

AT ONCE
COURT MATTER

Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Wing)
Sanchar Bhawan, 20, Ashoka Road, New Delhi.

File No: 800-36/2016/AS.II

Dated: 18.01.2017

To,

The Secretary
TRAI, New Delhi.

{Kind Attention: Shri Sanjeev Banzal, Advisor (NSL)}

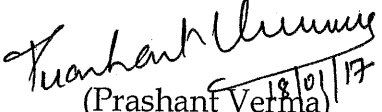
Subject: IA Nos. 78 & 82/2016 in Civil Appeal No (s). 10660/2010 before Hon'ble Supreme Court of India in the matter of Centre for PIL & Ors. [Appellant (s)] versus Union of India & Ors. [Respondents]-reg

The above mentioned IAs came up for hearing before the Hon'ble Supreme Court on 06.01.2017 (copy of certified order enclosed as Annexure-I) and in order to ensure the presence of some accused in CBI case no. RC 22(A)/2011-DLI viz. accused nos. iii- Mr. Augustus Ralph Marshall, iv- Mr. Ananda Krishna Tatparanandam, vi- M/s Astro All Asia Networks Limited, UK and also at Malaysia and vii- M/s Maxis Communications Behard, Malaysia, the Court has proposed to restrain, earning of any revenue, by using the 2G Spectrum licenses, which were originally granted to M/s Aircel Telecommunications.

2. As the restraint of use of 2G Spectrum (licenses whereof were originally granted to M/s Aircel Telecommunications, in November 2006), would entail adverse consequences to the subscribers, this Ministry has been directed by the Hon'ble Supreme Court to devise ways and means, whereby, the earlier subscribers (of 2G Spectrum licenses, granted in favour of M/s Aircel Telecommunications) can be transferred provisionally, to some other service provider, in case the necessity to pass the proposed order arises.

3. The service areas where licenses was granted to M/s Aircel/Dishnet Wireless Ltd. in 2006 are Andhra Pradesh, Delhi, Gujarat, Haryana, Karnataka, Kerala, Kolkata, Madhya Pradesh, Maharashtra, Mumbai, Punjab, Rajasthan, Uttar Pradesh (East) and Uttar Pradesh (West).
4. The above direction of the Hon'ble Supreme Court has been examined in the Department. Since the facility of Mobile Number Portability (MNP) is already available to the subscribers, they may be informed well in advance by M/s Aircel/Dishnet Wireless Ltd., to exercise the option of MNP provisionally for continuity of their mobile services, in case Hon'ble Supreme Court passes the proposed order. Instructions have been issued to M/s Aircel/Dishnet Wireless Ltd. vide letter of even number dated 18.01.2017 (copy enclosed as Annexure-II).
5. In view of above, TRAI is requested to take necessary action in this regard before 20.01.2017 so as to comply the orders of Hon'ble Supreme Court. Further, TRAI may issue suitable directions/regulations for MNP process to M/s Aircel/DWL addressing the probable porting issues like generation of large number of Unique Porting Code (UPC) to cater entire subscriber base of M/s Aircel/DWL in above mentioned Service Areas, increase in validity time of UPC Code (if required), relaxation of the rejection porting clause of "90 days", etc. so that all existing subscribers of M/s Aircel/DWL may conveniently avail the porting facility provisionally.
6. Action taken may kindly be intimated by 27.01.2017 so to inform the Hon'ble Supreme Court.

Encl.: As above.


(Prashant Verma) 18/01/17
ADG (AS-II)
Tele No.: 011-23354042

Annexure-I

S/C

MOST URGENT OUT TODAY BY SPECIAL MESSENGER

D. NO. 10530/14/SC/XIV
SUPREME COURT OF INDIA
NEW DELHI.

Dated: 06.01.2017

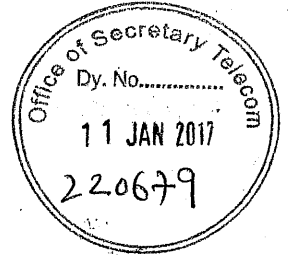
From : Assistant Registrar

To : 1. The Registrar
High Court of Delhi,
at New Delhi.

