

No.1000/16/2014-WF/Auction  
Government of India  
Ministry of Communications & IT  
Department of Telecommunications  
(WPF Wing)

**Dated 26-03-2015**

**Subject:** Provisional allocation of Spectrum consequent to closure of Auction in respect of Notice Inviting Applications (NIA) issued by DoT on 09-01-2015.

Kindly find enclosed provisional frequency allocation of spectrum to successful bidders in 800MHz, 900 MHz, 1800 MHz and 2100 MHz bands. These allocations are subject to approval of Government & final result of SLP(C) Nos. 5735-5736 of 2015, Transfer Petition (Civil) Nos. 352-356, 363 and 477 all of 2015 (order of Hon'ble Supreme Court are attached).

The successful bidders are intimated that they may get themselves impleaded as parties as they are to be heard in the matter.

s/d  
Director(WF)





ITEM NO.5

COURT NO.5

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) Nos.5735-5736/2015

(Arising out of impugned final judgment and order dated 12/02/2015 in CM No. 54/2015,12/02/2015 in WP No. 52/2015,12/02/2015 in WP No. 53/2015 passed by the High Court of Tripura at Agarthala)

UNION OF INDIA

Petitioner(s)

VERSUS

BHARTI HEXACOM LTD. ETC ETC

Respondent(s)

(With appln. (s) for raising additional grounds)

WITH T.P. (C) No.477/2015

(With appln.(s) for ex-parte stay and Office Report)

Date: 26/03/2015 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE PRAFULLA C. PANT

For Petitioner(s) Mr. Mukul Rohatgi, A.G.  
Mr. Ranjit Kumar, S.G.  
Mr. P.S. Narasimha, ASG  
Ms. Binu Tamta, Adv.  
Mr. Ajay Sharma, Adv.  
Mr. Dhruv Tamta, Adv.  
Mr. Ritin Rai, Adv.  
Mr. K. Parmeshwar, Adv.  
Mr. D. S. Mahra, AOR

TP(C) 477/15 Mr. Gopal Jain, Sr. Adv.  
Mr. Lakshmeesh Kamath, Adv.  
Ms. Shally Bhasin, Adv.  
Mr. Mahesh Agarwal, Adv.  
Mr. Rishi Agrawala, Adv.  
Mr. E. C. Agrawala, AOR  
Mr. Chaitnaya Safaya, Adv.



For Respondent(s)	Mr. P. Chidambaram, Sr. Adv.
For Reliance	Mr. Gopal Jain, Sr. Adv.
Telecom Ltd.	Ms. Shally Bhasin, Adv.
	Mr. Mahesh Agarwal, Adv.
	Mr. Rishi Agrawala, Adv.
	Mr. E. C. Agrawala, AOR
	Mr. Lakshmeesh Kamath, Adv.
	Mr. Chaitnaya Safaya, Adv.
For Bharti	Mr. Gopal Jain, Sr. Adv.
Hexacom Ltd.	Mr. Harsh Kaushik, Adv.
	Mr. Abhay Chattopadhyay, Adv.
	Ms. Stephanie V. Sonawane, Adv.
	Ms. Chinmayee chandra, Adv.
	Mr. Gaurav Sharma, AOR

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

Heard Mr. Mukul Rohatgi, learned Attorney General and Mr. P.S. Narasimha, learned Additional Solicitor General for the Union of India and Mr. P. Chidambaram and Mr. Gopal Jain, learned senior counsel, along with Ms. Shelly Bhasin, learned counsel for the respondents.

Be it stated, on the earlier occasion, this Court while entertaining Transfer Petition (C) Nos.352-356 of 2015 and 363 of 2015, had allowed the said transfer petitions. As we find, the records of the transfer petitions have not been received, but copies of the writ petitions have been filed and the pleadings are complete in all respects. If in any matter pleadings are not complete, it should be done within a week hence.

It is open to the Union of India to file a further affidavit within a period of one week from today. It is hereby made clear that no adjournment should be sought on that score.



Mr. Mukul Rohatgi, learned Attorney General appearing for the Union of India, has submitted that there has been auction commencing 4<sup>th</sup> March, 2015 and ending 25<sup>th</sup> March, 2015, in respect of the bands, namely, 800 MHz, 900 MHz, 1800 MHz and 2100 MHz in respect of all the States and there has been a fierce and competitive auction and the entire revenue likely to be generated is Rs.1.09 lac crores. Learned Attorney General would further submit that if the order of stay is not modified, the Union of India will be facing grave fiscal difficulty as there is ample possibility of collecting at least Rs.28,000 crores by 31<sup>st</sup> March, 2015. It is urged by him that the auction itself would show that the "Notice Inviting Tender" has been a workable one and, therefore, sustainable in law. In this backdrop, submits, Mr. Mukul Rohatgi, that the interim order passed on the earlier occasion should be modified granting leave to the Union of India to finalize the auction, subject to the final decision of the special leave petition and the transferred cases.

Mr. P. Chidambaram and Mr. Gopal Jain, learned senior counsel appearing for the contesting respondents, *per contra*, would contend that the competitive bidding was not really competitive, but a compulsive bidding as parties were obliged to bid because of their survival. In addition, it is put forth by them that the amount that has to be thought of being collected by the Union of India, is factually incorrect, inasmuch as the bidders who are successful have to deposit the amount within ten days from the completion of date of auction, that is, 25<sup>th</sup> March, 2015. Learned senior counsel would further submit that the entire design of the "Notice Inviting Tender" is gloriously faulty and solely because the auction has taken place and money is likely to be



collected, would not be a justification for the modification of the interim order.

Having heard learned counsel for the parties, we are inclined to modify the order to the extent that the Union of India would be at liberty to finalize the auction and proceed thereafter, but all the successful bidders shall be intimated that the said finalization is subject to the final result of the special leave petition, as well as the transferred cases. Mr. Mukul Rohatgi, learned Attorney General also undertakes that the competent authority of the Union of India would intimate the successful bidders to get themselves impleaded as parties and, needless to say, they are under obligation to implead themselves as they are to be heard in the matter.

The said impleaded parties shall also file their respective affidavits stating their stand and stance in the said affidavits.

Let the matter be listed on 16<sup>th</sup> April, 2015. It shall be taken up as the first item on the Board.

Transfer Petition No.477 of 2015

The transfer petition is disposed of in terms of the signed order.

Let the transferred case be listed along with the S.L.P. (C) Nos.5735-5736 of 2015, on 16<sup>th</sup> April, 2015.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)