



\$~20, 21, 52, 54 to 60

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 24.06.2024

+ W.P.(C) 8688/2024 & CM APPL. 35506/2024, CM APPL. 35507/2024

ASSOCIATED BROADCASTING COMPANY PRIVATE LIMITED Petitioner

Through: Mr. Abhinav Mukerji, Sr. Adv. with Ms. Payal Kakra, Mr. Shivam Mehrotra and Mr. Pranav, Adv.
M: 9811670983
Email: payalk@kntlawoffices.com

versus

UNION OF INDIA & ANR. Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr. Arnav Mittal, GP and Mr. Sunil, Adv. for UOI.
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Mr. K.L.N.V.Veeranjaneyulu,
Advocate for Respondent No 2.

21

+ W.P.(C) 8689/2024 & CM APPL. 35508/2024, CM APPL. 35509/2024

ASSOCIATED BROADCASTING COMPANY PRIVATE LIMITED Petitioner

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Mr. K.L.N.V.Veeranjaneyulu

Advocate for Respondent No 2

52

+ W.P.(C) 8696/2024 & CM APPL. 35532/2024, CM APPL. 35533/2024

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.... Respondents

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54

+ W.P.(C) 8698/2024 & CM APPL. 35536/2024, CM APPL. 35537/2024

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55

+ W.P.(C) 8699/2024 & CM APPL. 35538/2024, CM APPL. 35539/2024

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56

+ W.P.(C) 8700/2024 & CM APPL. 35540/2024, CM APPL. 35541/2024

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57

+ W.P.(C) 8701/2024 & CM APPL. 35542/2024, CM APPL.
35543/2024

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58

+ W.P.(C) 8702/2024 & CM APPL. 35544/2024, CM APPL.
35545/2024

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59

+ W.P.(C) 8703/2024 & CM APPL. 35546/2024, CM APPL.
35547/2024

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LIMITED Petitioner

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60

+ W.P.(C) 8704/2024 & CM APPL. 35548/2024, CM APPL.
35549/2024

ASSOCIATED BROADCASTING COMPANY PRIVATE
LIMITED Petitioner



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UNION OF INDIA & ORS.

.... Respondents

Through: Mr. Rakesh Kumar, CGSC with Mr.
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CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL)

**CM APPL. 35506/2024, CM APPL. 35509/2024, CM APPL. 35533/2024,
CM APPL. 35537/2024, CM APPL. 35539/2024, CM APPL. 35541/2024,
CM APPL. 35543/2024, CM APPL. 35545/2024, CM APPL. 35547/2024
& CM APPL. 35549/2024 (For Exemptions)**

1. Exemptions allowed, subject to just exceptions.
2. Applications are disposed of.

**W.P.(C) 8688/2024, CM APPL. 35507/2024, W.P.(C) 8689/2024 , CM
APPL. 35508/2024, W.P.(C) 8696/2024 , CM APPL. 35532/2024,
W.P.(C) 8698/2024, CM APPL. 35536/2024, W.P.(C) 8699/2024 , CM
APPL. 35538/2024, W.P.(C) 8700/2024, CM APPL. 35540/2024, W.P.(C)
8701/2024, CM APPL. 35542/2024, W.P.(C) 8702/2024 , CM APPL.
35544/2024, W.P.(C) 8703/2024, CM APPL. 35546/2024, W.P.(C)
8704/2024 & CM APPL. 35548/2024**

3. The present writ petitions have been filed seeking declarations that the disconnection/switching off of the petitioner's channel by the respondent no.2, and wrongful restoration to create a farce, is in willful breach of Telecom Regulatory Authority of India's ("TRAI's") Interconnection



Regulations, 2017, Quality of Service Regulations, 2017 and also in violation of mutually entered upon Agreement dated 08th May, 2024, as illegal.

4. It is submitted that the petitioner is a broadcaster of its channels and respondent no.2 is a Multi System Operator, i.e., a service provider under TRAI Act, 1997. It is submitted that there is a subsistent existing Agreement between the petitioner and respondent no. 2, mutually executed between the parties for broadcast of the channels of the petitioner by respondent no. 2.

