

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

Dated 15th February, 2013

Petition No.745(C) of 2012
(M.A.651 of 2012)

Sree Konark Digital Systems ...Petitioner
Vs.
Sun Distribution Services Pvt. Ltd. ...Respondent

Petition No.746(C) of 2012
(M.A.652 of 2012)

Eswara Communications ...Petitioner
Vs.
Sun Distribution Services Pvt. Ltd. ...Respondent

BEFORE:

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

For Petitioner : Mr.J.K.Mehta,Advocate
Mr. Sharath Sampath, Advocate
Mr.Manikya Khanna,Advocate

For Respondent : Mr.Nitin Bhatia,Advocate

ORDER

The Petitioner has filed this Petition to direct the Respondent to issue the decoder boxes for the bouquet of channels of the Respondent.

2. This Tribunal in its order dated 19.10.2012 had directed the Petitioner to visit the office of the Respondent within ten days from date with all the relevant documents and the representative of the Respondent should hold negotiation with the Petitioner.

3. According to the petitioner, as no response has been received from the Respondent till date, the Petitioner has filed this application to direct the Respondent to grant decoder boxes of its channels on an interim basis and thereafter direct for a joint survey of the area of operation within a time bound manner.

4. The Petitioner has submitted that it is operating in the area of Vijaywada for past three years as an MSO. This Tribunal had directed MAA Television in its order dated 18.07.2011 in Petition No. 395(C) of 2010 and Media Pro Enterprises in its order dated 14.02.2012 in Petition No. 397(C) of 2010 by way of interim measure to supply the signals of the MAA TV and Zee TV on a subscriber base of 7500 and 5000 respectively. However, these figures were subject to the outcome of the joint survey and the negotiation between the parties.

5. Pending the detail trial in the main petition, the applicant has requested that this Tribunal may issue a direction to issue the decoder boxes and activate the signals of the channels provided by the Respondent to the network of the Petitioner subject to the conduct of joint survey by the Respondent along with the Petitioner.

6. The Respondent has objected to the grant of decoder boxes as an

interim measure without even complying with the requirements under the interconnection regulations by the Petitioner. The Respondent has further pointed out that the Petitioner has not supplied all the information as required under the regulation. The pole permission granted by the electricity department has not been provided to the Respondent so far.

According to the respondent, its representative had asked the petitioner in the meeting on 2.11.2012 to provide the following documents, but it failed to do so :

- (a) Rental Agreement
- (b) Detailed SLR
- (c) Postal license copies of the LCOs
- (d) LCO agreement with MSO
- (e) Pay channel details, if any

7. On preliminary examination about the information sought by the respondent, I am of the opinion that it is necessary that the petitioner supply the relevant documents to show its right to have its operation from the said premises from where it is operating. For SLR, the petitioner should give full information about the LCOs who are getting signals and who are likely to get the signals from the petitioner alongwith their detailed addresses and their connectivity, so that the respondent has a opportunity

to verify the same.

It is also necessary that the LCOs to whom signals are to be supplied have the relevant postal certificates to run the business.

Regarding LCO agreements with the MSOs, it is not known which agreement the respondent is asking for. But the petitioner should not have objection to inform the respondent as to which other pay channels are being transmitted by it.

8. I am of the opinion that the end of justice will be sub-served if following directions are issued to the parties :

(a) The petitioner shall supply all the details mentioned in above para within a period of one week.

(b) The respondent will verify the data submitted by the petitioner within a period of two weeks.

(c) Thereafter, negotiations may be made between the parties within one week and in the event of settlement between the parties, a subscription agreement may be entered into subject to such terms and conditions which would be reasonable and non-discriminatory.

(d) In case no settlement is arrived at, the position of each party may be put up in form of minutes of meeting and should be submitted to this Tribunal before the next date of hearing.

9. The matter may be posted for further directions on 2nd April 2013.

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(P.K.Rastogi)
Member

/NC/

