
(1998) 03 MAD CK 0078
In the Madras High Court
Case No : W.P.No. 2587 of 1998

M/s. Incomm Business Services

APPELLANT

Vs

The General Manager (North) Chennai Telephones and 2
others

RESPONDENT

Date of Decision : 13-03-1998

Acts Referred:

Telegraph Rules, 1951 — Rule 445

Citation : (1998) 1 CTC 367

Hon'ble Judges : C. Shivappa, J

Bench : Single Bench

Advocate : Mr. Y.K. Rajagopal, for the Appellant; Mr. R. Santhanam, A.C.G.S.C.,
for the Respondent

Final Decision : Dismissed

Judgement

C. Shivappa, J.—Though this petition is listed for admission, since the pleadings are complete, it is taken up for final disposal with the consent of both the parties.

2. This petition is for a direction to the respondents to restore telephone connection bearing No.568990. The case of the petitioner is that it was

given a bill on 1.1.1998 for a sum of Rs. 10,530. The bill has got to be paid on or before 21.1.1998 and it issued a cheque for the said amount

and the same was returned by the banker with the remark ""effects not cleared"". The petitioner was informed on 27.1.1998 over phone about the

return of the cheque. On receipt of the information, the petitioner sent its representative one Mr. Shanmugam and collected the duplicate copy of

the bill dated 1.1.1998 for a sum of Rs. 10,300 plus Rs. 400 as late fee surcharge. A demand note for a sum of Rs. 19,200 towards security

deposit also was issued based on the average of six previous bi-monthly bills. The petitioner has paid the bill amount on 29.1.1998 but not paid the security deposit. Hence, the telephone was not connected.

3. The question is whether the petitioner is entitled for the connection without payment of the security deposit as demand.

4. Under Rule 445 of the Indian Telegraph Rules, the Telegraph Authority may, at any time, before or during the period for which a telephone is

provided, require a subscriber to deposit such security amount as it may consider necessary and if the subscriber fails to comply with such a

demand within such period as it may specify, the security deposit amount may be adjusted against such amount so deposited.

5. This provision is not mandatory. But the Department has got the discretion and this provision has, to be enforced where the subscribers are

found to be issuing cheques which are frequently dis-honoured, under Circular No.2-15/80-TR, dated 20.12.1980.

6. In the instant case, immediately after intimation to the representative on phone on 27.1.1998, the amount was deposited on 29.1.1998. By that

time, the Department disconnected the telephone connection. As on today, the petitioner is not in arrears of any amount and it has paid the demand

within two days. Since the petitioner has not frequently committed such default, the respondents may waive the required deposit as the provision is

discretionary when read with Circular dated 20.12.1980. But the petitioner should not give room for such lapse hereafter. In case if it resorts to

frequent defaults, the Department is at liberty to insist for security deposit. The respondents are directed to cause connection of the telephone

subject to payment of re-connection charges and other formalities as required in law. The writ petition is order accordingly. Consequently,

W.M.P.No.3821 of 1998 is dismissed.