5. Learned Senior Counsel appearing for the petitioner submits that despite the subsistence of the valid Agreement mutually executed between the parties, the respondent no. 2 has disconnected/switched off the petitioner's channel, i.e., 'TV9 Telugu', without any cause of action and without issuance of the mandatory disconnection notice as duly mandated by Clause 17 of the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017 and Clause 5.3 of the duly executed Agreement between the parties.

6. Learned Senior Counsel appearing for the petitioner submits that the disconnection violates Rule 17 of the TRAI's Interconnection Regulations pertaining to the mandatory 21 days' prior notice regarding the disconnection of the channels. Respondent no. 2 has not issued any disconnection notice at all, making the actions of respondent no. 2 *per se* as illegal and bad in law.

7. It is submitted that the action of respondent no. 2 has caused significant reputational and financial loss to the petitioner and deprived the subscribers of the petitioner of access to 'TV9 Telugu' Channel during a critical period. Thus, the petitioner seeks immediate restoration of the



channel on the network owned and operated by respondent no. 2 on the same status and position, as before the illegal switching off of the channel prior to 06th June, 2024.

8. It is submitted that since the Telecom Disputes Settlement & Appellate Tribunal (“TDSAT”) is not functioning in the vacations and there is no Vacation Bench in the said Tribunal to hear and decide the subject matter, the petitioner has approached this Court by way of the present petitions.

9. Attention of this Court has been drawn to the Channel Placement Agreement dated 08th May, 2024 and in particular to Clause 1.1, 1.2, 1.3 and 1.4, which read as under:

“xxx xxx xxx

1.1 In consideration of TV9, paying the Consideration for market and promote the Channel under Clause 4, OPERATOR hereby undertakes to position the "TV9 Telugu" for the head-end distribution area as specified in Schedule-C herein and in accordance with the terms of this agreement.

1.2 OPERATOR shall position the "TV9 Telugu" as required by TV9 at a frequency as mentioned in Schedule-B (hereinafter referred to as the "Committed Frequency"), and in accordance with the terms of this agreement.

1.3 OPERATOR hereby undertakes not to alter or downgrade the above Channel position, except as provided under this Agreement. If at any time any alteration in the Committed Frequency is deemed unavoidable due to any order or direction of any competent authority or a court of law or tribunal or due to mandate of any law, notification or regulation, OPERATOR shall place the "TV9 Telugu" on any other mutually acceptable band / frequency which is not less, favourable than the Committed Frequency.

1.4 OPERATOR shall place the "TV9 Telugu" as broadcast by TV9, the Channel Provider without any editing, delays, interruptions, additions, cuts, deletions, super impositions, or modifications of any nature whatsoever. Provided that in the event the "TV9 Telugu" are suspended or withdrawn for whatever reasons other than Force Majeure events described in cause 9 hereunder, for a continuous period of more than 24



hours, then OPERATOR may at its option, place any other signals of its choice on the Committed Frequency for a temporary period, but OPERATOR shall immediately within 24 hours of "TV9 Telugu" being restored, restore the signals of the "TV9 Telugu" on the Committed Frequency and resume performance of its obligations hereunder as if, there was no interruption.

xxx xxx xxx”

10. By referring to the aforesaid Clauses, it is submitted that by way of the aforesaid Agreement, the respondent no. 2 in his capacity as an operator, has undertaken not to alter or downgrade the channel position, except as provided under the Agreement.

11. Learned Senior Counsel relying upon Clause 5 submits that, the Agreement has commenced from 01st April, 2024 and shall expire after 12 months, i.e., on 31st March, 2025. He further submits that Clause 5 categorically records that the Agreement shall be terminated only by giving a written notice of 21 days, which has not been done in the present case. Clause 5 of the Channel Placement Agreement dated 08th May, 2024, reads as under:

“xxx xxx xxx

5. TERMS AND TERMINATION

5.1 This Agreement shall commence from 01st April, 2024 and shall expire after 12 (Twelve) months i.e. on 31st March, 2025. This Agreement may be renewed on mutually agreed terms.

