

**TELECOM DISPUTES SETTLEMENT & APPELLATE TRIBUNAL
NEW DELHI**

Dated 16th October 2026

Telecom Petition No. 4 of 2022

MNP Interconnection Telecom Solutions ...Petitioner
India Private Limited

Vs.

Bharat Sanchar Nigam Limited and Anr. ...Respondent(s)

BEFORE:

HON'BLE MR. JUSTICE RAM KRISHNA GAUTAM, MEMBER

For Petitioner : Mr Dhiraj Mehtre, Mr. Sanampreet Singh, Mr
Nikhil Singh

For Respondents : Ms. Madhuri Diwan Sr Advocate, Mr Sameer
Choudhary, Mr Tejveer Singh Bhatia, Mr V
Suresh Kumar, Ms Akshita Nain For BSNL

Mr Shubham Jain, Mr. Himanshu Dhawan,
Advocate, Mr. Abhay Dev Sharma, Advocate,
Mr Apporva Gaur For TRAI

JUDGMENT

1. This Telecom Petition, by MNP Interconnection Telecom Solutions India Private Limited – petitioner, against Bharat Sanchar Nigam Limited (BSNL) – respondent, under Section 14, read with Section 14A(1) of the Telecom Regulatory Authority of India Act, 1997 (hereinafter referred to as “**TRAI Act**”), has been filed, with a prayer to direct the respondent to make payment of outstanding dues, aggregating to Rs. 11,73,75,884/-, (Rupees Eleven Crores Seventy Three Lakhs Seventy Five thousand Eight Hundred Eighty Four only) (inclusive of interest upto December 31, 2021), to the petitioner towards PPTC, for invoices raised upto September 30, 2021, as per the particulars of the claim annexed at Annexure P-17 hereto, and direct the respondent to pay the interest at SBI PLR + 200 basis points, on the outstanding dues, from January 01, 2022 till payment thereof, with a further to direct the respondent to strictly comply with Regulation 15(1) of the MNP Regulations and PPTC Regulations, alongwith further prayer to pass such order, which this Tribunal deems fit.
2. In brief, the petition contends that petitioner, is a licensee for providing mobile number portability services (MNP), under license, issued under

section 4(ii) of the Indian Telegraph Act, 1885, and had been extending its services to the respondent, a government owned Telecom Service Provider (TSP), under the ownership of Department of Telecommunications(DoT), Ministry of Communications, Government of India(GoI), having task to provide mobile voice and internet services, through its nationwide telecommunication network across India, and other service providers since 2011, as per the Telecommunication Mobile Number Portability Regulations 2009 (MNP Regulations). Petitioner was granted this license for providing MNP Services in Zone – 2 covering South and East of India, by way of license agreement between the petitioner and Department of Telecommunications (DoT), GoI, as a licensee, and MNP service provider, with effect from 20.03.2009, on the basis of license agreement, executed on 17.04.2009, for initial period of 10 years validity, which was subsequently extended for another 10 years. The TRAI issued the Telecommunication Mobile Number Portability Regulations, 2009 (MNP Regulations) to lay down the basic business process framework for implementation of MNP in the country, wherein the Authority issued the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulations, 2009(PPTC Regulations 2009), (which came in effect on December 31,

2009), wherein the petitioner was entitled to charge Per Port Transaction Charge (the PPTC) of Rs. 19/-, for each porting request, processed by petitioner. This license was granted to petitioner company for providing MNP services in Zone -2 covering South and East of India, by way of above licence agreement, and it was with a function to provide MNP services, by way of processing porting request from a donor operator to a recipient operator and was to levy fee/charge per port transaction, as per Regulation, directions and orders issued by the TRAI, which was subsequently, fixed to be of Rs. 19/- each porting request processed by petitioner, written as above. TRAI issued PPTC first amendment Regulations 2018 (03 of 2018) to amend the PPTC Regulations 2009, and this PPTC charge was reduced to Rs. 4/- from Rs. 19/-, with a condition of liability chargeable for 'successful portation' only.

