

TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI

Dated 2nd May, 2019

Telecommunication Petition No.22 of 2019

Bharti Airtel Limited

... Petitioner

Vs.

Union of India

... Respondent

BEFORE:

HON'BLE MR. JUSTICE SHIVA KIRTI SINGH, CHAIRPERSON
HON'BLE MR. A.K. BHARGAVA, MEMBER

For Petitioner

: Mr. Ramji Srinivasan, Sr. Advocate
Mr. Harsh Kaushik, Advocate
Mr. Abhay Chattopadhyay, Advocate
Ms. Nikita Chatale, Advocate
Ms. Sylona Mohapatra, Advocate

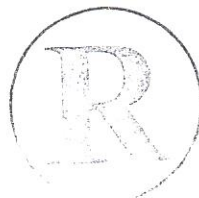
For Respondent

: Mr. Dhruv Tamta, Advocate
Mr. Akhilesh Kumar, Director(AS-V)
DoT

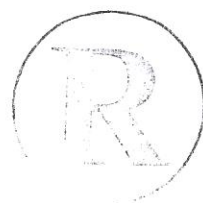
ORDER

By S.K. Singh, Chairperson – Both the parties have been heard at length in respect of interim relief sought by the petitioner.

2. Petitioner is aggrieved by some of the conditions subject to which the respondent has conveyed to the petitioner through letter dated 10.4.2019 (Annexure I) approval of the competent authority to take on record the transfer / merger of the de-merged undertaking of M/s. Tata Teleservices Maharashtra Ltd



(TTML), transferor company to M/s. Bharti Airtel Limited (BAL), transferee company. The petitioner has made an interim prayer for staying operation of the impugned conditions being clauses (b), (d) and (e) along with Annexure III to the letter dated 10.4.2019. Learned senior counsel for the petitioner submits that in similar circumstances this Tribunal has placed reliance upon interim order of High Court of Bombay dated 28.1.2013 and passed interim orders such as one dated 10.4.2018 in T.P.No.55 of 2018 (Bharti Airtel Limited Vs. Union of India) and another dated 30.8.2018 in T.P.No.181 of 2018 (Bharti Airtel Limited & Anr Vs. Union of India) [(parts of Annexure P-2 (colly)]. He also pointed out that those orders also refer to some other interim orders passed by this Tribunal such as order dated 9.2.2015 and 25.1.2017 wherein the interim order of High Court of Bombay had been noticed and referred to. He submits that similar conditions such as in (b) requiring submission of Bank Guarantee towards OTSC have been stayed in many cases on account of stay orders passed by Bombay High Court and other High Courts. In respect of condition (d), the submission is that the vague condition requiring payment of demands is prima-facie bad because demands which have been stayed by Courts or which cannot be realized as per undertaking given to Courts cannot be forced to be paid by way of a general condition. Similar is the grievance in respect of condition (e) requiring undertakings.



3. So far as requirement of undertaking as per condition (e) is concerned, this Tribunal has also asked the petitioners in other cases to submit the undertaking but with a clarification.

4. Learned counsel for the respondent has not been able to distinguish this matter from other matters, hence following the various interim orders available on record, we direct the concerned authorities of the Union of India to take the merger of two companies and licence on record, subject to undermentioned conditions and final result of this petition:

“1. The petitioner will abide by rest of the terms of the conditions imposed upon it by the impugned notification contained in Annexure P-1 subject to the following modifications:

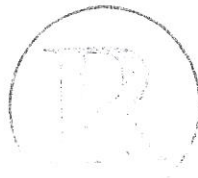
- (i) The stipulation as made in condition (b) of the letter will remain stayed because it appears contrary to the interim order passed by the Bombay High Court.
- (ii) The condition no.(d) will relate to demands which are enforceable and not stayed by any Court of law.
- (iii) The petitioner will submit the undertaking as demanded vide condition (e) of the impugned letter. But it is made clear that any condition of the undertaking or any omissions therefrom shall be without prejudice to the rights and contentions of the parties before the Tribunal and the validity of the conditions of the



undertaking / omissions therefrom will abide by the final outcome of the petition.”

5. Reply may be filed within four weeks. Rejoinder, if any, may be filed within two weeks thereafter.

6. Put up the matter before the Registrar’s Court on 18.7.2019 for completion of pleadings and for passing necessary orders to make the case ready for hearing.



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(S. K. Singh, J)
Chairperson

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(A.K. Bhargava)
Member

/pkb/