5.2 This agreement shall be terminated by TV9 on the occurrence of any of the following events by giving a written notice of 21 (Twenty One) days:

(a) Failure on the part of OPERATOR to adhere to any of its obligations undertaken under the agreement.

(b) In case where there are any variations resulting in non-availability of the "Tv9 Telugu" to the subscriber on the Specified Frequency as agreed upon in this agreement.

(c) By TV9, in the event force majeure conditions prevail a continuous



period exceeding 60 (sixty) days.
(d) Without assigning any reason

5.3 Both the Parties may terminate this agreement by giving 21 (twenty one) days notice in writing to the other side.

xxx xxx xxx”

12. Attention of this Court has also been drawn to Schedule B showing the placement position of ‘TV9 Telugu’. With respect to W.P.(C) No. 8688/2024, the same is LCN 51.

13. Learned Senior Counsel has also handed over the channel placement in all the present cases, which are as under:

S. No.	MATTER	NETWORK NAMES	Agreement Duration	Advance Payment till	Payment	Disconnection Date	LCN Number
1.	Associated Broadcasting vs Union of India & Arr.	Vinsat Digital Private Ltd (AP & Tel)	01.04.2024-31.03.2025	30/09/2024	5,90,000	06.06.2024	51
2.	Associated Broadcasting vs Union of India & Arr.	Master Channel Community Network Pvt. Ltd.	01.04.2024-31.03.2025	30/06/2024	12,21,300	06.06.2024	53
3.	Associated Broadcasting vs Union of India & Arr.	A C N Cable Private Limited (Nellore)	01.04.2023-31.03.2025	30/06/2024	3,48,000	21.06.2024	65
4.	Associated Broadcasting vs Union of India & Arr.	A C N Cable Private Limited (Tirupati)	01.04.2023-31.03.2025	30/06/2024	1,16,000	21.06.2024	65
5.	Associated Broadcasting vs Union of India & Arr.	ACT Digital Home Entertainment Pvt. Ltd. (AP & Telangana)	01.04.2023-31.03.2025	30/06/2024	7,55,218	21.06.2024	42



6.	<i>Associated Broadcasting vs Union of India & Anr.</i>	<i>Tamuku Communication Network</i>	<i>01.05.2024-30.04.2025</i>	<i>31/10/2024</i>	<i>6,96,000</i>	<i>22.06.2024</i>	<i>54</i>
7.	<i>Associated Broadcasting vs Union of India & Anr.</i>	<i>Machilipatnam Communication P. Ltd.</i>	<i>01.05.2024-30.04.2025</i>	<i>31/10/2024</i>	<i>2,90,000</i>	<i>22.06.2024</i>	<i>42</i>
8.	<i>Associated Broadcasting vs Union of India & Anr.</i>	<i>Bhimavaram Community Network</i>	<i>01.04.2023-31.03.2025</i>	<i>30/09/2024</i>	<i>37,70,000</i>	<i>22.06.2024</i>	<i>85</i>
9.	<i>Associated Broadcasting vs Union of India & Anr.</i>	<i>Sree Devi Digital Systems Pvt. Ltd.</i>	<i>01.09.2023-31.08.2024</i>	<i>31/08/2024</i>	<i>26,68,000</i>	<i>22.06.2024</i>	<i>61</i>
10.	<i>Associated Broadcasting vs Union of India & Anr.</i>	<i>Siti Siri Digital Network P. Ltd.</i>	<i>01.04.2024-31.03.2025</i>	<i>30/06/2024</i>	<i>10,44,000</i>	<i>22.06.2024</i>	<i>53</i>

14. Attention of this Court has also been drawn to the Telecommunication (Broadcasting and Cable) Services Interconnection (Addressable Systems) Regulations, 2017, in particular to Regulation 17, which reads as under:

“xxx xxx xxx

17. Disconnection of signals of television channels - No service provider shall disconnect the signals of television channels without giving at least three weeks' notice in writing to other service provider, clearly specifying the reasons for the proposed disconnection:

Provided that the period of three weeks' notice shall start from the date of receiving the notice by the other service provider:

Provided further that the distributor of television channels shall, fifteen days prior to the date of disconnection, inform the subscriber, through scrolls on the channels proposed to be disconnected, the date of disconnection of signals of such television channels:

Provided also that no service provider shall display notice for disconnection of signals of television channels in form of static images overlaid on the television screen, obstructing normal viewing of the subscribers.

xxx xxx xxx”



15. By referring to the aforesaid Regulation, it is submitted that it has categorically been stipulated, that no service provider shall disconnect the signals of the television channels without giving at least three weeks' notice, in writing.