3. Being aggrieved by the above mentioned amendment, of the year 2018, a Writ Petition (C) No. 1508 of 2018, M/s MNP Interconnection Telecom Solutions India Private Limited vs. Telecom Regulatory Authority of India Regulation(TRAI) and Anr, was got filed before Hon'ble Delhi High Court, wherein vide order, dated 8.3.2019, the above amendment of 2018 (03 of

2018), was got quashed as *ultra vires* to TRAI and unconstitutional to Article 14 of the Constitution of India. Petitioner issued demand notices to all business circles of respondent, for default in payment of PPTC, under the PPTC Regulations 2009, as well as under amendment regulation. The TRAI issued Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge (Second Amendment) Regulations, 2019 (PPTC second amendment Regulations), wherein the per port transaction charge for each porting request was fixed at the rate of Rs. 6.46, per request and this regulation was made effective from the date of 11.11.2019. The consolidated outstanding dues, accrued against respondent, towards all the circles of operation of petitioner, was Rs. 11,91,85,520/-, (Rupees Eleven Crores Ninety One Lakhs Eighty Five Thousand Five Hundred Twenty only) for which noticed dated 11.06.2020, was got issued. There was further request in this notice that to make specify the payment made by respondent in the tune of Rs. 1,40,17,509.17/-(Rupees One Crore Forty Lakhs Seventeen Thousand Five Hundred and Nine and paise seventeen only), for the circle related as well as period for payment. Vide letter, dated 25.9.2020, a reminder for outstanding payment of dues, payable by all circles of the respondent, including GST, with a specific mention that with

regard to outstanding payment, (inclusive of GST), the respondent could have availed the GST credit for the FY 2019 - 2020, by September 30, 2020, was made and in this regard, and petitioner requested the respondent to avail the GST, as payment is being delayed beyond due date for availing the GST credit. On 5.11.2020, petitioner issued a letter to Authority to address the issue of its unpaid dues, amounting to Rs. 9.92 crores, as on September 30, 2020, payable by the respondent. The petitioner received a letter from the respondent, which was issued to all the business circles on 10.02.2021, with direction to be followed regarding the payments to be made to the petitioner, with respect to its demand for outstanding dues. But this was with wrongful understanding of the order, dated 8.3.2019, of the Hon'ble Writ Court, quashing the amendment Regulation 2018. The BSNL was of the opinion for making PPTC @ Rs. 19/- for each successful porting from 8.3.2019 to 10.11.2019 and no PPTC was required to be paid, for any unsuccessful porting request during the period from 8.3.2019 to 10.11.2019. The excess payment towards the unsuccessful transaction may be recovered and as far as GST outstanding is concerned, the same was to be with above instructions. Being aggrieved, petitioner sent an email dated 20.3.2021, 22.3.2021 and 23.3.2021, challenging the letter, dated

10.02.2021 of respondent, which was issued to its circle offices and was in utter disregard of Hon'ble Delhi High Court order dated 8.3.2019, pursuant to inter departmental consultation, made by the Respondent, the same direction was reiterated by BSNL, vide its letter dated February 10, 2021 and on 25.10.2021, demand notice to the respondent by petitioner, for making clearance of the outstanding dues, as against its all branch circles were got issued, and in response to it, petitioner received an email, from the respondent on 25.10.2021, alongwith invoices issued by respondent with respect to the recovery to be done for unsuccessful transactions for the period between 8.3.2019 to 10.11.2019, as per direction issued by respondent, through its letter dated February 10,2021 and May 18, 2021. Soon after judgment, dated 8.3.2019 of Hon'ble High Court Delhi, quashing PPTC first amendment regulation, the Petitioner, reconciled its account statements with respect to all transactions falling in the period between 31.1.2018 and 8.3.2019 , i.e interregnum period and raised invoices for amount of Rs. 15/-, as PPTC for each Porting request. This is because, post quashing PPTC first amendment regulation, the operation of PPTC regulation 2009 was restored, (including for the period between 31.1.2018 to 8.3.2019). The table annexed with para 20 of the petition having details

