
(2021) 04 TDSAT CK 0044

In the Telecom Disputes Settlement And Appellate Tribunal

Case No : Telecom Petition 59 Of 2020 With Misc Application 2 Of 2021

Tata Teleservices Ltd.

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 06-04-2021

Acts Referred:

Citation : (2021) 04 TDSAT CK 0044

Hon'ble Judges : Shiva Kirti Singh, CP

Bench : Single Bench

Advocate : Mansoor Ali Shoket, Kunal Singh, Abhay Prakash Sahay

Judgement

In view of orders passed earlier in this petition and particularly the last order dated 17.3.2021, the right of the respondent to file a reply stands

foreclosed. The last order may be treated as a part of today's order. In terms of the earlier order dated 17.3.2021 the respondent was

permitted to file a reply by today along with cost of Rs. 10,000/- but again it has chosen to ignore the said order. In terms of the last order the

matter was heard for final decision on the basis of material available on record. Mr. A. P. Sahay, learned counsel for the respondent has raised

preliminary objections to the maintainability of the petition on the ground that the issue raised through this petition relates to an agreement which is not

between the licensor and the licensee because in the agreement the Union of India, President of India is represented by Deputy Administrator (USL),

Department of Telecommunications who has a different role to play under Universal Service obligations. He has also referred to clause 10 of

the agreement under which disputes in general arising under the agreement are required to be referred to and decided by an Arbitral Tribunal.

On the other hand, by referring to various definitions and relevant clauses in the said agreement, the stand of the petitioner is that the dispute is

between the petitioner, a licensee and DoT which is the licensor and additionally, their roles are that of service providers and hence this Tribunal shall

have jurisdiction to decide the dispute under the provisions of the TRAI Act.Â He has also referred to certain judgements which are to the effect that

when this Tribunal has jurisdiction over a subject matter, the parties cannot take away that jurisdiction through a provision in the agreement for

settlement of disputes by arbitration or any other means.

On merits, the claim of the petitioner that the respondent be directed to release the particular Performance Bank Guarantee issued by the petitioner in

favour of the respondent in respect of AP Circle in terms of Clause 19 of the agreement and also be directed to issue an appropriate letter in this

connection to Union Bank of India, has not been contested by filing any reply.Â But the preliminary issue relating to jurisdiction requires serious

consideration because the outcome of the petition will depend much on the decision in respect of preliminary objections noted above.

Judgement is reserved.

If the parties are so advised, they may file written notes of arguments running in not more than five pages, along with relevant case laws/circulars or

statutory provisions, within one week from today.Â Â Â