

(2021) 02 DEL CK 0092

In the Delhi High Court

Case No : Civil Writ Petition No. 3330 Of 2020, Civil Miscellaneous No. 11699, 23557, 30301 Of 2020

ONE97 Communications Limited & An

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 03-02-2021

Acts Referred:

Telecom Commercial Communications Customer Preferences Regulations, 2018 — Regulation 21, 23(1)(b), 25(5), 25(6), 27, 28

Citation : (2021) 02 DEL CK 0092

Hon'ble Judges : Dhirubhai Naranbhai Patel, CJ; Jyoti Singh, J

Bench : Division Bench

Advocate : Dushyant Dave, Neha Sangwan, Ruchira Goel, Karuna Nundy, Rahul Narayan, Ragini Nagpal, Utsav Mukherjee, Chetan Sharma, Anurag Ahluwalia, Abhigyan Siddhant, Viplav Acharya, Arjun Natarajan, N.Sasank Iyer, Shikha Sarin, Anuradha Dutt, Anish Kapur, Suman Yadav, Nikhita Suri, Harsh Kaushik, Abhay Chattopadhyay, Nikita Chitale, Dayan Krishnan, K.R.Sasiprabhu, Raghav Shankar, Vishnu Sharma, Tushar Bhardwaj, Suruchi Suri, Varun Singh Thapa, Ashim Sood, Senu Nizar

Final Decision : Disposed Of

Judgement

D.N.Patel, CJ

Proceedings in the matter have been conducted through video conferencing.

1. This writ petition has been preferred with the following prayers:-

â??a) Declare that Regulations 25(5) and 25(6) of the Telecom Commercial Communications Customer Preferences Regulations, 2018

insofar as they allow the imposition of a graded penalty on identified unregistered telemarketers as unconstitutional and ultra vires the

Telecom Regulatory Authority of India Act, 1997;

b) Declare that under Reg. 23(1)(b) of the Telecom Commercial Communications Consumer Preferences Regulations, 2018, the Respondents

Nos. 3 to 9 are obligated to put in place mechanisms to register reports of violations from customers like the Petitioners.

c) Direct the Respondent No. 2 Authority to ensure complete and strict implementation of provisions of the Telecom Commercial

Communications Customer Preferences Regulations, 2018 and any other related regulations issued from time to time to curb fraudulent

unsolicited commercial communication sent over the respective networks of the respondent telecom service providers;

d) Direct the Respondent no. 2 Authority to take action against the Respondents no. 3 to 9 Telcos under Regulations 21, 27 and 28, for

violations of their primary obligations of prevention and verification under the Telecom Commercial Communications Consumer Preferences

Regulations, 2018;

e) Direct the Respondent No.1 Department to take action to ensure that no sim card is sold without proper verification by effective

implementation of the Department of Telecommunications Circular dated 09.08.2012 titled "Instructions on Verification of New Mobile

Subscribers (Pre-paid and Postpaid)";

f) Direct the Respondent No.1 Department to ensure effective implementation by the Respondent Telcos of their obligations under their

Unified Access License Agreements pertaining to verification and reporting of frauds taking place over their networks;

g) Direct the Respondents Nos. 1 and 2 to establish an Inter - Agency Task Force that includes Computer Emergency Response Team

(Ministry of Information and Technology) the Ministry for Home Affairs, Leading Banks and Leading PPI Wallet issuers to coordinate

action limiting fraud over telecom networks;

h) Direct the Respondents Nos. 3 to 9 Telcos to take effective action under the Telecom Commercial Communications Consumer Preference

Regulations 2018, to block the phone numbers of UTMs sending unsolicited commercial communication including through phone calls, to

the Petitioners' customers.

i) Direct the Respondent No. 3 to 9 Telcos to pay damages of 100 crores to the

Petitioners for damage to their brand and reputation and
loss of good will;

j) Pass such other or further order as this Honâ??ble Court may deem fit in and proper in the circumstances of the case.â??

2. Having heard learned counsels for the parties and looking at the interim orders passed by this Court and the affidavits filed by respondent No.2, it

appears that adequate steps have been taken by respondent No.2 with regard to the grievances raised in this writ petition. Mr. Dushyant Dave,

learned Senior Counsel appearing for the petitioner agrees that requisite steps are being taken and submits that the petition can be disposed of by

directing respondent No. 2 that it shall continue to comply with and implement the mandate of The Telecom Commercial Communications Customer

Preference Regulations, 2018 (hereinafter referred to as â??the Regulations, 2018â??), strictly and scrupulously in future and in case of any violation

of the provisions of the said Regulations, penal action shall be taken against the violators.

3. We have also heard counsels for respondent Nos. 3 to 9, who are the Access Providers. It is submitted by the counsels that respondent Nos. 3 to 9

are complying with the provisions of Regulations, 2018.

4. Learned counsel appearing for respondent No.2 reiterates that an affidavit has been filed by respondent No. 2, wherein it is categorically stated that

action has already been initiated by them against the violators and that they will strictly implement the provisions of Regulations, 2018.

5. In view of the above and in view of the limited submission made by learned Senior Counsel appearing for the petitioners, we hereby direct

respondent No.2 to ensure compliance and strict implementation of the provisions of the Telecom Commercial Communications Customer Preference

Regulations, 2018 and other related Regulations, issued from time to time, to curb unsolicited commercial communication sent over the respective

networks of the telecom service providers.

6. We expect that in case of any violation, respondent No.2 shall take action against the violators in accordance with law, especially, the Regulations,

2018. We have also taken note of the fact that respondent Nos. 3 to 9/Access Providers are compliant with the provisions of the Regulations, 2018

and we expect that they shall continue to strictly comply with the provisions of

the Regulations, 2018.

7. With these observations, writ petition is disposed of.

8. All the pending applications are also disposed of.