

(1999) 03 DEL CK 0060

In the Delhi High Court

Case No : O.M.P. 58, 59 and 55 of 1999

Tata Teleservices Ltd., Hughes Ispat and Essar Commvision

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 08-03-1999

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 9

Citation : (1999) 2 AD 625 : (1999) 78 DLT 572 : (1999) 49 DRJ 431

Hon'ble Judges : Dr. M.K. Sharma, J

Bench : Single Bench

Advocate : Mr. Arun Jaitley with Ms. Pallavi Shroff, Mr. T.S. Murthy, Ms. R. Paruthi, Mr. K.K. Venugopal, Mr. Gopal Subramaniam with Mr. Ramji Srinivasan, Mr. Kaviraj Singh, Mr. Shanti Bhushan and Mr. Gopal Subramaniam, s with Mr. Shailender Swaroop, Ms. Bindu Saxena, Mr. Vivek Tyagi and Ms. Reena Khanna, for the Appellant; Mr. R.N. Trivedi, Addl. Solicitor General with Mr. Rakesh Tikku, for the Respondent

Judgement

Dr. M.K. Sharma, J.—These are petitions filed by the petitioners u/s 9 of the Arbitration and Conciliation Act, 1996 seeking for an injunction against the respondent restraining the respondent from giving effect to the letter dated 25.1.1999 and also restraining the said respondent from taking any action for encashing the bank guarantees furnished by the petitioners. All the petitioners have also sought for ad interim injunctions pending disposal of the petitions. However, the respondent entered appearance and Therefore, the respondent has also been heard. As the facts relating to the present petitions are similar and contentions raised by the counsel appearing for the parties are also similar, Therefore, I propose to discuss and appreciate the contentions of the rival parties and give my decision thereon by this common order.

O.M.P. 58/1999:

Since the petitioner has sought for an ad interim injunction till the disposal of the petition, I have heard Mr. Arun Jaitley, appearing for the petitioner as also Mr.

Trivedi, Additional Solicitor General appearing for the respondent.

The petitioner herein was given a license by the respondent for setting up and operating basic telephone services in the State of Andhra Pradesh. The said license was valid for a period of 15 years and the license fee payable by the petitioner over a period of 15 years is Rs. 4,200 Crores, of which a sum of Rs.120 Crores is payable for each of the first five years. The petitioner, it is stated, has paid the first years license fee and currently the second years license fee is due. The respondent by letter dated 25.1.1999 called upon the respondent to pay the license fee which is due and almost informed that if there be any difficulty in paying the entire amount in lumpsum the petitioner could pay 20% of the license fee and furnish enhanced bank guarantee for the balance, failing which it was stated in the said letter that the respondent would take action in terms of the license agreement and adopt other remedies open to the Licensing Authority. Being aggrieved because of aforesaid proposed action intimated through the said letter the present petition has been filed, contending inter alia, that the petitioner proposes to invoke the arbitration clause in the agreement.

O.M.P. 59/1999:

2. Since the petitioner has sought for an ad interim injunction till the disposal of the petition, I have heard Mr. K.K. Venugopal and Mr. Gopal Subramaniam, Senior Advocates appearing for the petitioner as also Mr. Trivedi, Additional Solicitor General appearing for the respondent.

The petitioner herein was given a license by the respondent for setting up and operating basic telephone services in the Maharashtra Telecom Circles which included Mumbai and Goa. The said license was valid for a period of 15 years and the license fee payable by the petitioner over a period of 15 years is Rs.13,909 Crores, of which a sum of Rs. 397.50 Crores is payable for each of the first five years. The petitioner, it is stated, has paid the first years license fee and currently the second years license fee is due. The respondent by letter dated 25.1.1999 called upon the respondent to pay the license fee which is due and almost informed that if there be any difficulty in paying the entire amount in lumpsum the petitioner could pay 20% of the license fee and furnish enhanced bank guarantee for the balance, failing which it was stated in the said letter that the respondent would take action in terms of the license agreement and adopt other remedies open to the Licensing Authority. Being aggrieved because of aforesaid proposed action intimated through the said letter the present petition has been filed, contending inter alia, that the petitioner proposes to invoke the arbitration clause in the agreement.

O.M.P. 55/1999:

3. Since the petitioner has sought for an ad interim injunction till the disposal of the petition, I have heard Mr. Shanti Bhushan, appearing for the petitioner as also Mr. Trivedi, Additional Solicitor General appearing for the respondent.