of the dues, per service area of the respondent BSNL, with the demand notice dated 24.5.2019 was in the total 2,84,70,950/- (Rupees Two Crores Eighty Four Lakhs Seventy Thousand Nine Hundred Fifty only). As against this demand, Rs 1,18,07,796/- (Rupees One Crore Eighteen Lakhs Seven Thousand Seven Hundred and Ninety Six only) was got paid by respondent. The business activities of the petitioner was got continued wherein invoices were raised accordingly, but respondent in complete disregard of its obligations, under Regulation 15(1) of MNP Regulations, defaulted in making payment towards PPTC, lawfully due and payable to the petitioner, resultantly, petitioner issued demand notices to various circles of respondent in accordance with Regulation 16(6) of the MNP Regulations. Vide demand notice, dated 11.6.2020, Rs. 11,91,85,520/- (Rupees Eleven Crores Ninety One Lakhs Eighty Five Thousand and Five Hundred Twenty only) was said to be outstanding dues, against respondent, to be paid from various circles, with request for specifying the amount received, in between, in the tune of 1,40,17,509.17/- (Rupees One Crore Forty Lakhs Seventeen Thousand Five Hundred and Nine and paise seventeen only), by different circles. Again the details were served by a notice, dated 13.06.2020. These details of notice dated 11.6.2020 as well as 13.06.2020

are given in para 23 of the petition, wherein the total outstanding was shown to be Rs. 11,91,85,520/-(Rupees Eleven Crores Ninety One Lakhs Eighty Five Thousand and Five Hundred Twenty only). The petitioner received an aggregate amount of Rs.3,38,72,600/-(Rupees Three Crores Thirty Eight Lakhs Seventy Two Thousand and Six Hundred only), from various circles of respondent, in response to above notices issued by the petitioner. However, no clarification was provided as to the payment, which was made against which invoices, as different rates were prevalent for different periods. But as against huge outstanding in the tune of Rs. 11,91,85,520/- (Rupees Eleven Crores Ninety One Lakhs Eighty Five Thousand and Five Hundred Twenty only), this miniscule payment of Rs. 3,38,72,600/- (Rupees Three Crores Thirty Eight Lakhs Seventy Two Thousand and Six Hundred only), was made. Hence, another demand letter, dated 24.9.2020 specifying GST input credit for FY 2019-2020, by September 30, 2020 was got issued. Vide notice, dated November 5, 2020, unpaid dues amounting to Rs. 9,92,00,000/- (Rupees Nine Crores Ninety Two lakhs only) as on 30th September 2020, was requested, but on February 10, 2021, letter from respondent, which was got issued to various circles, was received with a wrongful interpretation of 8.3.2019 order, for ensuring

payment, for successful port only. During the period 8.3.2019 to 10.11.2019 an excess payment, if any, was to be recovered. This letter was instantly challenged / responded by email, dated 20.03.2021, 22.03.2021 and 23.03.2021, with a request to make the payment of the pending dues and in case of failure, to be charged with interest @ SBI PLR + 200 basis points for each day delay in payment made by the respondent. Vide Demand Notice dated, October 21, 2021, the total demand of outstanding of Rs.9,38,05,184/- (Rupees Nine Crores Thirty Eight Lakhs Five Thousand One Hundred and Eighty Four only) was made. But in utter shock, a mail of respondent with direction to issue invoices and recover for the excess payment made, if any, towards unsuccessful porting transactions for the period between 8.3.2019 to 10.11.2019, was got received by petitioner. Respondent had failed to make payment towards outstanding dues amounting to Rs.9,38,05,184/- (Rupees Nine Crores Thirty Eight Lakhs Five Thousand One Hundred and Eighty Four only) upto 30.9.2021 under the MNP Regulations read with PPTC Regulations, despite several demands notices got issued to the respondent. Rather it had made a wrong instructions to its various circles for recovery of the payment, if made, with regard to unsuccessful transactions.

4. Hence, a cause of action, within territorial jurisdiction of this Tribunal, within the period of limitation had arisen. Hence, this petition with above prayers, was got filed on 20.1.2022.

