
(1989) 02 MAD CK 0017
In the Madras High Court
Case No : Writ Petition No. 13994 of 1988

C. Jose Ukkur

APPELLANT

Vs

Union of India and others

RESPONDENT

Date of Decision : 16-02-1989

Acts Referred:

Telegraph Act, 1885 — Section 7
Telegraph Rules, 1951 — Rule 429

Citation : AIR 1990 Mad 248 : (1989) 1 LW 569

Hon'ble Judges : Bakthavatsalam, J

Bench : Single Bench

Advocate : A. Joseph Iyapillai, for the Appellant; R. Jamal Nazeem, Addl. Central Govt. Standing Counsel, for the Respondent

Judgement

Bakthavatsalam, J.—The prayer in the writ petition is as follows :--

... pleased to issue such appropriate writs, orders or directions as may be appropriate and in particular issue a writ of mandamus-

(a) directing the respondents to install the telephone allotted to the petitioner in the residence of his Secretary at No. 1, Antony Street. East

Tambaram, Madras 59:

(b) awarding the costs of this petition and

Notice of motion has been ordered by Siva-subramaniam. J. on 21-11-1988.

2. The counsel for the department has filed the counter affidavit for which the petitioner has also filed a reply.

3. After hearing both sides. I am of the view that it is not necessary to go into the legal contentions raised by the petitioner on the facts and circumstances of this case.

4. The learned Standing Counsel for the Telephones Department contends that a phone cannot be installed in the address of the Secretary where a

person asked for a phone in his name. I have gone through the relevant rules. The learned counsel refers to R. 429 of the Rules of the Indian

Telegraphs Rules. I have no hesitation to hold that the rule will not have any application to the facts of this case, since that rule is concerned onh

with transfer of telephone. What we are concerned here is onh a new connection and not a transfer. In para-2 of the Circular issued by the

Director General of Tele-Communications dated 7-3-1958, it is stated as follows-

A telephone taken by a subscriber is meant primary for his personal use or for the use of persons who are members of his family in case of

residential connections or who are his direct assistants or direct associates in a particular business in case of connections at business premises.

Purely casual use of such telephones by an outsider may not be considered n issue so long as the hirer is the main primary user.

The rule in this para itself shows that a telephone taken by a subscriber can he used by persons who are directly assisting him in a particular

business etc.

5. Considering this circular and the rules. I am of the opinion that the telephone can be installed at the address given by the petitioner. It is not the

concern of the department whether it is used by the Secretary or the subscriber himself. So far as the subscriber wants the phone to be installed in

a particular address I think a reading of the circular permits that. The only objection of the counsel tor the department is since the phone is asked

as if it has to be used by the Secretary they are not able to give the connection. Now the learned counsel for the petitioner states that he has

applied for a telephone only in his name and address alone is given in column 5 where the telephones is to be installed. I do not think the

department can have any objection to install the phone in the address which has been given in column 5 of the application form.

6. I make it clear that the telephone has to be installed as per the letter given by the petitioner and not based upon the old application form given by

the petitioner on 16-11-1987. It is always open to the department to take suitable action if they find that the phone is misused by and third parties

and I am sure the department has got enough powers under the rules to take

appropriate action if the rules are violated. As such, though this Court cannot grant the prayer as asked for, I direct the authorities to take into consideration the letter of the petitioner dt. 2-1-1988 giving a change of address, and install a phone at the address given in the letter. Since the department's objection seem to be only about the words ""Secretary's residence"" the petitioner can have no objection to delete the words by clarifying to the department that the telephone could be installed for his use only at the address given in the letter dt. 2-1-1988. The telephone will be installed only according to the petitioner's turn and as and when he gets the priority.

This writ petition is ordered accordingly. No costs.

7. Order accordingly.