The petitioner herein was given a license by the respondent for setting up and operating basic telephone services in the State of. The said license was valid for a period of 15 years and the license fee payable by the petitioner over a period of 15 years is Rs. Crores, of which a sum of Rs. Crores is payable for each of the first five years. The petitioner, it is stated, has paid the first years license fee and currently the second years license fee is due. The respondent by letter dated 25.1.1999 called upon the respondent to pay the license fee which is due and if there be any difficulty in paying the entire amount in lumpsum the petitioner was directed to pay 20% of the license fee failing which it was stated in the said letter that the respondent would take action in terms of the license agreement and adopt other remedies open to the Licensing Authority. Being aggrieved by the aforesaid letter the present petition has been filed.

4. Learned counsel appearing for the parties drew my attention to the terms and conditions of the license agreement. The licenses granted to the petitioners are for a period of 15 years unless terminated for default or for insolvency or for convenience or for transfer of the license under the provisions of the agreement. For the purpose of charging the license fee for the first year the year is to be reckoned as 12 months beginning with the effective date. In respect of the licenses the year is reckoned from October to September and thus the license fee for the second year had fallen due in the month of October, 1998 which has to be paid in advance in terms of the agreement. Condition No.14 of the license provides the procedure for termination of the contract. One of the circumstances under which the license could be terminated is "if the licensee fails to perform any other obligation under the license including the remittance of timely payment due to the licensor". Condition No.16 provides that in the event of any question, disputes and differences arising under the license and in connection thereof the same shall be referred to an Arbitral Tribunal comprising of three arbitrators, one each to be appointed by the licensor and the licensee and such two arbitrators shall then appoint the third arbitrator. The license fee is payable in terms of condition No.18 which provides that the yearly license fee shall have to be paid in advance through a demand draft drawn. The said condition also provides the licensee is required to submit financial bank guarantees as also performance bank guarantees as required under the conditions of the contract.

5. All the petitioners herein have in terms of the aforesaid condition furnished the financial bank guarantees as also the performance bank guarantees. It is the common case of the counsel for the petitioners that after execution of the aforesaid agreement and when the petitioners were taking necessary steps and working for setting up and operating the basic telephone services in their respective areas the respondent breached the agreement and did not perform its part of the obligations. It is stated that the petitioners entered into the aforesaid license and agreed to pay the license fee on the clear understanding that there would be duopoly for a period of 10 years as per the license deed of the petitioners for the telephone service. My attention was also drawn to clause No.13 of the license agreement wherein it is stated that the license is issued on

nonexclusive basis but the licensor shall issue additional licenses in the circle/ service area after first 10 years of this license in operation, if it is considered necessary or desirable. Learned counsel appearing for the petitioner submitted before me that the said condition clearly stipulates that the contract agreement envisaged only duopoly for a period of 10 years. It is further submitted that on the aforesaid representation the petitioners reasonably believed that it would be able to realise adequate amount of revenue so as to enable them to pay the license fee besides meeting other costs and earn some reasonable return on their investment but contrary to the representation as of present the respondent has separately awarded licenses to approximately 81 internal service providers in the country and the said licenses have been awarded without any tender and without charging any license fee for the initial period. It is submitted that in view of grant of such licenses the business of the petitioners would be adversely affected and Therefore, there would be no possibility of the petitioners Realizing adequate amounts of revenue even to meet the cost and to pay the license fee rather than earning any return on the investment. On behalf of the petitioners it was also submitted that taking note of the aforesaid subsequent development and Realizing that the petitioners have to be protected the Government has been contemplating of bringing in a new Telecom Policy and in that regard positive steps have been taken by the respondent and a group has been constituted by the Government of India on 20.11.1998 to propose and, to give recommendations on the new Telecom Policy. Draft discussion paper for the aforesaid new Telecom Policy has also been circulated, a copy of which the petitioners have placed on record. Relying on the contents of the said draft discussion papers, counsel for the petitioner submitted that the respondent has admitted that the current licensing regime for the basic services with a duopoly structure with high fixed annual license fee, would have to be replaced by a suitable policy. Counsel has specifically drawn my attention to the contents in the said draft discussion papers under the heading "Internet Service Providers Policy and Project viability" to bring home their submission that the respondent is also conscious of the fact that the basic telephone service is not viable any more.