2. Union of India
Through its Secretary,
Department of Telecommunication,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001.

3. Central Bureau of Investigation (CBI),
Through its Director,
CGO Complex, Lodhi Road,
New Delhi - 110003.

4. Directorate of Enforcement (ED),
Through its Director,
6th Floor, Lok Nayak Bhawan,
New Delhi - 110003.



DDG (DS)
Sr. DDO (AS)
PS
Dr. Subramanian Swamy
13/1/17
ADG CAS-II

INTERLOCUTORY APPLICATION NO. 78/2015

(Application for direction filed by Dr. Subramanian Swamy, intervenor in person)

AND

INTERLOCUTORY APPLICATION NO. 82/2016

(Application for directions on behalf of the appellants)

IN

CIVIL APPEAL No. 10660 OF 2010

(Appeal by Special Leave granted by this Court's Order dated the 16.12.2010 in Petition for Special Leave to Appeal (Civil) No. 24873 of 2010 from the Judgment and Order dated the 25.05.2010 of the High Court of Delhi at New Delhi in W.P.(C) No.3522/2010.)

CENTER FOR PIL & ORS.

...APPELLANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

Sir/Madam,

I am directed to forward herewith a certified copy of the Order of this Court as contained in the Record of Proceedings dated 06.01.2017 passed in the appeal above-mentioned for your information and necessary action.

Please acknowledge receipt.

Yours faithfully,

Assistant REGISTRAR

420856

OUT TODAY

ITEM NO.7

COURT NO.1

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

I.A.Nos.78 & 82/2016 in Civil Appeal No(s).10660/2010

CENTER FOR PIL & ORS.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.
(For directions and impleadment)

Respondent(s)

Date : 06/01/2017 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE DR. JUSTICE D.Y. CHANDRACHUD

Certified to be true copy

Assistant Registrar (Judl.)

For Appellant(s)/Applicant(s) :

Mr. Prashant Bhushan, Adv.
Mr. Pranav Sachdeva, Adv.
Ms. Neha Rathi, Adv.
Dr. Subramanian Swamy, In-person

SUPREME COURT OF INDIA

For Respondent(s)/appearing parties :

Mr. Anand Grover, Sr. Adv.
Mr. Mihir Samson, Adv.
Ms. Chitralkha Das, Adv.
Mr. Suraj Sanap, Adv.

UOI

Mr. K.K. Venugopal, Sr. Adv.
Mr. Rajiv Nanda, Adv.
Mr. Rajesh Ranjan, Adv.
Mr. Tushar Bakshi, Adv.
Mr. Santosh Kumar, Adv.
Mr. M.K. Maroria, Adv.
Mr. B.K. Prasad, Adv.
Mr. Shreekant N. Terdal, Adv.

CBI

Ms. Pinky Anand, ASG
Mr. Nalin Kohli, Adv.
Mr. Rajiv Nanda, Adv.
Ms. Snidha Mehra, Adv.
Mr. Rajesh Ranjan, Adv.
Mr. Shalender Sen, Adv.

Mr. Santosh Kumar, Adv.
Mr. Shashank Dewan, Adv.
Ms. Somya Rathore, Adv.
Mr. Pranav Kumar, Adv.

Mr. Arijit Prasad, Adv.
Mr. T.A. Khan, Adv.
Ms. Sadhana Sandhu, Adv.
Ms. Anil Katiyar, Adv.

Mr. Ashok Aggarwal, Adv. Gen.
Mr. Saurabh Ajay Gupta, AAG
Mr. Nishant B., Adv.
Mr. Kuldip Singh, Adv.

Ms. Manali Singhal, Adv.
Mr. Santosh Sachin, Adv.
For Mr. Abhijat P. Medh, Adv.

