
(1992) 06 AP CK 0017

In the Andhra Pradesh High Court

Case No : Writ Petition No. 7193 of 1992

Ramesh Kumar Khurana

APPELLANT

Vs

The General Manager, Telephones

RESPONDENT

Date of Decision : 24-06-1992

Acts Referred:

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

Citation : (1992) 2 ALT 656 : (1992) 2 AnWR 178

Hon'ble Judges : S.C. Pratap, C.J.; B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Pratap Narayan Sanghi, for the Appellant; V. Sriranga Rao, A.S.C. for Central Government, for the Respondent

Judgement

B. Subhashan Reddy, J.—This writ petition is filed challenging the amount of payment of telephone charges pertaining to Telephone No. 556618 of which the petitioner is the subscriber. The complaint of the petitioner is that there is excess billing and even though complaint has been lodged on 20-2-1992 to the General Manager, Telephones, Hyderabad, no action has been taken and no proper enquiry has been conducted in accordance with law. The learned Single Judge while admitting the writ petition has directed the petitioner to pay a sum of Rs. 50,000/-, towards arrears of telephone bills. Aggrieved by the said interlocutory order, writ appeal (W.A. No. 572 of 1992) has been filed contending that the said imposition is onerous.

2. This Court under Article 226 of the Constitution of India is not the fact finding court so as to make roving enquiry into the correctness of the billing etc. To record a finding on the contentions involved, oral testimony is necessary. The oral testimony involves examination-in-chief, cross-examination as also re-examination of the witnesses both on behalf of the petitioner as also on behalf of the Central Government (Telephone Department). It is also pertinent to mention that the Civil Suit is barred in view of the express provisions contained in the

Indian Telegraph Act, 1890. Instead, Section 7B of the said Act contemplated arbitration whenever a dispute of this kind is raised. As such, arbitration proceedings contemplated under the said provision are only the proper remedy.

3. On hearing Counsel on either side and considering all the facts and circumstances of the case, the following order is passed on this petition:

(1) The General Manager, Telephones, Hyderabad i.e., respondent herein, shall refer the matter to the Arbitrator pursuant to the Complaint dated 20-2-1992 lodged by the petitioner with him;

(2) The Arbitrator so appointed shall dispose of the arbitration proceeding within six months of the reference after observing principles of fair play and affording reasonable opportunity to either of the parties;

(3) Pending arbitration proceedings, the petitioner shall pay an amount of Rs. 25,000/- (Rupees Twenty Five thousands only) within two weeks from today, failing which this order ceases to have operation.

(4) The balance of the amount payable will depend upon the result of the arbitration proceedings.

(5) This order relating to stay of enforcement of the balance amount shall not apply to the future bills that may arise after this judgment.

4. The Writ Petition is disposed of accordingly. No order as to costs.