in its reply cannot be accepted in view of the fact that circular letter dated 30.5.2006, does not make re-classification of the cities made for HRA purpose by the Central Government does not become automatically applicable as it was for the Respondent herein to apply its mind and take a decision thereon.

13. Mr. A.S. Chandhiok, the learned Additional Solicitor General appearing on behalf of the Respondent, on the other hand, urged:-

- (a) Having regard to the provisions contained in Clause 6.3.3 of the interconnect agreement, it was for the Respondent alone to prescribe the charges from time to time besides laying down the terms and conditions applicable with regard thereto by way of separate circulars.

- (b) Having regard to the provisions contained in clause 7.3.1 of the agreement, the Respondent was entitled to issue supplementary bills; the premise on which the impugned order has been issued being based on the circular letter dated 30.5.2006; the legality and validity whereof is not in question, the impugned circular is valid in law.
- (c) The Respondent was entitled to send revised bills having regard to the re-classification of the cities.
- (d) Perusal of the replies of the Petitioner in terms of its letters dated 07.3.2012 and 20.3.2012, would show that at no point of time, the questions of retrospective effect of the impugned demand, nor the jurisdiction of the Respondent having been questioned, the Petitioner is estopped and precluded from doing so by way of this petition or otherwise.
- (e) The Circular letter dated 30.5.2006 itself being applicable from 01.4.2006, was given a retrospective effect, which having been accepted by the Petitioners without any demur whatsoever and on that ground too they are estopped and precluded from raising the question of jurisdiction of the Respondent to issue the impugned circular which is merely a clarificatory one.

14. The circular letter dated 30.5.2006 refers to a decision on the part of the Respondent to revise the charges. A decision was, therefore, required to be taken to revise the same.

The Interconnect Agreement between the parties started in the year 2001. 2006 circular was not made applicable from the said year. Whereas the Government of India had classified the towns in the entire country in six categories, it is not denied or disputed that the Respondent has categorized the same into only four.

15. By reason of the impugned circular for category 'A' cities, the charges were raised from Rs.36,000/- per bay per annum to Rs.61,606/- and for Category 'B' towns from Rs.28,000/- per bay per annum to Rs. 47,916/-.

16. So far as the rates for one transmission bay is concerned, the charges for Category 'A' Cities was raised from Rs.2.00 lakh per bay per annum to Rs.2,95,728/- per bay per annum.

17. Clause 4 of the said circular provides for a 10 per cent annual increase every year, i.e., from 01.4.2007 onwards.

18. The Respondents themselves have placed before us a table, from a perusal whereof, it would appear that the same does not fit in with the amount re-fixed by the Respondent, vis-a-vis, increase of the rate at the rate of ten per cent per annum. It is also not in dispute that each of the Petitioners herein has paid the infrastructural charges in advance for the financial year 2012-2013.

Moreover, the Government of India had classified the towns in 2004 whereas the basis thereof was only taken aid of by the Respondent in the year 2006.

19. It is, therefore, not correct to contend that the classification of the towns was to be incorporated by reference in the 2012 notification automatically. The interpretation of a document vis-à-vis the power to levy charges with retrospective effect will depend upon the terms of the contract and thus would give rise to a question of law.

20. If on proper construction of the Interconnect Agreement read with the circulars are found to be lacking any power of the Respondent to give effect thereto a retrospective effect, the circulars must be held to be non-est in the eye of law for the said purpose and in that view of the matter, the principle of estoppel may not have any application.

21. Clause 7.1.4 has no application in the instant case. It provides for a supplementary bill. A supplementary bill could be issued within a period of six months only, in the event of some errors or omissions crept in the original bills. As correctly pointed out by the Respondent itself in its aforementioned letter dated 09.3.2012, a decision for revision in the rate for infrastructural charges had been taken. It was, therefore, not a case of an error or omission in the bill. If by reason of the Interconnect Agreement read with the aforementioned circular letter dated 30.5.2006, the Respondent was not entitled to give retrospective effect to a levy, clause 7.4.1 of the Agreement prima-facie must be held to be inapplicable.

22. Para 4(C) of the said circular letter has been relied upon by the learned counsel for both the parties. It provides for a change of classification of cities. The change of classification is to be made by the Respondent. It could not have been done only because the Government of India did so.

The Government of India's reclassification of the cities in terms of the notification dated 28.8.2008 was not automatically to be applied by BSNL. The circular letter dated 30.5.2006 does not say so.

