

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

**Dated 15<sup>th</sup> February, 2013**

**M.A. No. 11 of 2013  
IN  
Petition No.933(C) of 2012**

M/s DKNR Enterprises

...Petitioner

Vs

Media Pro Enterprise India Pvt. Ltd.

...Respondent

**BEFORE:**

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

For Petitioner : Mr. Surendra Kumar, Advocate

For Respondent : Mr. U. Thakur, Advocate  
for Mrs. Prathiba M. Singh, Advocate

**ORDER**

The Respondent issued a notice under Regulation 4.1 on 14.11.2012 and a Public Notice under Regulation 4.3 on 16.11.2012 for disconnection of the signals to the Petitioner's network on the ground of transmission of signals outside the area of the agreement i.e. Ordnance Factory Estate Area, Dehradun.

2. On 05.12.2012 this Tribunal directed the Respondent not to disconnect the signals of the Petitioner's network till further orders and the Petitioner was directed to give an undertaking that it would not transmit the signals outside the area authorized under the existing agreement.

3. The Petitioner has filed an application stating that in pursuant to the order of this Tribunal on 05.12.2012, the parties met on 10.12.2012 and minutes of meeting was drawn wherein it is recorded :-

*“That M/s. DKNR Enterprises has assured that in accordance to the Undertaking given by it before the Hon’ble TDSAT and in view of the existing Subscription Agreement between the Parties, it shall confine its area of operation to Ordnance Factory Estate, Dehradun only.*

*That subject to the adherence of M/s. DKNR Enterprises to its Undertaking given by it before the Hon’ble TDSAT and the terms of the existing Subscription Agreement, preliminary discussions have commenced between both the parties.*

*That due to paucity of time, the parties could not negotiate the commercial arrangement in a comprehensive manner hence both parties have mutually agreed to meet once again on 26<sup>th</sup> December 2012 to further negotiate the terms for executing a fresh Subscription Agreement.”*

According to the Applicant a raid was conducted on 22.12.2012 on behalf of the Respondent to the network of the Petitioner and 24 IRD Boxes of the Petitioner were seized and no meeting was arranged by the Respondent on 26.12.2012 as decided in the meeting held between the parties.

4. Therefore, the Petitioner has prayed for the following :-

- “(a) punish the respondent and its officers for the willful failure to comply with the order dated 5.12.2012 passed by this Hon’ble Tribunal in terms of Section 20 of TRAI Act, 1997;*
- (b) direct the respondent to provide the 24 new IRD boxes to the petitioner for accessing the signals of respondent in agreed area;*
- (c) direct the respondent to compensate the lose to the business and Good Will of the petitioner caused by the illegal action of the respondent.”*

5. Mr. Thakur, learned counsel appearing on behalf of the Respondent stated that on behalf of the Respondent a complaint was lodged with the Police as the Petitioner was still continuing the piracy of the signals outside the authorized area in spite of the direction of this Tribunal. The Petitioner did not submit the Undertaking to this Tribunal as ordered by it.

6. The Petitioner has furnished the Undertaking only on 08.01.2013. However, it is seen that this was not an issue when the meeting took place between the parties, wherein it was clearly recorded that the Petitioner assured the Respondent that it would confine to its area of operation to Ordnance Factory Estate area, Dehradun only.

7. As stated by the Respondent, the Police has visited the premise of the Petitioner on the complaint of the Respondent and seized the IRD boxes.

Whether the piracy has been committed by the Petitioner or not, this will have to be examined by the concerned investigating agency? If the IRD boxes have been seized by the Police, the appropriate court for any relief against the seizure will not be the TDSAT but will be the concerned Criminal Court having jurisdiction in the matter.

8. The Applicant has prayed for supplying 24 new IRD boxes. It is seen that the Petitioner failed to give an Undertaking in spite of clear order of this Tribunal on 05.12.2012. It is only on 08.01.2013, it gave Undertaking after the seizure of IRD boxes by the Police.

9. In view of aforementioned facts, I am of the view that the Applicant has not made out any case for ad-interim order for supply of new boxes. There is a need to hear both the parties after written reply by the Respondent. Therefore, the Respondent may file its reply to the M.A. within one week and rejoinder thereto may be filed within one week thereafter.

10. Put up for hearing on the application on the date already fixed.

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

rkc