
(2023) 02 TDSAT CK 0068

In the Telecom Disputes Settlement And Appellate Tribunal

Case No : Telecom Petition No. 102 Of 2017 With Misc Application No. 365 Of 2017

Dishnet Wireless Ltd

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 27-02-2023

Acts Referred:

Citation : (2023) 02 TDSAT CK 0068

Hon'ble Judges : Dhirubhai Naranbhai Patel, Chairperson; Subodh Kumar Gupta, Member

Bench : Division Bench

Advocate : Smriti Ahuja, A P Sahay

Judgement

It is submitted by the counsel for the petitioner that no claim has been put forward by the respondent department, i.e. Department of Telecommunications before NCLT Mumbai which is at Rs.67 lakhs and now the settlement amount is being time barred to be recovered.

We have observed in paragraph no.10 of our earlier order in T.P No. 11/2018 dated 20.10.2022 as under: -

"10. We are dealing with similar case in T.P. 102 of 2017 wherein the claim has not been raised by Union of India in the proceedings under Insolvency and Bankruptcy Code for Rs. 67,00,000/-. This claim has also been time barred because of lethargic or deliberate approach. In fact the Department should have issued a circular imposing liability of the concerned officer/officers for the claim to be filed in the proceeding before NCLT, Mumbai. Proper guidance should be given by higher ranking officers to awake the senses of the subordinate officer/officers by conducting seminars and discussions so that errors are not repeated by the officers."

Despite the aforesaid order, it appears that no action has been initiated by the respondent-2 Secretary of the Department of Telecommunications (DOT) against

the erring officer. When we asked the learned counsel appearing for the respondent whether any action has been initiated by the DOT against the erring officer for not lodging the claim of Rs.67 lakhs, it is submitted by the counsel for the respondent that if there will be any order of this Tribunal, the same shall be complied with.

This is the pathetic decision of the DOT that they are not using their wisdom at all and they are always expecting an order of this Tribunal to take action against the erring officer. To perform the duties by the high ranking administrative officers, there is no need of any order to be passed by the Tribunal. We expect from the Union of India that this officer shall perform the duties because their powers are coupled with the duty. There is no need of any injections of wisdom. The officers ought to take action immediately against the erring employee of the department.

We hereby direct the respondent to place on record, what actions they have initiated against the erring officer on the next date of adjournment.

When too much leniency is shown by the high ranking administrative officers to the erring officers, it is known as 'connivance' in civil matter and in criminal matter it known as 'conspiracy'.

Registry is directed to send a copy of this order to Hon'ble the Minister of Communications, Department of Telecommunications as well as to the Secretary Department of Telecommunications. The Registry shall also send the copy of the orders in T.P No.11/2018 dated 20.10.2022 along with our present order initially, by fax and thereafter by registered post A.D.

The present matter is adjourned to 12.04.2023.