6. The petitioners also submitted that there are several other breaches committed by the respondent and material deviations have also been committed by the respondent from the original terms of the license. It was also stated that the respondent has failed to cooperate with the petitioner and has failed to fulfill its commitments and/or obligations. It is also submitted that there was a delay of over a year by the respondent to approve and finalise the Tripartite Agreement between the licensee, financial institutions and the respondent and in fact the same has not yet been finalised. It is thus stated that in view of all the aforesaid unforeseen circumstances and development of subsequent events, the petitioners are not required to pay the license fee for the second year, inasmuch as the breach is of fundamental nature going to the root of the contract and also because there is every possibility of restructuring of the payment schedule of the license fee.

7. In the light of the aforesaid submissions the counsel submitted that the disputes have arisen between the parties in respect of the agreement in respect of which steps are being taken for reference of the disputes to the arbitrator and in the interim period an injunction is required to be issued for protecting the interest of the petitioners inasmuch as the respondent has issued a letter to the petitioners on 25.1.1999 calling upon the petitioners to pay the arrears of license fee for the entire second year or atleast 20% of the same and for furnishing enhanced bank guarantee for the balance and further informing the petitioner that in case of failure to do so action would be taken against them in terms of the license agreement.

8. Mr. Trivedi, on the other hand appearing for the respondent in all the matters submitted that the aforesaid group on Telecommunications was constituted only on 20.11.1998 and the task entrusted to the said group is to propose for a new Telecom Policy and also to give their recommendations relating to issues of the existing license of basic and cellular service and suggest appropriate remedial measures within the framework of new Telecom Policy. It is stated that the said group has circulated the draft discussion paper sometime in the month of January 1999. He submitted that thus reliance on the contents of the same by the petitioners is misplaced, for the license fee for the second year so far basic telephone service is concerned, fell due sometime in the month of October, 1998. He further submitted that the petitioners have started objecting to payment of the license fee sometime only in the month of November, 1998, before which the license fee for the second year became due. He has categorically stated that the purpose and object for issuance of the aforesaid letter dated 25.1.1999 was not to terminate or cancel the license of the petitioners for the present and according to him the aforesaid letter was issued to the petitioners bringing to their notice the fact of non-payment of the license fee for the second year and the arrears standing against each of them and further calling upon them to pay the said arrears either in full or by making payment of 20% for the present and for the balance amount to submit enhanced bank guarantees, failing which the bank guarantees furnished by the petitioners would be encashed. He further submitted that the bank guarantees furnished by the petitioners are independent agreements which have nothing to do nor dependant on the disputes in respect of the main underlying contract. He also drew my attention to the disclaimer as appearing in the draft discussion paper which states that the document of the draft discussion paper does not purport to be draft policy document of the Government and the said document explicitly or implicitly does not purport to be a legal commitment by the Government, and is only meant for inviting views and suggestions for finalising recommendations on the subject. He further submitted that neither any case of fraud nor a case of irretrievable injury has been made out by the petitioners and Therefore, no injunction could be issued in the present proceedings as against the respondent as sought for, which if granted would amount to restraining the respondent from invoking/encashing the bank guarantees although no case for the same is made out.

9. The license agreement to which reference has been made in the discussion noted above indicates that the license fee for basic telephone service is to be made by a licensee annually in advance. Going by the aforesaid provision the license fee for the second year became due so far the petitioners are concerned, sometime in the month of October, 1998. The following table would give a clear picture on the status of the license of the petitioner :

S.N.	NAME OF THE EFFECTIVE START OF THE DEMAND OF THE COMPANY DATE OF COMMERCIAL license FEE LICENSE SERVICE AND FOR THE NUMBER OF PERIOD. SUBSCRIBERS
1.	M/s. Hughes 30.9.97 30.10.1998 30.9.98 to Ispat Ltd. (3816 as on 30.9.99 31.1.99)
2.	M/s. Tata 30.9.98 Not yet 30.9.98 to Teleservices started 30.9.99
3.	M/s. Essar 30.9.97 Not yet 30.9.98 to Commvision started 30.9.99

