
(2014) 02 OHC CK 0045
In the Orissa High Court
Case No : W.P. (C) No. 4284 of 2013

M/s. SGBL (India) Ltd.

APPELLANT

Vs

BSNL

RESPONDENT

Date of Decision : 21-02-2014

Acts Referred:

Citation : (2014) 02 OHC CK 0045

Hon'ble Judges : A.K. Goel, C.J; Akshaya Kumar Rath, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This petition seeks quashing of notice dated 31.01.2013, Annexure-6, inviting Expression of Interest "First Round" for Franchisee ship of BSNL products and services for sales and distribution in Odisha Telecom Circle.

2. Case of the petitioners is that they are the existing franchisees of BSNL under Odisha Telecom Circle for sale and distribution of BSNL products. The BSNL introduced the "CM Sales and Distribution Policy, 2012" on 07.06.2012. Thereafter the impugned notice, inviting expression of interest, dated 31.1.2013 was issued. In the said notice the right of existing franchisee to participate has been restricted as follows:

Section 2: Franchisee Territories.

A...

XX XX XX

d. In case of existing franchisee if the numbers of migrated territories are two then he can't participate in the first round EOI. If he has migrated in two territories then he can participate for one territory in the second round of EOI.

3. According to the petitioners this restriction is arbitrary and the denial of right of equality.

4. In the counter affidavit filed on behalf of the BSNL the stand taken is that in the new policy, the interest of continuing franchisee has duly safeguarded. The policy is also to give opportunity to new interested franchisee in the "First Round". The petitioners are already holding franchises in the different territories. The new policy will ensure easy availability of BSNL products and services in all areas and encourage more competitive environment in the market. The policy is meant to give opportunity to the new franchisees through the EOI while also giving due opportunity to the existing franchisees through migration. Hence, only in the first round there was some restriction to the existing franchisee but in the subsequent round they are allowed to participate in the EOI. Before floating first round, due opportunity was given to all the franchisees including the petitioners to migrate to maximum two franchisee areas which they have accepted and agreements were entered into accordingly.

5. We have heard learned counsel for the parties.

6. While a public authority cannot distribute state largesse arbitrarily, and all the eligible persons have to be allowed level playing field, it is not debarred from making an appropriate policy classifying different claimants aspiring to work for it. In the impugned EOI, the existing franchisees have been treated as separate category with a view to give opportunity to the new competitors in new territories without debarring the existing franchisees, where suitable new competitors are not available. Only in the "first round", the existing franchisees are not allowed to participate in the manner specified in the impugned notice. It has been explained that the object is to appoint new franchisees at new places subject to availability. There is nothing to show that the classification of existing franchisees as separate category is arbitrary and irrational.

7. In view of the above, no ground is made out for interference.

8. The petition is dismissed.