

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

Dated 1st July, 2015

Petition No. 451(C) of 2013

Cable Vision, Nadia

...Petitioner

Vs.

Mahalaxmi Cable Center, Nadia

... Respondent

BEFORE :

**HON'BLE MR. JUSTICE AFTAB ALAM, CHAIRPERSON
HON'BLE MR. KULDIP SINGH, MEMBER**

For Petitioner : Mr. Sattwik Shekhar, Advocate

For Respondent : None

ORDER

By Aftab Alam, Chairperson – The petitioner, Cable Vision, is a Multi System Operator, operating in the area of Nabadwip, Nadia District, West Bengal. It receives the signals of channels from broadcast-satellites as well as locally delivered TV channels/ bouquets of channels (including pay channels), retransmits those channels and supplies those channels through its network to local cable operators for further distribution. The respondent,

Mahalaxmi Cable Center is a partnership firm and it is a local cable operator operating in the same area.

The petitioner has filed this petition for recovery of Rs. 1,95,000/- as dues of subscription charges from the respondent.

The respondent did not appear despite repeated service of notice; hence, the petition has proceeded *ex-parte*.

According to the petitioner, the respondent entered into a subscription agreement for Non-Addressable System dated 04.06.2012 with it for transmission services to be provided to the petitioner on a non-exclusive basis on payment of Rs.3000/- as monthly subscription fees. The agreement is for a term of 3 years and the parties agreed for provision of service on payment of installation charges, subscription fees and the Basic Tier Service charge by the respondent to the petitioner.

It is the case of the petitioner that the respondent, in breach of the regulations, started taking signals from another MSO as well, without any information to the petitioner and without his consent. The petitioner sent a letter to the respondent on 17.05.2013 stating that its action was causing huge losses to the petitioner. In this letter, the petitioner also pointed out that the respondent had not complied with the earlier decision of the Tribunal in Petition no. 321(C) of 2012 whereby it was directed that only the petitioner

can reconnect the cable signals of the respondent. It is further the case of the petitioner that its signals distributed by the petitioner were of poor quality causing complaints from sub-operators and a few of them wrote to the petitioner complaining about the poor quality of its signals being supplied by the respondent. It is further stated that the supply of signals to the respondent, in terms of interconnect agreement, was never disconnected and the respondent is enjoying the services rendered by the petitioner continuously. It is further stated that the respondent did not submit its subscriber reports despite several requests to him by the petitioner. Invoices were raised by the petitioner on time for the period June 2012 to November 2013 but no payments were made by the respondent against those invoices. According to the petitioner, as per the last invoice, dated 01.11.2013, the amount due against the respondent was Rs.1,95,000/- .

Along with the petition, copies are filed of the registration certificate, subscription agreement, monthly invoices and the request letter for giving SLR.

It is alleged that despite repeated requests, the respondent did not pay its lawful dues and the petitioner was, therefore, constrained to file this petition.

In support of its claim, the petitioner examined one Mahadeb Debnath as witness in the case. Debnath is the proprietor of the petitioner concern. He duly proved the documents produced by the petitioner in support of its claim against the respondent. Some extracts from the witness's deposition are as under:

“5. That I say that the respondent was desirous of obtaining the signals from my network hence the respondent approached me and requested me to start giving signals to the Cable TV Network of the respondent and after mutual agreement I started giving signals to the cable TV network of the respondent through my cable TV network, which fact was duly intimated by me to Digi Cablecomm Services Pvt. Ltd. (hereinafter referred to as Digi Cablecomm) the bigger MSO, a company whose signals I was re-transmitting to my sub-operators including the respondent at that relevant point of time.

6. That I say that in the month of April 2012 the bigger MSO, Digi Cablecomm pressurized me to disconnect the signals to the cable TV network of the respondent against which disconnection, the respondent filed a petition being Petition no. 321(c) of 2012 titled as Mahalaxmi Cable Centre Vs. Cable Vision & Anr. As I was also aggrieved of the inactions of my MSO, I had also filed a petition being Petition No. 430(c) of 2012 titled as Cable Vision Vs. Digi Cablecomm Services Pvt. Ltd. During the pendency of the above mentioned petitions, I and the respondent entered into a subscription agreement dated 4.6.2012 for transmission services to be provided by me on a non-exclusive basis vide which the respondent has undertaken to pay a sum of Rs. 3000/- per month to me as a monthly subscription fees. The said subscription agreement dated 4.6.2012 is valid for a period of three years. The said services were agreed to by the parties to be provided on payment of installation charges, subscription fees and the basic tier service charge by the respondent to me. The subscription agreement for non –

addressable system dated 4.6.2012 is exhibited as EXHIBIT PW/1.