10. The records placed before me definitely indicate that a new Telecom Policy is under active consideration of the Government of India for which a group has been constituted which has also circulated discussion papers, reference to which has also been made by the counsel appearing for the parties. The license provided to the Internet Service Provider, particularly clause 3.2 thereof provides that the said licensee cannot provide any telephone service. If however, any of the said licensees unauthorisedly provides telephone service it may not be possible or feasible for the Government to detect the same. The petitioners have raised the disputes with regard to the basic telephone service license agreement contending that the concept of duopoly structure which existed in the license is breached by the respondent and gets eroded with the issuance of licenses under the Internet Service Provider System. Allegations of breach is also made in respect of delays caused in providing various clearances and permissions. These are disputes which relate to the main agreement between the petitioners and the respondent in respect of which there is an arbitration clause and are to be resolved through the process of arbitration by referring the said disputes to the Board of Arbitrators in terms of the arbitration clause. That there could be certain changes in respect of some of the clauses of the agreement of the petitioners and also possibility of restructuring and re-scheduling of the license fee with the announcement of the new Telecom Policy is at this stage only a presumption. Records placed before me indicate that only 9 licensees under Internet Service Provider Scheme have started operations whereas two petitioners namely - M/s. Tata Services and M/s. Essar Commvision have not yet started commercial service. So far the other petitioners namely - M/s. Hughes Ispat Ltd. is concerned although it has started commercial service with effect from 30.10.1998, the first ISP license was issued only on 6.11.1998. On the aforesaid facts it is not possible to hold even prima facie that any of the petitioners have immediately suffered any heavy loss. These are however, disputes relating to the main agreement to be decided through the process of arbitration. But even assuming that such loss has been suffered by the petitioners whether it could not be recovered or reimbursed from the respondent. Surely the dues as existing today even if paid could be recovered or reimbursed or adjusted towards the

future dues payable by the petitioners even if at a later stage it is decided to restructure or remodel the payment schedule of the license fee. In any case, there cannot be any denial of the fact that the second year license fee is due and payable by all the petitioners in the light of the payment schedule prescribed in the license agreement. The said arrears cannot be refused to be paid only because the petitioners have raised certain disputes arising out of or relating to the main license agreement and also because the petitioners reasonably believe that a new Telecom Policy is on the anvil. Similar stand was also taken in a case decided by this Court, which was negatived. Reference is made to the decision of DSS Mobiles Communications Vs. Union of India, (Suit No.1952/1998 decided by me on 16.12.1998). In the appeal filed against the said judgment and registered as FAO(OS) No. 336/1998 the Division Bench of this Court held that the new Telecom Policy has no relevance nor the fact that the petitioner allegedly suffered any loss to a case of invocation of Bank Guarantee. The SLP filed against the said Judgment was also dismissed by the Supreme Court.

11. The petitioners have furnished bank guarantees in terms of the license agreement giving a security for due fulfillment of their obligations to pay the license fee within the stipulated time. The license fee for the second year although became due in October, 1998 was not paid by the petitioners and under such circumstances the respondent issued successive letters to the petitioners bringing to their notice that they are defaulters in respect of payment of the license fee for the second year and extending time for payment of the same. By the present letter dated 25.1.1999 the respondent similarly informed the petitioners about the arrears standing against them and directing for payment of the same in the manner stated therein failing which the petitioners are informed that actions would be taken against them in accordance with the terms and conditions of the license agreement i.e. shall take steps for encashing the bank guarantees. Thus an order if passed by me as sought for by the petitioners seeking an interim restraint order would virtually amount to restraining the respondent from encashing the bank guarantees furnished by them.

12. The law relating to encashment and/or enforcement of the bank guarantee is well settled by a long catena of decisions pronounced by Supreme Court and this court. The principles have been authoritatively laid down which the court is to apply when a request is made for grant of an injunction restraining encashment of a bank guarantee. In a very recent decision of the Supreme Court in Dwarikesh Sugar Industries Ltd. Vs. Prem Heavy Engineering Works (P) Ltd. and Another; reported in 1997 (2) Arb. L.R. 350 the Supreme Court has summarised the said principle in paragraph 22. While summarizing the said principle the Supreme Court also held that in order to make out a case of fraud the petitioner has to establish that the said fraud is an established fraud. In respect of the second exception to the Rule of granting injunction in case of a bank guarantee it was stated that resulting irretrievable injury has to be such a circumstance which would make it impossible for the guarantor to reimburse himself if he ultimately succeeds and the same shall have to be decisively established and it must be

proved to the satisfaction of the Court that there would be no possibility whatsoever of the recovery of the amount from the beneficiary by way of restitution.

