

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

CIVIL APPEAL NOS.5232-5233 OF 2010

CELLULAR OPERATORS ASSN.OF INDIA & ORS.ETC.

Appellant (s)

VERSUS

B.S.N.L.& ORS.ETC.

Respondent(s)

(With appln(s) for ex-parte stay, ad-interim ex-parte stay,
and office report)

With Civil Appeal Nos.5886-5887 of 2010

(With appln(s) for ex-parte stay and office report)

Civil Appeal Nos.6369-6370 of 2010

(With appln(s) for ex-parte stay and office report)

Civil Appeal Nos.6558-6559 of 2010

(With appln(s) for ex-parte stay, permission to file additional documents and office report)

Date: 30/08/2010 These Appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SWATANTER KUMAR

For Appellant(s)

In CA 5232-5233/2010

Mr. H.N. Salve, Sr. Adv.

Mr. C.S. Vaidyanathan, Sr. Adv.

Mr. Manjul Bajpai, Adv.

Ms. Inkle Roy Barooah, Adv.

Ms. Bina Gupta, Adv.

In CA 5886-5887/2010:

Mr. Ramji Srinivasan, Sr. Adv.

Mr. A. Sundram, Sr. Adv.

Mr. Pramod Dayal, Adv.

Mr. Nikunj Dayal, Adv.

Ms. Manjula Gandhi, Adv.

Mr. Zeyaul Haque, Adv.

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-2 -

In CA 6369-6370/2010:

Mr. Manjul Bajpai, Adv.

Mr. Ankur Saigal, Adv.

Ms. Inkle Roy Barooah, Adv.

Ms. Bina Gupta, Adv.

Mr. Abhay Anand Jena, Adv.

In CA 6558-6559/2010:

Mr. Goolam E. Vahanvati, AG.

Mr. Sanjay Kapur, Adv.

Ms. Shubhra Kapur, Adv.

Mr. Abhishek Kumar, Adv.

Ms. Ashmi Mohan, Adv.

Mr. Suhaas R. Joshi, Adv.

For Respondent(s)

Mr. Gopal Subramaniam, SG.

Mr. Maninder Singh, Sr. Adv.

Mr. Yoginder Handoo, Adv.

Mr. Gaurav Sharma, Adv.

Mr. Abhinav Mukerji, Adv.

Mr. Goolam E. Vahanvati, AG.

Mr. Sanjay Kapur, Adv.

Ms. Shubhra Kapur, Adv.

Mr. Abhishek Kumar, Adv.

Ms. Ashmi Mohan, Adv.

Mr. Suhaas R. Joshi, Adv.

Ms. Rakhi Ray, Adv.

For AUSPI:

Mr. Ramji Srinivasan, Sr. Adv.

Ms. Manjula Gandhi, Adv.

Mr. Zeyaul Haque, Adv.

Mr. Pramod Dayal, Adv.

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

Permission to file additional documents is granted.

Issue notice.

Learned counsel, who appear on caveat, accept notice on behalf of their clients.

Pending final hearing of these Civil Appeals, following directions are being issued at the interim stage:

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- 3 -

(a) Within two weeks from today, each of the Members of the Cellular Operators Association of India will submit Call Data Records ('CDR', for short) to the TRAI. The same direction is also being given to the Members of AUSPI; and

(b) The CDR will also be submitted to TRAI by BSNL within two weeks from today.

On receipt of the CDR, the TRAI will calculate the amount of liability of each of the Operators, including BSNL (if any), during the period 12th November, 2005 to 31st March, 2009, towards the carriage charges. This calculation will be done on the basis of the impugned order.

On the next occasion, this Court will fix the amount, which each of the Operators is required to deposit in this Court, pending the hearing and final disposal of the Civil Appeals.

It is made

clear that, on the next date, each of the Operators will be ready with an affidavit giving an Undertaking to this Court that, in the event of the appeals filed by the Associations being disallowed by this Court at the final hearing of the matter, each of their Members undertakes to pay the amount due with interest that may be fixed by this Court at the final hearing of these Civil Appeals.

To

the same effect, the affidavit will be filed by the BSNL. Further, the affidavit shall contain an averment that the Bank Guarantee submitted by each of the Operators will cover the carriage charges and it would not be open to any of the Operators at the later stage to contend that the Bank Guarantee given by them do not cover the carriage charges.

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- 4 -

These matters are adjourned for six weeks to enable the TRAI to work out the figures. Needless to say that the parties would cooperate with the TRAI in the above exercise.

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

[Madhu Saxena]
Assistant Registrar