

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

Dated 15th February, 2013

Petition No.729 of 2012
(M.A.No.16 of 2013)

Loop Telecom Ltd. (Maharashtra) ...Petitioner
Vs
Bharat Sanchar Nigam Limited ...Respondent

BEFORE:

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

For Petitioner : Mr. Navin Chawla, Advocate
Mr. Manikya Khanna, Advocate
Mr.Sharath Sampath, Advocate

For Respondent : Ms.Maneesha Dhir,Advocate
Mr. Abhishek Kumar, Advocate
Mr.K.P.S.Kohli, Advocate
Ms.Debopama Roy,Advocate
Mr. Sidharth Patnaik, Advocate
Ms. Vaneesa Singh, Advocate

ORDER

M.A.No.16 of 2013

On 12.10.2012, this Tribunal had ordered as below :

"Having heard the learned counsel for the parties, this Tribunal is of the opinion that the Petitioner should extend the Bank Guarantee as the same would be expiring on 14.10.2012 for a period of three months. On the Petitioner's extending the said Bank Guarantee, it is furthermore directed that the Respondent shall not encash the same till further orders."

The Respondent has filed the present application on the ground that the Bank Guarantees provided by the petitioner will be expiring on 13.01.2013 and the respondent will be left with no security to secure its outstanding amount aggregating to Rs. 34 lakhs i.e. Rs. 12,50,908/- for Gujarat circle and Rs. 20,68,719/- for the Maharashtra circle. It is also further stated by the applicant that the respondent has disconnected the point of interconnection and leased line for Gujarat circle on 21.07.2012 and for Maharashtra circle POI was disconnected on 03.04.2012, whereas the leased line was disconnected on 30.07.2012.

It is noticed that this petition pertains to Maharashtra circle only and not for Gujarat circle.

Mr. Navin Chawla, learned counsel appearing on behalf of the Petitioner brought to my notice that the interim order issued by this Tribunal where the same issue of IUC, leased line charges, port charges and Emergency charges were considered between the same parties in case of Haryana circle. This Tribunal in its detailed order dated 19.10.2012 in Petition No. 669 of 2012 (Loop Telecom Vs BSNL) has held:

"27. For the reasons aforementioned the Petitioner must be held to have made out a strong prima facie case for the purpose of grant of an interim order of injunction.

So far as balance of convenience is concerned, I am of the opinion that the interest of the Respondent can be protected if the Petitioner is

directed to furnish an undertaking that in the event of dismissal of this petition it shall pay the amount demanded from it in respect of the aforementioned charges. It is directed accordingly. Such an undertaking should be furnished within one week from date."

It is noticed that POI in Haryana was also disconnected on 03.04.2012 and it is also brought to my notice that reply filed by the respondent in this petition is similar as in Petition No. 669 of 2012.

In view of the above, I am of the opinion that interest of justice would be sub-served, if similar order is also passed in this application also.

Therefore, it is directed to furnish an undertaking in this petition that in the event of dismissal of this petition it shall pay the amount demanded from it in respect of the charges claimed by the respondent. Such an undertaking should be furnished within one week from date.

This order would be subject to any other or further order which may be passed by this Tribunal.

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(P.K.Rastogi)
Member

/NC/