5. In Reply, BSNL contended that on November 20, 2009, the Authority issued Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulation 2009 (Regulations of 2009) (which came in effect on 31.12.2009, having mention of Per Port Transaction Charge (PPTC) of Rs. 19/-, for each porting request, processed by the petitioner. On 31.1.2018, PPTC first amendment regulation of 2018, was got promulgated by TRAI as Regulation (Regulation 3 of 2018), whereby PPT for each successful porting was provided to be of Rs. 4/-, as against Rs. 19/-, which was chargeable for each porting request irrespective of for successful or unsuccessful. BSNL was making the payment @ Rs. 19/- per porting request w.e.f. 31.12.2009 to amendment regulation i.e. 31.1.2018, and after this amendment regulation, the charge calculated was @ Rs. 4 per successful porting request. This PPTC first amendment regulation 2018, was challenged by petitioner and another similar service provider before Hon'ble Delhi High Court by Writ Petition bearing no. WP(C) 1507 and 1508

of 2018, which was got heard and decided vide order, dated 8.3.2019, wherein amendment regulation 2018 was got quashed holding it ultra vires to TRAI. For the interregnum period 31.1.2018 to 08.03.2019, per port transaction charge payable by BSNL to the petitioner is Rs. 4/- per successful porting and it was charged from its customers as above. Hence, BSNL was not directed to make the payment to the petitioner @ Rs. 19/- retrospectively. Admittedly, there was no stay order given by Hon'ble Delhi High Court, but vide order, dated 16.02.2018, there was condition that in case this Writ Petition succeeds, appropriate orders would be passed. Hence, because of being no stay order, the regulation remained enforced for the interregnum period. As BSNL was not a party to this Writ Petition, and it can never be forced to a civil liability retrospectively. The subsequent regulation as second amendment regulation 2019, has been provisioned by TRAI wherein, from the date of its effect i.e. 10.11.2019, Rs. 6.46 per port request had become payable and same is still in continuation. In a similar petition bearing No. TP No. 92 of 2019 M/s Syniverse Technologies (India) Pvt Ltd against BSNL, (TP No. 92 of 2019), a MA No. 429 of 2021 was filed before this Tribunal, for raising the grievance against the letter of respondent, dated 10.02.2021, wherein this Tribunal vide its order, dated

09.12.2021 had allowed above MA, filed by M/s Syniverse Technologies Pvt Ltd, and had directed BSNL not to withhold any amount unilaterally on the basis of distinction between successful and unsuccessful porting request for the period after 8.3.2019. In response to it, BSNL had passed order to its all sub circles to make the outstanding payment of the invoices issued by both of the MNP service providers i.e. M/s Syniverse Technologies Pvt Ltd as well as MNP Interconnection Telecom Solutions India Private Limited for the period starting from the date 8.3.2019 to 10.11.2019, at the rate of Rs. 19/- per port, for all successful as well as unsuccessful MNP porting requests. Since then, all the circle offices of the respondent are making payment accordingly. The alleged outstanding to the tune of Rs. 11,73,75,884/-, (Rupees Eleven Crores Seventy Three Lakhs Seventy Five Thousand Eight Hundred Eighty Four only) inclusive of interest, upto December 31, 2021, against respondent BSNL towards the payment of per port Transaction Charges (PPTC) for invoices raised upto September 30, 2021, is being objected. Rather, outstanding amount, for the period prior to 31.01.2018 i.e. date of operation of first amendment regulation were cleared by respondent and upto September 30, 2021, the whole outstanding amount payable by respondent to petitioner is Rs. 18,05,241/- (Rupees Eighteen

Lakh Five Thousand Two Hundred Forty One only). The claimed composite amount is barred by limitation, because nowhere in the petition, it was mentioned that for which period and for which amount, this claim pertains. Rather, it was written to be the amount claimed based on the invoices raised upto September 30, 2021. Though Counsel for respondent had written an email, dated 05.04.2022 to the counsel for this petitioner, asking about the details of the amount, outstanding as claimed by the petitioner and the time period for which, it was pertaining, but it was not replied by petitioner. The contention made by petitioner was against the facts on record. It was denied that the amount of Rs. 11,73,75,884/- (Rupees Eleven Crores Seventy Three Lakhs Seventy Five Thousand Eight Hundred and Eighty Four only) (inclusive of interest upto December 31, 2021) is outstanding against the respondent BSNL, towards the payment of per port transaction charges. However, it is submitted that the outstanding amount payable by the respondent is much lesser i.e. an outstanding amount payable by respondent to petitioner is Rs. 18,05,241/- (Rupees Eighteen Lakh Five Thousand Two Hundred Forty One only). The BSNL had made a total amount of Rs. 5,43,89,065/- (Rupees Five Crores Forty Three Lakhs Eighty Nine and Sixty Five only) leaving remains of Rs. 18,05,241/- (Rupees

Eighteen Lakh Five Thousand Two Hundred Forty One only), as on September 30, 2021. The GST amount redeemed from the petitioner has been refunded back to the petitioner. Hence, the petition be got dismissed.