13. In O.M.P. 59/1999 although it has been alleged that the proposed action of the respondent is fraudulent however, the same appears to me to be bald statement without sufficient pleadings in support of the plea. The said pleading does not and cannot make out a case of fraud much less an established fraud. In AIR 1997 1644 (SC) it was pronounced that the fraud must be of an egregious nature such as to vitiate the entire underlying transaction. The Supreme Court quoted with approval the earlier decision of the Supreme Court in U.P. Cooperative Federation Ltd. Vs. Singh Consultants (1998) 1 SCC 174 which stated that the Bank which gives the guarantee is not concerned in the least with the relations between the supplier and the customer, nor with the question whether the supplier has performed his contractual obligations or not, nor with the question whether the supplier is in default or not. In Singh Consultants (supra), the Supreme Court while explaining the kind of fraud that might absolve a bank from honouring its guarantee quoted the following passage from the judgment of *Bolivinter Oil SA Vs. Chase Manhattan Bank* (1984) 1 All E.R. 351:-

"The wholly exceptional case where an injunction may be granted is where it is proved that the bank knows that any demand for payment already made or which may thereafter be made will clearly be fraudulent. But the evidence must be clear both as to the fact of fraud and as to the bank's knowledge. It would certainly not normally be sufficient that this rests on the uncorroborated statement of the customer, for irreparable damage can be done to a bank's credit in the relatively brief time which must elapse between the granting of such an injunction and an application for the bank to have it charged."

In my considered opinion establishing fraud on the part of the respondent specific pleadings will have to be there to indicate that in fact fraud had been committed by the respondent which is by nature an established fraud. No such pleading apparently is on record. Whatever pleadings are on record in respect of fraud, in my considered opinion, the same do not make out any case of fraud, in any manner. In O.M.P. 58/1999, the petitioner has not pleaded fraud specially. In any event allegation of breach of promises, representations and terms of license cannot make out any case of fraud.

In O.M.P. No. 55/1999 the petitioner neither pleaded fraud. Assumption and presumption of the petitioners and allegation of breach of contract and discrimination cannot make out a case of fraud. Therefore, in my considered opinion none of the petitioners has been able to make out any case of fraud. It is not a case where the petitioner at any point of time prior to filing of the present petition, has alleged fraud on the part of the respondent. In my considered opinion no case of fraud is made out not to speak of established fraud which is necessary to be made out for issue of an injunction restraining encashment and/or enforcement of bank guarantee.

14. On the question of irretrievable injury which is the second exception of the rule against grant of injunction when unconditional bank guarantees are sought to be realised, it is held by the Supreme Court in the case of U.P. Cooperative Federation Limited (supra) that the fraud must be that of the beneficiary and not the fraud of any one else. In U.P. State Sugar Corporation (supra) the Supreme Court said that the irretrievable injury must be of the kind which was the subject matter of decision in ITEK Corporation Case. The Supreme Court in the said case discussed the nature of the case in ITEK Corporation and observed thus :

"On the question of irretrievable injury which is the second exception to the rule against grant of injunctions when unconditional bank guarantees are sought to be realised the court said in the above case that the irretrievable injury must be of the kind which was the subject matter of the decision in the Itek Corporation Case. In that case an exporter in US entered into an agreement with the Imperial Government of Iran and sought an order terminating its liability on stand by letters of credit issued by an American Bank in favor of an Iranian Bank as part of the contract. The relief was sought on account of the situation created after the Iranian revolution when the American Government cancelled the export licences in relation to Iran and the Iranian Government had forcibly taken 52 American citizens as hostages. The US Government had blocked all Iranian assets under the jurisdiction of United States and had cancelled the export contract. The court upheld the contention of the exporter that any claim for damages against the purchaser if decreed by the American Courts would not be executable in Iran under these circumstances and realisation of the bank guarantee/letter of credit would cause irreparable harm to the plaintiff. This contention was upheld. To avail of this exception, Therefore, exceptional circumstances which make it impossible for the guarantor to reimburse himself if he ultimately succeeds, will have to be decisively established. Clearly, a mere apprehension that the other party will not be able to pay, is not enough. In Itek case there was a certainty on this issue. Secondly, there was good reason, in that case for the court to be prima facie satisfied that the guarantors i.e. the bank and its customer would be found entitled to receive the amount paid under the guarantee."

