
(1989) 02 MAD CK 0004

In the Madras High Court

Case No : Writ Petition No. 1265 of 1989

Telephone Subscribers' Association

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 09-02-1989

Acts Referred:

Telegraph Act, 1885 — Section 7B

Citation : (1989) 02 MAD CK 0004

Hon'ble Judges : Sivasubramaniam, J

Bench : Single Bench

Advocate : K. Chandramouli for A. Muthukumar and A. Rajasri, for the Appellant; A.R. Nagarajan, A.C.G.S.C., for the Respondent

Judgement

Sivasubramaniam, J.—The writ petition is for the following relief:

...to issue a Writ of Mandamus or any other appropriate Writ, Order or Direction directing the respondents to refer the dispute between the

subscribers of Mayiladuthurai Exchange and the department regarding the working of the telephone lines, apparatus and the inflated reading of the

meters to arbitration under S. 7-B of the Indian Telegraph Act 1885...

It is unnecessary to refer to the various allegations found in the affidavit filed in support of this writ petition for the purpose of disposing of this writ

petition. In paragraph 3 of the affidavit, the petitioner has set out various irregularities in the functioning of the telephones at Mayiladuthurai. It

appears that on an earlier occasion, the petitioner Association filed a writ petition in W.P. No. 12593 of 1988 praying for the issue of a writ of

mandamus directing the respondents not to collect the telephone bill amount dated 1-9-1988 and for the subsequent periods from the subscribers.

When the said writ petition came up for hearing, the respondents took up a

stand that the only remedy available to the petitioner is to ask for an arbitration under the provisions of S. 7-B of the Indian Telegraph Act. In view of that, the earlier writ petition was dismissed. As a consequence of the said order, the present writ petition has been filed.

2. The only relief asked for in this writ petition is to refer the matter for arbitration under S. 7-B of the Act. This cannot be objected to by the respondents at this stage. At this juncture, learned counsel appearing for the respondents submits that it is necessary that each subscriber should file

separate application for arbitration and in support of his contention, he relies upon a judgment of a Bench of this Court dated 23-1-1989 in Tamil

Nadu Chamber of Commerce and Industries v. Secretary, Department of Telecommunications W.A. No. 21 of 1989, wherein it was held that

each subscriber has got an individual cause of action and, therefore, each case has got to be determined depending upon the facts and

circumstances of that particular case. I find that the said judgment will not apply to a case where the grievance is common to all the subscribers. Of

course, in so far as the individual grievances in respect of excess billing or the defective metering of individual telephones are concerned, they will

have to be considered independently, on proper applications being filed by such subscribers. In so far as the complaints of irregularities in the

matter of functioning of the telephone lines, which are common to all the subscribers, are concerned, I do not find any ground to insist upon

individual applications being filed for arbitration. If such a direction is given, it will only create further anomaly and no useful purpose would be

served by entertaining thousands of applications and I am sure, the department will not be in a position to deal with so many arbitrations when the

department finds it difficult even to run its exchanges in a proper manner. In these circumstances, there will be a direction to the effect that if an

application is made by the petitioner Association seeking arbitration under S. 7-B of the Act within two weeks from this date, it shall be referred to

an arbitrator as per the procedure contemplated under the provisions of the Act. On such application being filed, the authorities concerned shall

refer the matter for arbitration within eight weeks from the date of receipt of the application. It is made clear that while dealing with such an

application to be filed by the petitioner Association, it is not necessary for the

arbitrator to go into the individual grievances relating to the excess billing etc. The writ petition is ordered accordingly. No costs.