
(1998) 03 MP CK 0031
In the Madhya Pradesh High Court
Case No : Writ Petition No. 210 of 98

Maresh Agarwal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-03-1998

Acts Referred:

Telegraph Act, 1885 — Section 7, 7B

Citation : AIR 1998 MP 197 : (1998) 1 MPLJ 643

Hon'ble Judges : Tej Shankar, J

Bench : Single Bench

Advocate : K.N. Gupta, for the Appellant; Madhukar Rao, for the Respondent

Final Decision : Allowed

Judgement

Tej Shankar, J.

The petitioner Mahesh Agarwal prayed for a direction to the respondents to connect the telephone connection and grant the facilities immediately. It has been alleged that he holds a telephone connection No. 365862 for the last 8-9 years and has been paying the bills regularly. The last bill issued to him on 1-1-98 for Rs. 600/- has been paid on 14-1-98 i.e. within the time allowed. The earlier bill was dated 3-11-97 which too was paid on 21-11-97 vide Annexures P/1 to P/4. On 14-1-98 telephone connection of the petitioner was partially disconnected and only incoming calls were coming. On 21-1-98 it was completely disconnected. A legal notice was served on 16-1-98 on the respondents, but to no effect. Return has been filed by the respondents in which the facts alleged by the petitioner have not been denied. The allegation is that another telephone No. 20663 was installed in 32 New Colony No. 2 Birla Nagar, Gwalior, in the house of Shri Om Prakash Agarwal, Advocate, who is the father of the petitioner, where this telephone connection in question i.e. 365862 was also installed. Shri O.P. Agrawal was in arrears and there was a sum of Rs. 21,048/- due against the said telephone No. 20663, for the period 1-8-87 to 1-5-89 which has not been paid. The petitioner's telephone connection has been disconnected w.e.f.

21-1-98 under the provisions contemplated under Rule 443 of the Rules.

I have heard the learned counsel for the parties finally. Learned counsel for the petitioner contended that there is no arrears against the petitioner. This fact has not been disputed. The respondents could not disconnect his telephone connection. In support of his contentions, he placed reliance upon 1997 (2) MPLJ 523 (Chand Datta w/o Lt. Col. S.C. Datta v. Union of India, a decision of this Court wherein the provisions of Rule 443 of Telegraph Rules and Section 7 of Telegraph Act were taken into consideration.

Learned counsel for the respondents on the other hand contended primarily that the petitioner ought to have approached u/s 7B for arbitration. In support of his contention he placed reliance upon Union of India (UOI) and Another Vs. Ramchand Naraindas, . The contention of learned counsel is that there are two connections in the premises of the petitioner, one is in the name of the petitioner and other in the name of his father. The petitioner's father was in arrears of rent with respect to telephone No. 20663 and hence under Rule 443 of Rules, the petitioner's connection has been disconnected.

I have considered the contentions raised before me First of all, I take up the question relating to Section 7B of the Act. A perusal of the Section 7B shows that it relates to specific disputes mentioned in the section. According to this section, if any dispute concerning any telegraph line, appliance or apparatus arises between the telegraph authority and the person for whose benefit the line, appliance or apparatus is, or has been provided, the dispute shall be determined by arbitration. In the present case the dispute involved cannot be said to be covered within the words used u/s 7B. Here the dispute is that the disconnection has been illegally made in spite of the fact that the petitioner was not in arrears of any bill. In the authority relied upon by the learned counsel for the respondents i.e. : Union of India (UOI) and Another Vs. Ramchand Naraindas, , reference has been made to para 10 wherein it was observed that "The decision makes it clear that whether a disconnection can or cannot be effected itself would attract the operation of Section 7B of the Act." In that case the dispute related to the fact as to whether the bills served upon the subscriber were correct. Here the dispute is different and this authority does not help the learned counsel. I am, therefore, of the view that Section 7B has no application in the present case. Learned counsel for the respondent however, has not been able to show any Rule or provisions anywhere under which connection of son can be disconnected for the default of the father with respect to another connection which is in the name of the father. Learned counsel pressed into service a decision of Madras High Court, reference of which has been made in Swamy's Treatise on Telephone Rules, page No. 802 at item No. 8: However, if we peruse the facts mentioned in this book, we find that they are different from the present case. There was an outstanding bill in the name of Shri Haje Khaja Mohideen in respect of temporary Telephone No. 554217 at Madras that connection was disconnected on 20-2-1986, for default of nonpayment. Immediately his son,

Shri K. Amanullah, applied for a telephone under OYT without revealing the fact of his father being a defaulter and got the telephone connection on 28-5-86 with indicator No. 28802 at another address. On knowing the fact of his father being a defaulter, a registered notice was issued to him directing him to pay the sum of Rs. 16,596/-outstanding from his father, to avoid disconnection of his telephone No. 28802. As there was no response, the telephone No. 28802 was also disconnected on 9-12-86. The facts of the present case are entirely different and this authority does not help the learned counsel. Consequently, I hold that the disconnection was wholly illegal and the petition therefore, succeeds. It is allowed. The respondents are directed to reconnect the petitioner's connection within a period of one week and in case it is not done, the respondents shall pay compensation @ Rs. 200/- per day till reconnection.

C.C. as per rules.