Mr. Sandeep Kapur, Adv.
Ms. Niharika Karanjawala, Adv.
Mr. Vivek Suri, Adv.
Mr. V. Sandhu, Adv.
Mr. Isham Sharama, Adv.
For M/s. Karanjawala & Co., Adv.

Mr. Santosh Kumar Tripathi, Adv.
Mr. S.K. Verma, Adv.
Mr. Abhinav Mukerji, Adv.
Mr. Arvind Kumar Sharma, Adv.
Mr. Navin Chawla, Adv.
Mr. Anupam Lal Das, Adv.
Mr. Dharmendra Kumar Sinha, Adv.
Mr. Gaurav Kejriwal, Adv.
Mr. Devvrat, Adv.
Mr. E.C. Agrawala, Adv.
Mr. Siddharth Singla, Adv.
Ms. S. Ramamani, Adv.
Ms. Niranjana Singh, Adv.
Mr. Abhinav Mukerji, Adv.
Mr. Kaushik Poddar, Adv.
M/s. Suresh A. Shroff & Co., Adv.
Mr. Chandra Prakash, Adv.

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

I.A.No.82/2016 :

1. The averments made in paragraph 10 of the counter

affidavit filed by the Central Bureau of Investigation, to the instant application, indicate the names of the accused in RC 22(A)/2011-DLI. The same is extracted hereinunder :

"10. That on 29.08.2014, a chargesheet in CBI V. Dayanidhi Maran, case no. RC 22(A)/2011-DLI, against the following eight accused persons u/s 120B IPC and section 7, 12 and 13(2) r/w 13(1)(d) of the Prevention of Corruption Act, 1988 was filed:

(i) Mr. Dayanidhi Maran, the then Minister of Communications & Information Technology, Govt. of India,

(ii) Mr. Kalanithi Maran, Director of M/s. Sun Direct TV Pvt. Ltd., Chennai,

(iii) Mr. Augustus Ralph Marshall, Director of M/s. Astro All Asia Networks Plc., UK and M/s. Maxis Communications Bhd., Malaysia,

(iv) Mr. Ananda Krishna Tatparanandam, Malaysia,

(v) M/s. Sun Direct TV Pvt. Ltd., Chennai, India,

(vi) M/s. Astro All Asia Networks Limited, UK and also at Malaysia,

(vii) M/s. Maxis Communications Berhad, Malaysia,

(viii) M/s. South Asia Entertainment Holdings Ltd., Mauritius."

2. The charge-sheet dated 29th August, 2014, pertains to 2G Spectrum licences, originally awarded to M/s. Aircel Ltd., in November, 2006. By the time the licences were awarded, majority shares of M/s. Aircel Ltd., had been transferred to a subsidiary company of M/s. Maxis Communications, Berhad, Malaysia (Accused No.vii). Mr. Ananda Krishna Tatparanandam (Accused No.iv in the

aforesaid charge-sheet), is stated to be the controlling owner of M/s. Maxis Group of Companies. The other outstation accused, in the charge-sheet are accused No.iii (Mr. Augustus Ralph Marshall), and accused No.vii (M/s. South Asia Entertainment Holdings Ltd.).

3. The predicament expressed in I.A.No.82/2016, and the eventual prayer made therein, emerges on account of non-service of summons on Mr. Ananda Krishna Tatparanandam (Accused No.iv) and M/s. Maxis Communications, Berhad, Malaysia (Accused No.vii), and the other accused referred to above (Accused No.iii and vi).

4. In so far as, the instant aspect of the matter is concerned, the factual position depicted in the reply affidavit, filed on behalf of the Central Bureau of Investigation, reveals as under :

"21. That on 31.08.2016, a letter was received by the Ld. Special judge from the Attorney General's Chambers, Malaysia, dated 17.08.2016, inter alia stating that upon consideration of the facts disclosed in the Request for Assistance and further clarifications supplied by the CBI, the requirements as per the provisions under section 20(1)(f) of the Mutual Assistance in Criminal Matters Act, 2002 [Act 621] were not fulfilled, and hence the requests to serve the summons could not be acceded to."