6. Rejoinder, is with reiteration of contention of petition, as well as negation of the contention made in the reply. For the interregnum period, petitioner had recovered porting charge @ INR Rs. 4/- per porting request, but after quashing of amendment 2018 vide order, dated 8.3.2019, petitioner is entitled to recover balance amount of Rs. 7,01,43,817/- (Rupees Seven Crores One Lakh Forty Three Thousand Eight Hundred and Seventeen only) for the aforesaid interregnum period at the rate of balance of Rs. 15/- per porting request, which was not paid to petitioner, owing to amendment regulation 2018. This calculation sheet is Annexure P – 27. For the period between 8.3.2019 to 10.11.2019, calculated at the rate of Rs. 19/- per porting, the outstanding comes to Rs. 1,24,81,183/-(Rupees One Crore Twenty Four Lakhs Eighty One Thousand One Hundred and Eighty Three only), as per Annexure P-28. From November 11, 2019 to September 30, 2021 @ Rs. 6.46 per porting request, as per second amendment 2019, unpaid amount is Rs. 1,11,80,184/- (Rupees One Crore Eleven Lakh Eighty

Thousand One Hundred Eighty Four only), detailed in Annexure P-29. The payment towards GST had also been denied. Hence, the alleged admitted outstanding to the tune of Rs. 18,05,241/- (Rupees Eighteen Lakhs Five Thousand Two Hundred Forty One only) is being denied, and the amount prayed for, as a decree has been reiterated.

7. Though there is no provision, but this Court no. 1 had admitted counter to rejoinder, as a sur rejoinder of BSNL, wherein the same contention of reply had been reiterated, negating the contention of rejoinder.
8. As per TRAI Act, 1997, the proceeding before this Tribunal has been written to be a civil court proceeding and for a civil suit, i.e. a proceeding of a civil court, the law of adjudication has been propounded by Hon'ble Apex Court, as well as Hon'ble High Courts, in many of its precedents as below.
9. The proceeding before this Tribunal is a civil proceeding, as has been given in the TRAI Act, itself. In a civil proceeding, the preponderance of

probabilities is the touchstone for making a decision, as against strict burden of proof, required in criminal proceeding.

10. Hon'ble Apex Court in Anil Rishi Vs. Gurbaksh Singh – AIR 2006 SC 1971 has propounded that onus to prove a fact is on the person who asserts it. Under Section 102 of The Indian Evidence Act, initial onus is always on the plaintiff to prove his case and if he discharges, the onus shifts to defendant. It has further been propounded in Premlata Vs. Arhant Kumar Jain- AIR 1976 SC 626 that where both parties have already produced whatever evidence they had, the question of burden of proof ceases to have any importance. But while appreciating the question of burden of proof and misplacing the burden of proof on a particular party and recording of findings in a particular way will definitely vitiate the judgment. The old principle propounded by Privy Council in Lakshman Vs. Venkateswarloo – AIR 1949 PC 278 still holds good that burden of proof on the pleadings never shifts, it always remains constant. Factually proving of a case in his favour is cost upon plaintiff when he fulfils, onus shifts over defendants to adduce rebutting evidence to meet the case made out by plaintiff. Onus may again shift to plaintiff. Hon'ble Apex Court in State of J & K Vs Hindustan Forest

Co. (2006) 12 SCC 198 has propounded that the plaintiff cannot obviously take advantage of the weakness of defendant. The plaintiff must stand upon evidence adduced by him. Though unlike a criminal case, in civil cases there is no mandate for proving fact beyond reasonable doubt, but even preponderance of probabilities may serve as a good basis of decision, as was propounded in M Krishnan Vs Vijay Singh- 2001 CrLJ 4705. Hon'ble Apex Court in Raghvamma Vs. A Cherry Chamma – AIR 1964 SC 136 has propounded that burden and onus of proof are two different things. Burden of proof lies upon a person who has to prove the facts and it never shifts. Onus of proof shifts. Such shifting of onus is a continuous process in evaluation of evidence.

