

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. NOS.12-22
IN
CIVIL APPEAL NOS.271-281 OF 2011

TELECOM REGULATORY AUTH.OF INDIA

Appellant (s)

VERSUS

B.S.N.L. ETC.ETC.

Respondent(s)

(For directions and office report)

Date: 29/07/2011 These Matters were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE K.S. RADHAKRISHNAN
HON'BLE MR. JUSTICE SWATANTER KUMAR

For Appellant(s) Mr. R.F. Nariman,SG.
 Mr. Sanjay Kapur,Adv.
 Mr. Abhishek Kumar,Adv.
 Mr. Abhishek Nanda,Adv.
 Ms. Ashmi Mohan,Adv.

For Respondent(s) Mr. Navin Chawla,Adv.
For Idea Cellular: Mr. Gaurav Kaushik,Adv.

For Cellular Operators Mr. Navin Chawla,Adv.
Association of India: Mr. Gopal Jain,Sr.Adv.
 Mr. Gaurav Kaushik,Adv.
 Mr. Kaushik Mishra,Adv.

For Bharti Airtel Ltd: Mr. Harish N. Salve,Sr.Adv.
 Mr. Navin Chawla,Adv.
 Mr. Gopal Jain,Adv.
 Mr. Gaurav Kaushik,Adv.
 Mr. Kaushik Mishra,Adv.

For Vodafone Essar Ltd:Dr. A.M. Singhvi,Sr.Adv.
 Mr. Navin Chawla,Adv.
 Mr. Gopal Jain,Adv.
 Mr. Gaurav Kaushik,Adv.
 Mr. Kaushik Mishra,Adv.

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For AUSPI: Mr. Ramji Srinivasan,Sr.Adv.
 Ms. Manali Singhal,Adv.
 Ms. Santosh Sachin,Adv.
 Mr. Shivalik Shukla,Adv.
 Mr. Abhijat P. Medh,Adv.

For BSNL: Ms. Pratibha M. Singh,Adv.
 Mr. Gaurav Sharma,Adv.
 Ms. Surbhi Mehta,Adv.

UPON hearing counsel the Court made the following
O R D E R

On 4th February, 2011, the Court passed the following Order:

"Admit.

As far as interim relief is concerned, time is given to the appellant to implement the decision of TDSAT within a further period of four months from today without prejudice to the rights and contentions of the parties."

Interlocutory Application Nos.12-22 of 2011 are preferred by the Telecom Regulatory Authority of India ['TRAI', for short] for modification/clarification.

This Court has admitted the Civil Appeals filed by TRAI. Before taking up the matter for final hearing, this Court would like the Regulator to compute the IUC with the inclusion of capital cost and without inclusion of the capital cost.

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In this case, the TRAI, which is the original Authority, has taken the view as a matter of law/regulation that capital cost should not be taken into account in the matter of fixation of IUC, whereas the Telecom Disputes Settlement and Appellate Tribunal ['TDSAT', for short] has taken a contrary view saying that the capital cost should be taken into account in the matter of fixation of IUC. Therefore, we want the Regulator to give us the computation of the IUC to be worked out on both the basis, namely, what would be the IUC if capital cost is taken into account and what would be the IUC if the capital cost is not taken into account? This exercise needs to be done by the Regulator at the earliest. We once again, therefore, direct the service providers/operators to give the data to the Regulator in order to enable it to complete the exercise above-mentioned as early as possible. It is made clear that the Regulator will give its working uninfluenced by the observations made in the impugned judgment by the TDSAT. The Regulator will give its working by 31st October, 2011.

Accordingly, the Interlocutory Applications stand disposed of.

The Civil Appeals be listed for further orders after the Report is received.

[Alka Dudeja]
A.R.-cum-P.S.

[Madhu Saxena]
Assistant Registrar