5. It is imperative to ensure, in our considered view, that the process of law should not be permitted to be frustrated by non-service of summons on the accused. In order to enforce the presence of accused Nos.iii-Mr.

Augustus Ralph Marshall, iv-Mr. Ananda Krishna Tatparanandam, vi-M/s. Astro All Asia Networks Limited and vii-M/s. Maxis Communications Berhad, Malaysia, we propose to restrain, earning, of any revenue, by using the 2G Spectrum licences, which were originally granted to M/s. Aircel Telecommunications. The instant order is to bring to the notice of accused Nos.(iii), (iv), (vi) & (vii) the proposed action, that is likely to be taken.

6. List for further consideration on 3rd February, 2017.

7. The restraint of use of 2G Spectrum (licences whereof were originally granted to M/s Aircel Telecommunications, in November 2006), would obviously entail adverse consequences, to the spectrum subscribers. We do not wish our order to have any such impact. It is therefore, that we direct the Ministry of Communications & Information Technology to devise ways and means, whereby, the earlier subscribers (of the 2G Spectrum licences, granted in favour of M/s. Aircel Telecommunications) can be transferred provisionally, to some other service provider, in case the necessity to pass the proposed order arises.

8. It will be open to accused Nos.(iii), (iv), (vi) and (vii), to enter appearance before this Court, and make their representation in consonance with law, failing which, it is made clear to all concerned, that the proposed order shall be passed.

9. The Union of India is directed to publish the instant

order, in two leading newspapers in Malaysia. It is also clarified, that in case the proposed order is passed, it will not be open to any of the accused, to raise an objection with reference to any monetary loss, emerging out of the proposed order.

10. In the meantime, the selling and trading in the 2G Spectrum under consideration, shall remain stayed.

Sarita
6/11/17
(Sarita Purohit)
Court Master

Sadana
6/11/17
(Renuka Sadana)
Assistant Registrar

6/11

Government of India
Ministry of Communications
Department of Telecommunications
(Access Services Wing)
Sanchar Bhawan, 20, Ashoka Road, New Delhi.

File No: 800-36/2016/AS.II

Dated: 18.01.2017

To,

1. M/s Aircel Ltd.- for Andhra Pradesh, Delhi, Gujarat, Karnataka, Maharashtra, Mumbai and Rajasthan Licensed Service Areas.
2. M/s Dishnet Wireless Ltd.- for Haryana, Kerala, Kolkata, Madhya Pradesh, Punjab, UP (West) and UP (East) Licensed Service Areas.
2nd & 5th Floor, DLF Cyber City,
Building No. 10-A, Gurgaon- 122002

Subject: IA Nos. 78 & 82/2016 in Civil Appeal No (s). 10660/2010 before Hon'ble Supreme Court of India in the matter of Centre for PIL & Ors. [Appellant (s)] versus Union of India & Ors. [Respondents]-reg

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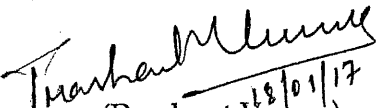
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4. The above direction of the Hon'ble Supreme Court has been examined in the Department. The available facility of Mobile Number Portability (MNP) can be exercised by the subscribers provisionally.

5. Accordingly, M/s Aircel/Dishnet Wireless Ltd. is hereby directed to take necessary action well in advance to inform all existing subscribers through SMS to avail the Mobile Number Portability facility provisionally for continuity of their mobile service, in case the Hon'ble Supreme Court passes the proposed order, to avoid any inconvenience.

Encl.: As above.


(Prashant Verma)

ADG (AS-II)

Tele No.: 011-23354042

Copy to:

1. Secretary, TRAI, New Delhi.
2. Sr. DDG (TERM), DoT HQ, New Delhi- with a request to issue directions to TERM Cells for issuing suitable advertisement in this regard.
3. Sr. DDG (LFP)/DDG (LFA) - for kind information please.