11. Perusal of order sheet reveals that Hon'ble Court No. 1 had given opportunity with regard to ripening of the file for hearing of final argument, for which the direction was for placing before the Court of Registrar for ripening the file, alongwith connected Telecom Petition No. 92 of 2019, which was with the same subject matter, as is in the present one. Wherein mentioning by both side was there for not availing opportunity of giving any evidence etc. The order dated 7.3.2023 specifically mentions that :

“Counsel appearing for the petitioner submitted that they do not want to lead any evidences. Hence, the stage of taking of the evidence by petitioner is hereby closed.”

Similarly, counsel appearing for the respondent, upon instructions from their client, submits that they do want to lead any evidence nor they want to file any affidavit of examination-in-Chief on behalf of any of the witnesses.

Hence, the stage of taking evidences by the respondent is also hereby closed.”

As the proceedings have been over in this Telecom Petition, we hereby direct the Registry of this Tribunal to enlist this Telecom Petition under the head “For Hearing” on 28.08.2023”.

12. This Telecom Petition was heard at length at many dates, then ultimately, got ordered on 31.7.2025, *“we hereby direct the Registry of this Tribunal to place these matters for hearing before Bench No. II on 1.8.2025.”*

13. In response to this order, the file was proceeded for final hearing, before this Bench, wherein learned counsels for both side had argued. But as the

main dispute was with regard to effect of Writ Court's Order, dated 8.3.2019, and TRAI was party to above writ proceeding, which had contested and after the order/judgment, whereby amendment 2018, was got quashed and held to be ultra vires to TRAI Act, and unconstitutional being violative of Article 14 of the Constitution of India, whereupon Review Petition was got filed by alike Telecom Service Provider, Jio as well as TRAI, before Hon'ble Delhi High Court, wherein the same defence, which is taken by BSNL in present petition, was taken and it was heard and decided against the review petitioners. TRAI was ordered to be arrayed as respondent no. 2 in this proceeding, for placing and apprising the facts and circumstances, under which those disputed amendment regulation 2018 and subsequent amendment regulation 2019, were got promulgated and what was the pros and cons of same?. This order was got challenged by petitioner by a Miscellaneous Application, and this was heard and rejected. Whereupon TRAI was added as a party. Learned counsel for TRAI appeared, but with no counter or written submission, except with a mention that TRAI is not of any contest in the present matter. Being a regulatory authority, it had passed regulations, wherein each Telecom Service Provider is bound. The amendment regulation 2018 was got passed, and it was got set aside

holding it to be ultra vires and unconstitutional. Then subsequent amendment of 2019 was got notified, which is in operation. TRAI is with no contest.

14. Heard arguments of learned counsel for both side and gone through the material placed on record.

15. At the very outset, it is being mentioned that no evidence is there. Even after providing opportunity for leading evidence, the same was not availed by either side. It has been specifically written in the order-sheet cited supra. Whatever is there, is pleadings only. The petition, the reply to this petition, the replication to this reply, and the sur-reply, (though not permitted, but accepted by Court No. 1 on record) is there.

16. In view of the law cited above, pleadings can never be a proof, the thing pleaded is to be proved by the pleader. Plaintiff/petitioner, in a civil proceeding is to prove its contention written in the plaint or petition and in case of its failure to prove, the suit or civil proceeding will fail. The defendant / respondent / other side, is to prove the contention made by it

in its reply, as per rule of burden of proof, as well as onus to proof, including the shifting of onus to proof, and where both side have given their evidences, then the appreciation of evidences, led by both side is to be made, as per rule of evidence.

