

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL

NEW DELHI

Dated : 2nd January, 2013

1. Petition No.741 of 2012

M/s Videocon Telecommunications Ltd. (U.P. East) ...Petitioner
Vs.
Union of India (DoT) ...Respondent

2. Petition No.742 of 2012

M/s Videocon Telecommunications Ltd. (M.P.) ...Petitioner
Vs.
Union of India (DoT) ...Respondent

3. Petition No.743 of 2012

M/s Videocon Telecommunications Ltd. (M.P.) ...Petitioner
Vs.
Union of India (DoT) ...Respondent

BEFORE:

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

For Petitioner : Mr. Dayan Krishan, Kirtiman Singh & Mr.
T. Singhdev, Advocates
For Respondent : Ms.Maneesha Dhir, Mr.K.P.S. Kohli, Mr.
Sidharth Patnaik & Ms. Debopama Roy,
Advocates.

ORDER

These petitions have been filed with a prayer to release the performance bank guarantee dated 20.1.2008 valid upto 9.1.2013.

According to the Petitioner it has completed the first phase of roll out obligations and now has completed 50% coverage criteria in terms of second phase roll out obligations and the Petitioner is now entitled to release of PBG in respect of UP (East), Madhya Pradesh and Mumbai.

2. In its interim relief the Petitioner has requested the release of the PBG and also requested that the Respondent may be restrained to invoke the performance bank guarantee or taking any coercive steps whatsoever pending adjudication of the present petition.

3. According to the Petitioner it has fulfilled the roll out obligations in these three circles, therefore entitled for release of the performance bank guarantee as it is incurring huge cost to maintain the same.

4. Mr. Kohli appearing on behalf of the Respondent states that the will be filing a detailed reply in these matters and states that the Petitioner has failed to fulfill its second phase roll out obligations.

5. Mr. Dayan Krishan appearing on behalf of the Petitioner stated that the Petitioner completed its roll out obligations and the registration certificates have been put on record. According to Mr. Kohli, the test results show certain deviations and until and unless the same are rectified the results cannot be considered as final certificates.

6. It is necessary that the Respondent file its reply detailing the objections, if any, about the test certificates.

7. Referring to the interim prayer the Petitioner has requested that the Respondent should not take coercive action and should not encash the bank guarantee. It is not understood, against what order of the Respondent, the Petitioner is seeking the interim relief. It seems that the Respondent may take action against the Petitioner for not renewing the performance bank guarantee one month prior to the expiry of the PBGs. PBGs are valid upto 9.1.2013 in terms of clause 21.4 of the conditions of License. It is seen from the record that neither there are any pleadings nor there is record to show that any notice has been issued by the Respondent to the Petitioner to encash the bank guarantee.

I don't see any cause of action arising for the interim prayer. However, if any, order is issued by the Respondent, it is for the Petitioner to approach the Tribunal as and when such cause of action arises.

(P.K. RASTOGI)
MEMBER

2nd January, 2013
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