23. The Supreme Court of India in BSNL Vs. BPL Mobile Cellular Ltd. reported in 2008 vol.13 SCC 597 stated the law thus:-

*“43. In view of the aforementioned law laid down by this Court, there cannot be any doubt whatsoever that the circular letters cannot ipso facto be given effect to unless they become part of the contract. We will assume that some of the respondents knew thereabout. We will assume that in one of the meetings, they referred to the said circulars. But, that would not mean that they are bound thereby. Apart from the fact that a finding of fact has been arrived at by TDSAT that the said circular letters were not within the knowledge of the respondents herein, even assuming that they were so, they would not prevail over the public documents which are the brochures, commercial information and the tariffs.*

*44. If the parties were ad idem as regards terms of the contract, any change in the tariff could not have been made unilaterally. Any novation in the contract was required to be done on the same terms as are required for entering into a valid and concluded contract. Such an exercise having not been resorted to, we are of the opinion that no interference with the impugned judgment is called for.*

It was further held:-

*“45. For invoking Clauses 4.1 and 19.5 of the licence agreement, we may notice that the word “prescribed” is not defined. It has not been defined even in the*

*Telegraph Act. It has not been defined in the licence. The said provision unlike Clause 18.14 does not use the words “from time to time”. A contract entered into by the parties, it will bear a repetition to state, must be certain. It must conform to the provisions of the Contract Act. Ordinarily, the word “prescribed” would mean prescribed by rules. Section 7(2)(ee) of the Telegraph Act provides for the rule-making power for the purpose of laying down the tariff. We may not be understood to be laying down a law that in absence of any statutory rule framed under the Telegraph Act, no contract can be entered into. In absence of any statutory rule governing the field, the parties would be at liberty to enter into any contract containing such terms and conditions as regards the rate or the period stipulating such terms as the case may be. The matter might have been different if the parties had entered into an agreement with their eyes wide open that the circular letter shall form part of the contract. They might have also been held bound if they accepted the new rates or the periods either expressly or sub silentio. When on the basis of terms of the contract, different rates can be prescribed, the same must be expressly stated. When the word “prescribed” is not defined, the same, in our opinion, would mean that prescribed in accordance with law and not otherwise.”*

24. Submission of the learned Additional Solicitor General that the impugned internal circular dated 12.6.2012 has not gone beyond the circular letter dated 30.5.2006 may now be examined.

The said circular letter was indisputably issued by the BSNL having regard to clause 5.3.3 of the agreement.

25. For the aforementioned purpose a decision was required to be taken by the Respondent itself and not by any other authority. By reason of its circular letter dated 20.5.2006 a conscious decision had been taken.

The rates were fixed by way of rental charges or infrastructural sharing. It has four different components.

26. The said circular letter was issued with the object of simplifying rental assessment. It will bear repetition to state that the doctrine of Incorporation by Reference is not applicable in the instant case which would be evident from the fact that in terms of the said circular letter dated 30.5.2006, although six categories of cities have been re-classified by the Central Government, the Respondent put the same in four categories only. Thus, when the Central Government took a decision to re-classify the same in three categories that is 'X', 'Y' and 'Z', the same did not become applicable to the case of Petitioners *mutatis mutandis*.

27. If that is so, prima-facie, we have no doubt in our mind that the Respondent was required to take a fresh decision.

28. The only question which survives for consideration is as to whether if such a decision was to be taken, can it be done by way of an internal circular of the nature of the one dated 12.6.2012, copies of which have not been supplied even to Petitioners?

29. Prima facie, we are of the view that it cannot be so done. Having regard to the fact that if the charges are to be increased and that too with retrospective effect, the purpose could not be achieved by taking recourse to clause 5.3.3 alone.

The words from 'time to time' by itself do not confer any authority on the Respondent herein to give a retrospective effect to the charges levied by way of rental or infrastructural charges.

30. It is, therefore, not correct to contend as has been sought to be done by the learned Additional Solicitor General that no retrospective effect has been given to the said circular letter dated 12.6.2012. Prima-facie the charges have to be raised in terms of the existing

provisions of contract. If a fresh decision was to be taken for the purpose of re-classification of cities, despite the aforementioned Government of India's re-classification circular dated 28.8.2008, prima-facie it must be held that retrospective effect has been given by reason thereof, having regard to the fact that the Petitioner's have already paid the amount in terms of the circular letter dated 30.5.2006 in advance for the period 01.4.2012 to 31.3.2013.

31. Prima-facie again for the aforementioned purpose, clause 7.3.1 (iv) will have no application.

The increase in the rate could have been effected only at the time of renewal of the agreement, i.e., with effect from 01.4.2013.