17.The preponderance of probabilities is the guiding and deciding factor in a civil suit proceeding. The facts admitted, need not to be proved and admission is best piece of evidence, unless retracted or taken away, or is against the law. In the present case, there is no evidence by either side, except the pleadings, though the affidavits have been filed, in support of pleadings, but the statements of accounts, emails, were neither in original, as a primary one, nor proved to be of secondary one, nor with an affidavit, required under section 65 B of Evidence Act, for making them admissible in evidence.

18.Under above facts and circumstances, the adjudication with regard to effect of amendment regulation 2018, in the light of subsequent quashing by judgment of 8.3.2019, by Hon'ble Delhi High Court, in Writ Petition, holding

the same to be ultra vires to TRAI and unconstitutional because of being violative of Article 14 of the Constitution of India, is to be adjudged.

19. In the connected petition (TP No. 92 of 2019), this Tribunal, after hearing the same question, has decided as below :

“Hence, it has decided in all its words that after the amendment of 31.1.2018 got struck down by Hon’ble Delhi High Court, wherein regulator TRAI was a party, this judgment will definitely bind all service providers governed by the regulations, including BSNL and BSNL was not permitted to have a defence of successful or unsuccessful porting request for interregnum period. There was a direction to make the payment for each porting request. Hence, for the interregnum period, the effect of amending regulation of the year 2018 was of no avail. Rather, regulation of 2009 was in operation, and PPTC was payable @ Rs. 19/- per porting request and after this interregnum period, till the effect of subsequent regulation dated 30.09.2019, being effective from 11.11.2019, @ Rs. 6.46 per porting request. The above rate of Rs. 19/- per porting request is to be paid. Hence, to conclude, the rate for interregnum period i.e. 31.1.2018 to 8.3.2019, will be of Rs. 19/- per porting request, as per TRAI’s PPTC Regulation 2009. For the period beyond it till the effect of subsequent regulation of 2019, the BSNL itself has admitted to have paid Rs. 19/- per porting request and order of this Tribunal on this point, dated 9.12.2021 is specific and final.

14. *This Tribunal, in many previously decided judgments, has awarded pendente lite and future interest @ 9% p.a. simple interest over outstanding dues. Considering present financial and fiscal scenario, the award of same interest will be reasonable, just and fair.*

15. *Hence, the main petition was filed with the prayer for declaring respondent's letter dated 23.09.2019 bearing no. NOW CM-I/MNP/RegIn/2019/34 as unlawful and non-est. This has already been made vide order of this Tribunal, dated 9.12.2021 and this Tribunal in its civil jurisdiction, is of no Writ Court jurisdiction to declare any Regulation ultra vires or void ab initio. Rather, is to decide the effect of order of Writ Court over a civil suit pending before it and this has been specifically mentioned by this Court in its order, dated 18.09.2025 in Para 3 "This Tribunal, exercising a Civil Court jurisdiction, is of firm view, that it is of no jurisdiction, under Article 226 to add or subtract or interpret the Writ Court Judgment, given under exercise of Writ powers. Though, the effect of that Judgment, for interregnum period, is to be justifiably drawn by this Tribunal, in its judicial decision making in this Petition." Hence, this relief of declaration, is under the provision of a declaratory decree of a Civil Court, and as Writ Court had itself given the judgement, striking down the amendment Regulation, 2018, and each relief being prayed by BSNL hereat, were prayed by the subsequent service*

provider in review Petition, which were heard and decided, negatively, in review Petitions before Hon'ble Delhi High Court. Hence, this letter of BSNL is not of any avail in respect of the matter, already heard and decided by a Writ Court in above judgment of 08.03.2019.

16. The second relief is with regard to declaration that Respondent is required to pay the per port transaction of Rs. 19/- per porting request, in accordance with the Telecommunication Mobile Number Portability Per Port Transaction Charge and Dipping Charge Regulation 2009 and the Telecommunication Mobile Number Portability Regulation, 2009, including the period between 31.1.2018 and 08.03.2019, this relief is being granted and the rate for interregnum period to be of above rate is being held to be payable to Petitioner."