15. In Hindustan Steel Works Construction Ltd. Vs. Tarapore and Co. and another, , it was held by the Supreme Court that a bank guarantee is an independent and distinct contract between the bank and the beneficiary and is not qualified by the underlying transaction and the primary contract between the person at whose instance the bank guarantee is given and the beneficiary. It was also held in the said case that in the case of an unconditional bank guarantee the nature of obligation of the bank is absolute and not dependent upon any dispute or proceeding between the party at whose instance the bank guarantee is given and the beneficiary.

16. That there are disputes between the parties or for that matter allegations of breach of the contract and/or a plea that no amount is due and payable by the

petitioner to the respondent are all matters relating to the main agreement and have no relation and relevance so far the agreement of bank guarantees are concerned. That there are serious disputes between the parties which might even go to the root of the contract and that there are breaches committed by the beneficiary are not matters which could come within the ambit of the special equities resulting into irretrievable injury. In this connection reference may be made to the observation made by the Supreme Court in paragraph 23 in the decision of the Hindustan Steel Works Construction Ltd. (supra).:

"We are, Therefore, of the opinion that the correct position of law is that commitment of banks must be honoured free from interference by the courts and it is only in exceptional cases, that is to say, in case of fraud or in a case where irretrievable injustice would be done if bank guarantee is allowed to be encashed, the court should interfere. In this case fraud had not been pleaded and the relief for injunction was sought by the contractor/respondent No.1 on the ground that special equities or the special circumstances of the case required it. The special circumstances and/or special equities which have been pleaded in this case are that there is a serious dispute on the question as to who has committed breach of the contract, that the contractor has a counter claim against the appellant, that the disputes between the parties have been referred to the arbitrators and that no amount can be said to be due and payable by the contractor to the appellant till the arbitrators declare their award. In our opinion, these factors are not sufficient to make this case an exceptional case justifying interference by restraining the appellant from enforcing the bank guarantees. The High Court was, Therefore, not right in restraining the appellant from enforcing the bank guarantees."

17. It is true that the petitioners have alleged that fundamental breach and number of other breaches in the license agreement have been committed by the Government. It is also pleaded that the respondent has failed to discharge its obligations under the license agreement. In my considered opinion the said disputes could be effectively resolved through the process of arbitration to which resort is being taken by the petitioners. But the said disputes even assuming going to the root of the contract and serious in nature do not and cannot be brought into within the concept of special equities and cannot in my considered opinion amount to a case of irretrievable injury of exceptional nature. Even if the claims of the petitioners are found to be valid and justified, the petitioners would be entitled to damages for loss suffered, if any or may be entitled to revised license fee, the same surely is retrievable or could be reimbursed and thus, the present cases do not and cannot fall within the ambit of the second exception. Similar factors have been held to be not sufficient to make out an exceptional case justifying interference in the case of Hindustan Steel Works Construction Ltd. (supra) when it laid down thus:

"The special circumstances and/or special equities which have been pleaded in this case are that there is a serious dispute on the question as to who has

committed breach of the contract, that the contractor has a counter claim against the appellant, that the disputes between the parties have been referred to the arbitrators and that no amount can be said to be due and payable by the contractor to the appellant till the arbitrators declare their award. In our opinion, these factors are not sufficient to make this case an exceptional case justifying interference by restraining the appellant from enforcing the bank guarantees. The High Court was, Therefore, not right in restraining the appellant from enforcing the bank guarantees."

The said disputes connected with the main underlying contract cannot have any relevance to the liability of the bank under the guarantee given by it. The bank guarantees in issue in the present cases are all unconditional bank guarantees and the bank was under an obligation to pay on demand. The respondent under the impugned letter dated 25.1.1999 has informed the petitioner that it is required to pay the arrears in the manner prescribed therein, failing which resort shall be taken to get the bank guarantees encashed.

18. Considering the entire facts and circumstances as stated above and the settled position of law in this regard, I am satisfied that the petitioners have failed to make out any prima facie case for grant of injunction against the respondent restraining the respondent from Realizing the arrears and dues towards license fee by encashing the Bank Guarantees furnished by the petitioners. Thus the request for ad interim injunction in these cases stands rejected pending disposal of the petition. It is however, made clear that opinions and views expressed herein are my tentative and prima facie views and shall not be interpreted as my final opinions on the merits of the disputes.