

(1990) 07 MAD CK 0105
In the Madras High Court
Case No : W.A. No. 583 of 1990

Madras Telephone Subscribers and Public Protection
Association

APPELLANT

Vs

The Hon'ble Union Minister for Communication, Govt. of
India, New Delhi, The Director General, Tele communications,
Govt. of India, New Delhi and The Chief General Manager,
Madras Telephones, Madras

RESPONDENT

Date of Decision : 03-07-1990

Acts Referred:

Constitution of India, 1950 — Article 226
Telegraph Act, 1885 — Section 7

Citation : (1990) 07 MAD CK 0105

Hon'ble Judges : A.S. Anand, C.J.;Raju, J

Bench : Division Bench

Advocate : S. Pragasam, for the Appellant;

Final Decision : Dismissed

Judgement

Dr. A.S. Anand, C.J.—The appellant filed W.P. 12187 of 1988 styling himself as the Founder Secretary of the Madras Telephone Subscribers and Public Protection Association. The appellant filed the writ petition as a "Public interest petition" on behalf of the said Association. Pending disposal of the writ petition, the appellant filed some writ miscellaneous petitions claiming different reliefs. For the purpose of the present appeal, however, we have to notice that the appellant filed WMP, 18997 of 1989 seeking to clarify the order of the Court made in WMP. 14067 of 1989 on 16-8-1989. The order which had been made by the Court in WMP. 14067 of 1989 was in respect of the interim relief sought for by the appellant inter alia restraining the chief General Manager, Telephones, Madras, from demanding and collecting the revised tariff rates from April 1988 from the members of the petitioner association and from claiming enhanced rent for accessories, etc. The learned Judge noticed that the earlier petition filed, viz., WMP. 18181 of 1988 for the same relief had already been dismissed and instead

of filing an appeal against that order, applicant has chosen to file the miscellaneous petition in WMP. 14067 of 1989 and that since the same was not maintainable, dismissed it. While seeking clarification of the order in WMP. 14067 of 1989, the appellant filed certain written arguments, and in effect again sought interim direction inter alia restraining the third respondent from demanding and collecting the revised tariff rates etc. from April 1988 from the members of the petitioner association. The learned single Judge by the order dated 23-3-1990 dismissed the writ miscellaneous petition by observing that the petitioner was not able to put forth any specific grievance of any member of his association and there was no merit in that petition.

2. In the writ appeal filed against the dismissal of W.M.P. No. 18997 of 1989 the appellant has again filed written arguments. It is needless to refer to these arguments of the voluminous petition which is rather incoherent, because even if we ignore the observation of the learned single Judge, that the appellant is a "busy body" and confine the consideration of the prayer for the grant or interim injunction restraining the respondent No. 3 from demanding and collecting the revised tariff rates in respect of the appellant's own telephone as he himself claims to be a subscriber in the written argument, we are afraid it is not possible to give a direction as claimed by the appellant in view of the law clearly laid down by the Constitution Bench of the Supreme Court in *S. Narayan Iyer Vs. The Union of India (UOI) and Another*,). It would be advantageous to notice the following observations of their Lordships while dealing with the question whether the courts have any jurisdiction under Art. 226 of the Constitution to go into the reasonableness of the telephone tariff rates. The Bench has observed as follows?

There are three principal reasons why the writ petition is incompetent and not maintainable and the appeal should fail. First, when any subscriber to a telephone enters into a contract with the State, the subscriber has the option to enter into a contract or not. If he does so, he has to pay the rates which are charged by the State for installation. A subscriber cannot say that the rates are not fair. No one is compelling one to subscribe. Second, the telephone tariff is subordinate legislation and a legislative process. Under Indian Telegraph Act, S. 7 empowers the Central Government to make rules inter alia for rates. These rules are laid before each House of Parliament. The rules take effect when they are passed by the Parliament. Third, the question of rates is first gone into by the Tariff Enquiry committee. The Committee is headed by non-officials. The Tariff rates are placed before the House in the shape of Budget proposals. The Parliament goes into all the Budget proposals. The rates are sanctioned by the Parliament. The rates, therefore, become a legislative policy as well as a legislative process.

The Court has no jurisdiction under Art. 226 to go into reasonableness of rates. These rates are decided as policy matter in fiscal planning. There is legislative prescription of rates. Rates are a matter for legislative judgment and not for judicial determination.

3. We thus find that the interim relief prayed for by the appellant could not be granted to him. We accordingly reject the interim prayer of the appellant though for a slightly different reason and dismiss the writ appeal. We refrain from expressing any opinion about the maintainability of the so-called "public interest litigation writ petition" as that would be a matter to be decided by the learned single Judge when the writ petition is taken up for consideration. The appellant has submitted that he is entitled to relief in view of the Consumer Protection Act, 1986 against the respondents for wrong billing as well as for relief for the period when his telephone was dead. If that be so and if the appellant is so advised, he may seek redress of his grievances in this regard through the machinery provided under the said Act and the rules made thereunder.