16. Learned Senior Counsel also refers to Clause 18 (4) of the said Regulations, which reads as under:

“xxx xxx xxx

18.

(4) The channel number once assigned to a particular television channel shall not be altered by the distributor for a period of at least one year from the date of such assignment:

Provided that this sub-regulation shall not apply in case the channel becomes unavailable on the distribution network:

Provided further that if a broadcaster changes the genre of a channel then the channel number assigned to that particular television channel shall be changed to place such channel together with the channels of new genre in the electronic program guide.

xxx xxx xxx”

17. By referring to the aforesaid Regulation 18 (4), it is submitted that once a channel number has been assigned to a particular television channel, it shall not be altered by the distributor for a period of at least one year.

18. Learned Senior Counsel submits that despite a subsisting Agreement, the transmission of the petitioner's channel has been disrupted. Attention of this Court has been drawn to *Annexure P-4 (colly)*, which are the various complaints received from the consumers.

19. Learned Senior Counsel also draws the attention of this Court to the letter dated 09th June, 2024 written on behalf of the petitioner to the respondents seeking restoration of the transmission of their television channel. However, it is submitted that no action has been taken.



20. Learned Senior Counsel further submits that 62 lacs, out of 65 lacs of set top boxes, have been switched off for the channels of the petitioner. This is despite the fact that 'TV9 Telugu' channel is the top News Channel in Andhra Pradesh. Thus, it is submitted that respondent no.2 has acted contrary to the Regulations of the TRAI.

21. Per contra, learned counsel appearing for respondent no.1-Union of India submits that the present petition would not be maintainable before this Court, as TDSAT is the authority where the petitioner ought to have filed the petitions. He further submits that respondent no.1 has been made a party, solely for the purpose of bringing the present petitions within the jurisdiction of this Court. It is further submitted that the present petition involves private commercial dispute between the petitioner and respondent no.1, wherein, one party is in Andhra Pradesh and other is in Telangana.

22. Learned counsel appearing for respondent no.2 submits that the petitioner ought to have approached the TDSAT. In the absence of the TDSAT, it is the Andhra Pradesh and Telangana High Courts, which have the jurisdiction to hear the present matters.

23. He further draws the attention of this Court to Schedule C of the Agreement between the parties to submit that the Headend Locations, with respect to the channels of the petitioner, are in Andhra Pradesh and Telangana. Thus, he submits that the transmission of the channels, i.e., 'TV9 Telugu' is undisruptive and is currently in place.

24. Considering the submissions made by learned counsels for the parties, this Court at the outset records the submission made by learned counsel appearing for respondent no. 2 that the transmission of the channel of the petitioner, i.e., 'TV9 Telugu' is uninterrupted and unhindered, and is being



relayed in the states of Telangana, as well as Andhra Pradesh.

25. This Court also notes that the petitioner has already filed petitions before TDSAT and has approached this Court only in the interregnum, since there is no Vacation Bench in the TDSAT.

26. Accordingly, it is directed that in terms of the submission made on behalf of respondent no. 2, the transmission of the television channel, i.e., 'TV9 Telugu' shall continue uninterruptedly and unhindered on the same position, as existing prior to 06th June, 2024. With regard to further grievances of the petitioner, it is noted that the petitioner has already filed the petitions before TDSAT.

27. Accordingly, no further orders are required to be passed in the present petitions.

28. The present petitions are accordingly disposed of, in the aforesaid terms.

**MINI PUSHKARNA
(VACATION JUDGE)**

JUNE 24, 2024/kr