20. Hence, for brevity and rule of prudence, the same is not being reiterated.

Rather, is being taken as heard and decided that after the setting aside of the amendment regulation 2018, holding the same ultra vires to TRAI and unconstitutional, because of being against Article 14 of Constitution of India, it became of no existence. The erstwhile regulation of 2009 became operative, for the interregnum period, for which Rs. 19/- per porting request, was payable and this Tribunal of Civil Court jurisdiction,

is of no jurisdiction of Writ Court to interpret the judgment of Writ Court, rather to follow the principle of that Hon'ble Writ Court. Hence, as has been decided in connected Telecom Petition, the PPTC will remain Rs. 19/- per porting request for interregnum period as above.

21. The fact of making payment @ Rs. 19/- per porting request for that interregnum period is not being pleaded by respondent – BSNL, whereas Rs. 4/- per successful request has been said to be made for that interregnum period and balance of Rs. 7,01,43,817/- (Rupees Seven Crores One Lakh Forty Three Thousand Eight Hundred Seventeen only) is being claimed for above interregnum period @ Rs. 15 per porting request. Hence, this is a question to be calculated by office, for making a final decree. But the relief prayed for alleged outstanding dues, said to be in the tune of Rs. 11,73,75,884/- (Rupees Eleven Crores Seventy Three Lakhs Seventy Five thousand Eight Hundred Eighty Four only), as on December 31, 2021, had been given in the affidavit of rejoinder to be of Rs. 9,38,05,184/- (Rupees Nine Crores Thirty Eight Lakhs Five Thousand One Hundred and Eighty Four only) with interest of Rs. 2,35,70,699/-, (Rupees Two Crores Thirty Five Lakhs Seventy Thousand Six Hundred and

Ninety Nine only) total amounting to Rs. 11,73,75,884/-(Rupees Eleven Crores Seventy Three Lakhs Seventy Five thousand Eight Hundred Eighty Four only) but this interest is said to be @ SBI PLR + 200 basis points, for each day of delay in making payment by the respondent. But no evidence is there to prove this interest, whereas this Tribunal in many decided petitions have awarded interest @ of simple interest of 9% p.a, as against the outstanding dues, being decreed for payment, and this Tribunal considering the financial and fiscal scenario, is of considered view that above interest, @ 9% p.a. simple interest, will be reasonable, just and fair interest towards above payment of outstanding dues.

22.Hence, the petition merits to be decreed, as a preliminary decree with regard to principle that for interregnum period i.e 31.1.2018 to 8.3.2019, the chargeable PPTC will be at the rate of Rs. 19/- per port request processed by petitioner. The interest, till filing of this petition, i.e. 20.1.2022 will be pre-institution interest @ 9% p.a simple interest, over the above interregnum period, by counting @ of remaining Rs. 15/- per porting request, after subtracting Rs. 4/- against Rs. 19/- per porting request, for above period. This interest, alongwith above principal, will

become principal interest. The admission is with regard to existing liability in the tune of Rs. 18,05,241/- (Rupees Eighteen Lakhs Five Thousand Two Hundred and Forty One only) as against BSNL, to the petitioner, and this fact is admitted one. This is with regard to subsequent period to interregnum period. Hence, this alongwith 9% p.a simple interest over it, from the date of demand notice, till filing of this petition, will become a principal amount. The other admitted amount is said to be Rs. 3,688/- (Rupees Three Thousand Six Hundred Eighty Eight only) towards March 8, 2019 to November 10, 2019 and Rs. 80,634/- (Rupees Eighty Thousand Six Hundred and Thirty Four only) towards the subsequent period. This will again be with simple interest of 9% p.a, from the date of due, till filing of this petition and these all admitted amounts, alongwith pre institution interest, as above, will become a principal amount outstanding, on the date of filing of this petition. The pendente lite and future interest from the date of petition, till actual date of realisation shall be payable by respondent to petitioner towards above calculated unpaid amount for the interregnum period and admitted amount written as above, @ 9% simple interest.

23. Preliminary decree be got prepared by office regarding these admitted / declared claims. The above decided amount be got paid by respondent – BSNL, to petitioner, within two months of judgment. Both side will be at liberty to make reconciliation, in between, with regard to claims and payments made towards it, at the above decided rate of principal, for interregnum period, as well as rate of interest. Then and only then, final decree will be drawn in the matter.

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(Justice Ram Krishna Gautam)
Member

16.10.2026
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