

(1983) 04 CAL CK 0018
In the Calcutta High Court

Birendra Kumar Bhuwalka

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-04-1983

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : AIR 1983 Cal 273

Hon'ble Judges : B.C. Ray, J

Bench : Single Bench

Advocate : Phani Bhusan Chakraborty, for the Appellant; Sardar Amjad Ali, for the Respondent

Judgement

1. After hearing Mr. Chakraborty, learned Advocates for the petitioner, and also Mr. Amjad Ali, Advocate appearing on behalf of the Calcutta Telephones, I deem it just and proper to dispose of this application in the manner following :

2. The subject matter of challenge in this application was the disconnection of the telephone of the petitioner, being telephone number 47-7338, on the ground that the petitioner defaulted in payment of telephone charges which is, however, denied by the petitioner whose case is that his telephone connection has been illegally disconnected in spite of the fact that he regularly paid his telephone bills by cheques and immediately on such disconnection he made representation to the Telephone Authorities stating that there has been no default on his part in payment of the telephone charges and as such the connection that has been illegally snapped should be restored immediately. Getting no response from the telephone authorities the petitioner has come up with the instant writ application before this Court.

3. Mr. Amjad Ali, learned Advocate appearing on behalf of the Calcutta Telephones (respondents) after taking instructions from his clients has stated before this Court that except one bill for RS. 102/- which is mentioned in annexure "A" series at page 17 of the writ petition all the bills for which cheques have been duly paid by the petitioner have been encashed already by the

Calcutta Telephones. Therefore, it appears that excepting the sum of RS. 102/- which has not been encashed all the other bills had been duly paid up. In such circumstances it is fit and proper that the Calcutta Telephone Authorities should be directed to restore the telephone connection of the aforesaid telephone of the petitioner in course of a week from today.

4. Before concluding I am constrained to make an observation about the manner in which the public authorities are totally forgetful of their duties and responsibilities to the public in the discharge of their official duties. It is incumbent and also obligatory too on the part of the public authorities mere so for the employees employed in public offices like Calcutta Telephones to be aware and conscious that a telephone is one of the most essential and vital services and as such before disconnecting a telephone and thereby depriving a citizen of getting the service of such an essential service the authorities concerned must be circumspect, must be very conscious of their duties and responsibilities and must check up thoroughly whether actually there has been a default on the part of a subscriber of a telephone or not. It is not for them to disconnect the telephone at their whims and caprice without caring to ascertain whether the cheques which have been paid by a subscriber in payment of the telephone bills have been duly sent to the Bank for encashment or not. If the cheques are not sent to the Bank immediately after the same is tendered to the telephone office and if it is sent after expiry of a considerable period when the validity of the cheque expires default is not certainly on the part of the subscriber The responsibility is to be fixed on the employee or officer concerned for whose want of diligence, carelessness and sheer neglect the cheque is not sent to the Banker of the Calcutta Telephones for proper encashment in proper time. In such case instead of promptly disconnecting the telephone service which a citizen nay a subscriber is entitled to the officer concerned before taking such extreme steps should ascertain and fix the liability whether in fact there is any default on the part of the subscriber or the default in discharge of duties lay elsewhere. In proper cases the officers should take drastic steps against such defaulting officers and must deal with such cases in such a manner so that it must be a pointer to all such sorts of negligent telephone offices not to indulge in this sort of acts. With this observation I dispose of this application.

5. I also direct the petitioner to pay by cheque or by cash within ten days from date the sum of Rs. 102/-. The authorities concerned are directed to restore the telephone connection of the petitioner in course of a week from today on taking necessary charges.

6. L/A for the petitioner may take a plain copy of this order, as prayed for.