

(2005) 12 JH CK 0020

In the Jharkhand High Court

Case No : Writ Petition (C) No. 5022 of 2004

Steel City Cable Network (SCCN)

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 21-12-2005

Acts Referred:

Cable Television Network (Regulation) Rules, 1995 — Rule 5

Cable Television Networks (Regulation) Act, 1995 — Section 19, 20, 3, 4, 5

Citation : (2006) 3 JCR 16

Hon'ble Judges : M.Y. Eqbal, J

Bench : Single Bench

Advocate : K.P. Deo and P.K. Prasad, for the Appellant; Rajiv Ranjan and Krishna Murari for Respondent No. 5 and Sheela Prasad, for the Respondent

Judgement

M.Y. Eqbal, J.—The petitioner, namely, Steel City Cable Network, has filed this writ petition for quashing the order dated 9.6.2004 issued under the signature of Subdivisional Officer, Dalbhum, Jamshedpur whereby he has purported to divide the areas within which cable television network can be operated by the cable operators.

2. The facts of the case lie in a narrow compass:

The petitioner applied for registration under the provisions of the Cable Television Network (Regulation) Act, 1995 (the said Act) for running cable television network within the area of Jamshedpur Notified Area Committee and Mango and the Registering Authority granted registration to the petitioner as Cable Operator and a Certificate of Registration bearing No. 239/9F under Rule 5 was issued in favour of the petitioner authorizing it to run cable television network within the area of Jamshedpur Notified Area Committee and Mango. It is stated by the petitioner that the Cable Television Network was running smoothly and effectively to the satisfaction of all the subscribers but the Sub-Divisional Officer, Dalbhum, Jamshedpur, without any authority of law, issued the impugned order purported to divide the areas between the different cable operators

whereby coverage area of the petitioner has been drastically reduced.

3. Respondent Nos. 2 and 3, in their counter-affidavit, have stated that Jamshedpur city is a highly populated city and a very large number of cable operators are there and disputes arise as every cable operator wants to increase his coverage area by using money and muscle power which resulted in the murder of two cable operators i.e. Maxwell Macheel and Mohan Singh. Therefore, for maintenance of law and order in the city it was essential to divide the areas between the various cable operators. This division was suggested in the interest of law and order. It was also found during enquiry that most of the cable operators unauthorisedly run cable operation.

4. Mr. P.K. Prasad, appearing on behalf of the petitioner assailed the impugned order as being Illegal and wholly without jurisdiction. Learned Counsel firstly submitted that the Sub-Divisional Officer or the Deputy Commissioner have got no jurisdiction under the Act to issue such order. According to the learned Counsel the Registering Authority appointed by the notification of the Central Government is the only competent authority to curtail, divide or bifurcate the areas for operation of television network. Learned Counsel drawn my attention to relevant provisions of the said Act and submitted that the impugned order is totally de hors the provision of the Act and the rules made there under and, therefore, it is wholly without jurisdiction.

5. Mrs. Sheela Prasad, learned Counsel appearing for the State, on the other hand, submitted that the impugned order issued by the Sub-Divisional Officer is merely a suggestion to the Registering Authority to divide the areas probably in order to maintain peace and tranquility in the city. Learned Counsel submitted that for maintaining law and order the Sub-Divisional Officer or the Deputy Commissioner may issue necessary direction in the matter of running cable network.

6. For better appreciation of the submission made by the learned Counsel it would be useful to refer the relevant provisions of the said Act.

7. Section 2(h) defines the "Registering Authority" which means such Authority as the Central Government may, by notification in the Official Gazette, specify to perform the function of the Registering Authority under the Act. Section 3 provides that cable television network shall be operated only after registration as cable television network operator. Section 4 lays down the procedure for obtaining registration as cable operator by the Registering Authority. In terms of Section 2(h) of the Act the Central Government issued notification being No. S.O. 718/(E) dated 29th September, 1994 notifying the Head Post Master of Head Post Offices as the Registering Authority for granting registration to the cable television network. It is, therefore, clear that it is the Registering Authority who is empowered to grant registration for carrying on the business of cable network.

8. However, Section 2(a) of the said Act defines the authorized officer which means that a District Magistrate or a Sub-divisional Officer or a Commissioner of

Police including any other officer notified in the Official Gazette by the Central Government or State Government may be the authorized officer. Section 19 of the said Act empowers the authorized officer to prohibit transmission of certain programmes in public interest. Section 19 reads as under:

Power to prohibit transmission of certain programmes in public interest: Where [any authorized officer] thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or retransmitting [any programme or channel if, it is not in conformity with the prescribed programme code referred to in Section 5 and advertisement code referred to in Section 6 or if it is] likely to promote, on grounds of religion, race, language; caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religions, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquility.

9. Section 20 of the said Act is also worth to be quoted hereinbelow which reads as under:

Power to prohibit operation of cable television network in public interest: (1) Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

10. From perusal of the aforesaid provisions of Sections 19 and 20 of the said Act it is manifestly clear that the authorised officer may, in the interest of public, issue order prohibiting any cable operator from transmitting any programme which is likely to promote disharmony, feelings of enmity, hatred or is likely to disturb public tranquility.

11. As noticed above, the Sub-divisional Officer, by the impugned order, purported to divide the areas of cable operators for the purpose of maintaining law and order and public tranquility. Learned Counsel appearing for the State has submitted that it is only the recommendation and suggestion to the Registering Authority to divide the area of operation of different cable operators for the purpose of maintaining public tranquility. In my opinion, therefore, the impugned order recommending and suggesting division of areas cannot be said to be illegal, arbitrary or against the public interest. However, the ultimate power rests with the Registering Authority to consider the suggestion and recommendation of the Sub-divisional Officer and issue order in this regard. This Court, therefore, without interfering with the order issued by the Sub-divisional Officer, directs the Registering Authority to consider the recommendation of the Sub-divisional Officer and take a final decision in the matter of division of areas of the cable operators as expeditiously as possible and preferably within a period of one month from the date of production/receipt of a copy of this order.

12. With the aforesaid direction this writ application is disposed of.