7. That I say that the parties i.e. Digi Cablecomm, I and respondent were able to resolve the dispute and the matters were settled amicably. The parties also entered into an MOU dated 22.8.2012. Both the petitions were withdrawn, Petition no. 430 (c) of 2012 was withdrawn on 23.8.2013 and Petition No. 321(c) of 2012 was withdrawn on 7.9.2012 under the provisions of the said MOU dated 22.8.2012. The MOU dated 22.8.2012 is exhibited as EXHIBIT PW/2.

8. That I say that I was required to supply the actual SLR to my MSO i.e. Digi Cablecomm. And hence I requested all my cable operators including the respondent to supply the true and correct SLR to me so that I can supply the same to my MSO. A copy of the letter dated 17.8.2012 is exhibited as EXHIBIT PW/3.

9..... I further submit that the respondent approached the erstwhile MSO, Digi Cablecomm also for signals despite continuing to receive signals of GTPL through my network and as Digi Cablecomm was not interested in operating in the areas of the respondent hence the respondent did not succeed in getting the signals directly from Digi Cablecomm. The respondent probably thought that there was a dispute between my network and Digi and wanted to take advantage of the same. But the respondent continued to show GTPL through my network as I did not disconnect and the respondent has very unreliable relationship with the rival but showing the threat of rival the respondent has stopped paying to me despite receiving the signals from my network. The respondent started taking signals from another MSO as well but without informing the same to me, without complying with the relevant regulations and also without disconnecting the signals of my network, which implies that the respondent started having both the feeds i.e. feed of my network and feed of another MSO. As soon as I came to know about the same, I wrote a letter dated 17.5.2013 to the respondent telling the respondent that due to the illegal acts of the respondent, I and my network has suffered and is suffering huge losses. I further told the respondent that in case the respondent wants to disconnect the signals of my network it may do so after

making payment of all the outstanding dues. I further called upon the respondent to inform me if the respondent wants to disconnect the signals of my network then in that case, I will not be responsible to pay for the respondent to my MSO in future. I further state that till date I have been made liable to make payments to my MSO for giving signals to the respondent as the current MSO is not ready to give the downgradation to me as the respondent is still showing the signals of my network. I state that no reply till date has been received by me from the respondent despite the fact that the said letter was duly delivered to the respondent. A copy of the letter dated 17.5.2013 is annexed as EXHIBIT PW/4.

10. That I say that I have started receiving complaints regarding poor and disturbed services by the Respondent from the sub-operators of the Respondent. In fact few of the sub-operators have requested me to supply the signals directly to their respective Cable TV Networks. A copy of letter dated 22.10.2013 is exhibited as **EXHIBIT-PW/5**.

11. That I say that I have been raising the invoices from time to time upon the Respondent for the services being supplied by him to the Respondent, which invoices have been duly delivered to the Respondent. Copies of the Invoices raised by the Petitioners for the period starting from June, 2012 to November, 2013 (Invoice Nos. 0003/06/2012 to 0003/11/2013) are exhibited as **EXHIBIT-PW/6, EXHIBIT-PW/7, EXHIBIT-PW/8, EXHIBIT-PW/9, EXHIBIT-PW/10, EXHIBIT-PW/11.**”

The deposition of the witness remains unchallenged and there is no reason not to accept its veracity.

In light of discussion made above, we accept the petitioner's claim and *ex-parte* allow the petition. The office is directed to draw up a decree against the respondent for the amount claimed by the petitioner. The decretal

amount will also carry interest @ 8% per annum from the date of filing of this petition till the date of actual payment.

Since the case has proceeded *ex-parte*, there will no order as to costs.

.....
(Aftab Alam)
Chairperson

.....
(Kuldip Singh)
Member

sks &nc