Submission of learned Additional Solicitor General that even the circular letter dated 30.5.2006 was given a retrospective effect, as the same was made applicable from 01.4.2006 does not appear to be correct.

The circular letter was to apply for the financial year 2006-2007 and therefore it was given effect on and from 01.4.2006.

The ten per cent increase in the rates was also to become effective from the next financial year, i.e., from 01.4.2007 onwards.

We, therefore, do not see any reason as to why the said circular letter should be construed to have a retrospective effect.

32. Mr. Chandhiok would contend that these petitions do not pertain to any Class-I town equivalent to Category 'X' city and thus that part of the notification whereby and whereunder infrastructural charges have been enhanced with retrospective effect cannot be allowed to be questioned.

33. The Petitioners have a pan India presence.

34. They, in these petitions, have questioned not only the orders issued by the concerned authorities of the Respondent in respect of different circles but also to the circular letter dated 12.6.2012 in whole.

The immediate cause of action might have arisen in respect of those circles wherein bills were raised but that does not mean that no case has been made out to challenge the validity of the said letter dated 12.6.2012.

We may notice that in Petition No. 586 of 2012, it has been stated as:-

*“6. it is submitted that the impugned invoices are for Jammu and Kashmir circle and the Petitioner as such reserves its right to challenge such other and further invoices that the Respondent may raise pursuant to the Impugned circular, which is already under challenge in the present, in respect of other circles.”*

*“11. The Petitioner has been granted license by Department of Telecommunications (DOT) and is providing services throughout the country including in the UP (West) circle.”*

35. It is, therefore, difficult to accept the submission of the learned Additional Solicitor General that in that view of the matter, the entire circular letter dated 23.8.2012 cannot be questioned.

36. So far as the submission of the learned Additional Solicitor General that Bharati Airtel has waived its right to question the entire circular letter is concerned, we may notice that these petitions have been filed by a large number of licensees operating in the entire country.

It may be true that at one point of time the concerned office of M/s Bharati Airtel raised the question of limitation of six months only as envisaged under clause 7.1.4 of the Interconnect Agreement but as indicated heretofore, interpretation as regards power of a party to the contract to give effect to an increase in charges with retrospective effect would give rise to a question of law.

37. Very fairly, moreover, our attention has been drawn by the learned Additional Solicitor General to a representation made by AUSPI by reason of a letter dated 13.8.2012, wherein it was stated:-

*“2. According to the above cited circulars, the re-grouping of the cities earlier classified as A1, A, B1, B,C & Unclassified into X,Y and Z categories has been done in accordance with the recommendations of the 6<sup>th</sup> Pay Commission.*

*3. 2 in the 6<sup>th</sup> Pay 2 and have no connection with revision/reclassification of the titles for charging for space for commercial purposes like infrastructure sharing for telecom services.*

*4. The act of unilaterally increasing the charges for previous years is totally unreasonable on the part of*

*BSNL and against the spirit of the Interconnect Agreement jointly signed by the operators and BSNL and changes/amendments in any of the terms should also be done with mutual discussion and consent of all the operators.”*

*“6. Besides the above demand notes received by our members, some members have also received Notices of Disconnection of POIs if the demanded differential infrastructure charges are not paid to BSNL. We request you to kindly have such disconnection notices withdrawn in the interest of maintaining harmonious and cordial relations with private operators and also to avoid any legal recourse that our member operators may be forced to avail to prevent BSNL to impose such unilateral, arbitrary and unreasonable demands on the operators.”*

38. It is, therefore, incorrect to contend that this petition is barred under the doctrine of Estoppel or Waiver.

39. For the purpose of passing an order of injunction, this Tribunal is required to consider inter alia three factors, namely, (i) prima-facie

case, (ii) balance of convenience and (iii) irreparable injury. All the three components must be considered in a holistic manner.

40. For the reasons stated heretofore the Petitioner has established triable issues; they have made out a strong prima-facie case in their favour.

41. The balance of convenience also lies in their favour in so far as they have deposited the amount of infrastructural charges in advance. The Respondent has accepted the said amount without any demur. If it has to establish its power to revise the same with retrospective effect, the burden of proof will be upon it.

42. So far as sufferance of irreparable damage is concerned, the same would mean a substantial damage.

If prima-facie, an illegal demand is given effect to, the Petitioner's network may be disconnected. The term 'irreparable damage' would mean a substantial damage and not that which can never be compensated on monetary terms.

43. In that view of the matter, the interim order made by this Tribunal is made absolute with no other orders as to costs.

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

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

*HKC*