
(2002) 03 AP CK 0092
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 224 of 1998

Union of India and Others

APPELLANT

Vs

V.V. Rama Rao

RESPONDENT

Date of Decision : 01-03-2002

Acts Referred:

Telegraph Rules, 1951 — Rule 443

Citation : (2002) 03 AP CK 0092

Hon'ble Judges : S.R.K. Prasad, J;S.R. Nayak, J

Bench : Division Bench

Advocate : D. Krishna Murthy, Addl. Central Govt. Standing, for the Appellant; P. Venkateswarlu and V.V.N. Narasimham, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—This Writ Appeal filed by the Union of India and the authorities of the Department of Tele Communications is directed against the judgment of the learned Single Judge dated 23.12.1996 in W.P. No. 24834 of 1996.

2. The respondent herein is the subscriber of the telephone connections bearing Nos. 545124, 545125 and 547539. When the officials of the Department of Telecommunications wanted to disconnect the petitioner's telephones on the alleged ground of non-payment of outstanding telephone charges in respect of the telephone connections bearing Nos. 547206, 547835, 548499, 548525 and 548957 belonging to M/s. Feno Vision Limited, M/s. Leonics Television Private Limited and M/s. Professional Grade Components Limited respectively, filed writ petition No. 24834 of 1996 assailing the validity of the said action.

3. The learned Single Judge on consideration of Rule-443 of the Indian Telegraph Rules opined that even assuming that there are outstanding arrears in respect of the telephone connections bearing Nos. 547206, 547835, 548499, 548525 and 548957 belonging to the aforementioned three companies, even then, on that count disconnection cannot be effected in respect of the telephone connection

bearing Nos. 545124, 545125 and 547539 subscribed by the petitioner in terms of Rule-443. In that view of the matter, the learned Judge, by the order under appeal, allowed the writ petition and directed that upon the writ petitioner paying arrears, if any, in respect of telephones bearing Nos. 545124, 545125 and 547539, the telephone connections should be restored notwithstanding the arrears in respect of the telephones standing in the name of the above noted three private limited companies. The learned Judge by the same order, however, reserved liberty to the Telecommunications Department to take appropriate action as may be open to them under law against the three companies for recovery of the amounts due from them in respect of five telephones standing in their names. Hence this writ appeal by the Union of India and the authorities of the Department of Telecommunications.

4. The learned counsel for the Appellant-Department would reiterate the same contentions urged before the learned Single Judge. According to the learned counsel, the respondent-writ petitioner is the Managing Director or Director of the three companies and therefore, he should not be permitted to commit 'fraud' in the matter of payment of telephone charges due to the Department and in that view of the matter, the power of the Department under Rule 443 would also encompass the power to disconnect even the telephones subscribed by the Companies.

5. It is too preliminary to state that an action of an administrative authority or a statutory authority should be traceable to an authority granted by law and such an authority will be acting ultra vires the statute concerned if it does anything beyond the delegated power. In this case, it is not the case of anybody that the power to effect disconnection could be traced to any other provisions of law except Rule 443. The provision of Rule 443 does not leave any doubt in anybody's mind and the clear intendment of the rule is that if a subscriber of the telephone commits default in the matter of payment of telephone charges, then the Department can effect disconnection not only the telephone in respect of which default is committed but also any other telephone or telephones subscribed by such subscriber. But here is a case where, the three telephones subscribed by the writ petitioner are sought to be disconnected not for the reason that he committed default in the matter of payment of telephone charges either in respect of the aforementioned three telephones or any other telephone subscribed by him. It is the admitted case of the Department that the three telephones subscribed by the petitioner are sought to be disconnected for the reason that the telephone charges in respect of five telephones bearing Nos. 547206, 547835, 548499, 548525 and 548957 subscribed by the three companies, are not paid by those companies. In law, legal personality of the writ petitioner is different from personality of the company, because a company is a separate and different legal entity. If there is a default on the part of the company, it is open for the Department to disconnect those telephones or any other telephone subscribed by those companies, but not the telephone or telephones exclusively subscribed by the petitioner, a different and distinct

person. In that view of the mater, it cannot be said that the view taken by the learned Single Judge is not well founded warranting interference by the Division Bench.

6. In the result, this Writ Appeal is dismissed. No order as to costs.