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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Judgment pronounced on: 31.08.2026***

\# **CNR No.DLHC010753462024**

\+ **W.P.(C) 15291/2024 and CM APPL.30135/2026**

UTIMACO TECHNOLOGIES PVT LTD. ..... Petitioner

Through: Mr. Amit Sibal, Sr. Adv., Mr. Dheeraj P. Deo, Mr. Darpan Sachdeva and Mr. Ankit Handa, Advocates.

versus

UNION OF INDIA & ORS. ..... Respondents

Through: Mr. Chetan Sharma, ASG, Ms. Nidhi Raman, CGSC, Mr. Amit Gupta, Mr. Akash Mishra, Mr. Arnav Mittal, Mr. R.V. Prabhat Sharma, Mr. Yashwardhan and Mr. Sharma Naman, Advs. along with Ms. Sabina Shahid, Sr. Consultant (Legal) for R-1/UOI.

Mr. Udit Seth and Ms. Akshita Gupta, Advs. for R-4.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the petitioner assailing the Office Memorandum (OM) dated 01.10.2024 bearing File No.47-16/2020-DM-III (Part)-1228-1235, issued by the respondent no.1/ UOI. The said Office Memorandum encloses the minutes of the meeting dated 19.09.2024 convened under the chairmanship of the Union Home Secretary, wherein deliberations were held regarding the implementation of Cell Broadcasting

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under the Common Alerting Protocol (CAP) based Integrated Alert System named "Sachet".

2. The petitioner (formerly known as M/s Celltick), is a company engaged as the provider of Cell Broadcast based products and services. The grievance of the petitioner arises from the appointment of respondent no.4/ Centre for Development of Telematics (C-DOT) as the sole implementing agency for the Cell Broadcasting Solutions (CB solution), as reflected in the minutes of the meeting dated 19.09.2024 enclosed with the aforesaid OM dated 01.10.2024. The OM dated 01.10.2024, *inter alia*, records as under:

> *"6. After detailed discussions and based on the assurance given by CEO, C-DOT, it was agreed in-principle to assign a nationwide single implementation of CAP to C-DOT."*

FACTUAL BACKGROUND

3. The factual matrix, set forth by the petitioner, is that in tune with the global standards of emergency alerting for timely dissemination of critical information, the respondent no.3 / National Disaster Management Authority (NDMA), promulgated a nationwide project under the Disaster Management Act, 2005, named Common Alerting Protocol Based Integrated Alert System (Sachet). The objective of the project was to integrate Alert Generating Agencies (such as the Indian Metrological Department, CWC, INCOIS, DGRE, FSI), Alert Disseminating Agencies (including Telecom Service Providers, Radio, Cable TV, Social media, Indian Railways, Coastal Sirens, GAGAN & NavIC) and Disaster Management Authorities (SDMAs) on a common alert platform. A Memorandum of Understanding was

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executed between the NDMA and C-DOT on 16.01.2020 for the pilot project.

4. In the first phase of the said project, NDMA, in collaboration with respondent no. 4 / C-DOT, initiated alert dissemination through SMS based communication. Respondent no.2/ Department of Telecommunications (DoT) was designated as the facilitator and coordinator between NDMA and Telecom Service Providers (TSPs).

5. NDMA, however, found the SMS-based alert service implemented by C-DOT to be inadequate, and unsuitable of catering to simultaneous alerts within short timeframes. Consequently, NDMA proposed the adoption of Cell Broadcasting services, in addition to SMS based messaging, to meet the enhanced requirement for instant alert dissemination. This led to the initiation of Phase-II of the CAP-based Integrated Alert System (Sachet), focusing on Cell Broadcasting.

6. On 31.05.2022, a meeting was convened under the chairmanship of DoT, to deliberate upon issues related to CAP-based Integrated Alert System. The minutes of the said meeting, recorded, inter alia, that Telecom Service Providers, BSNL and MTNL were already in the process of implementing Cell Broadcasting, while M/s Bharti Airtel (hereinafter "*Airtel*") and Vodafone-Idea were supporting implementation through the AP-Alert Project awarded to the petitioner. Reliance Jio expressed preference for the C-DOT solution. The Secretary (Telecom) opined that TSPs were free to adopt any solution, and directed them to implement Cell Broadcasting and keep DoT informed. The relevant extracts of the minutes of the said meeting dated 31.05.2022 are as under:

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3. Thereafter, a detailed discussion was held on each agenda point and following is the gist of discussion/decisions arrived at:

i. **Implementation of CB through CAP platform:**

a. TSPs appreciated the fact that for different disasters (Natural/ Manmade), *requirement for alert dissemination vary significantly* hence, both SMS and CB are required for effective dissemination as they complement each other.

b. M/s BSNL and M/s MTNL are already in the process of implementation of Cell Broadcasting.

c. M/s Airtel and M/s VI are supporting implementation of CB as part of AP-Alert Project awarded by Govt. of AP in favour of M/s Celltick. M/s Airtel and M/s VI may use CB solution provided by M/s Celltick or by M/s C-DOT for pan-India CB implementation.

d. M/s RJIL informed that they would prefer to use C-DOT CB solution for implementation of CB.

Secretary(T) opined that TSPs are free to use any solution for implementation of CB. As the issue is pending for a long time, TSPs were directed to implement CB and keep DOT informed of the course of action taken. All TSPs agreed for the same.

7. The petitioner demonstrated its Cell Broadcasting capability to DOT and NDMA on several occasions and was thereafter identified as an integral part of the National Cell Broadcasting Service. Pursuant to requisitions from DoT and NDMA, the petitioner conducted a series of trials between July 2018 and April 2022 with Telecom Service Providers, alongside C-DOT, under the supervision of DoT and NDMA. These trials, conducted at various locations consistently yielded successful results. The details of the same, enclosed as Annexure P6 to the present petition are as under:

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Summary on Cell Broadcast Demo / POC / Trials Prior to May 31, 2022					
Demo / POC / Trial Date	Location	MNO	Tecnologies	Result	Enclosure
Wednesday, July 11, 2018	Delhi NCR	Airtel	2G	SUCCESS	1. CB Demo Report on Airtel NW in Jul 2018
Wednesday, July 18, 2018	Amarnath Yatra in J&K	Airtel	2G	SUCCESS	2. Mail communication from Airtel dated Jun 19 2018
Wednesday, January 30, 2019	Bhubaneswar, Odisha	BSNL, Airtel, Vodafone, Idea	2G, 3G	SUCCESS	DOT Letter to BSNL for Odisha Demo Jan 17 2019
Tuesday, April 16, 2019	NDMA Bhavan New Delhi	NA	NA	SUCCESS	Demo to NDMA - Apr 16 2019
Wednesday, September 4, 2019	Dehradun, Uttarakhand	BSNL, Airtel, Vodafone, Idea	2G, 3G	SUCCESS	Letter - POC Uttarakhand Sep 04 2019
Monday, January 18, 2021	Tamil Nadu SDMA office area; Ezhilagam - Chepauk, Chennai - 600 005	BSNL	2G, 3G	SUCCESS	CAP Pilot Project-Report of Cell Broadcast Mock Drill in Tamil Nadu
Monday, April 18, 2022	Vijayawada, Andhra Pradesh	BSNL	4G	SUCCESS	POC Report: CAP Pilot Project-Report of Cell Broadcast
Wednesday, April 20, 2022	Vijayawada, Andhra Pradesh	BSNL	4G	SUCCESS	Mock Drill in Andhra Pradesh v01.02

8. On 24.05.2023, respondent no.4/ C-DOT, addressed a letter to respondent no.2/ DOT, regarding the progress of CAP-based Cell Broadcasting. Referring to a meeting held on 22.05.2023, C-DOT noted that both Airtel and Vodafone-Idea had informed DoT of their decision to engage the petitioner as their implementation partner, and that successful proof of concept trials had been conducted in Andhra Pradesh and Karnataka. C-DOT acknowledged that the choice of implementation partner was a time-consuming factor and opined that such selection should rest with the Telecom Service Providers, since implementation of Cell Broadcasting necessarily required their consent to avoid disruption of services.

9. At a meeting held on 09.07.2023, DOT reiterated the need for a pan-India solution by 01.11.2023. Both Vodafone-Idea and Bharti Airtel

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reaffirmed their decision to proceed with their existing technology partner, the petitioner. In the said meeting, NDMA highlighted deficiencies in the proposal submitted by C-DOT and rejected its solution. Subsequently, in a meeting held on 21.07.2023, DOT reiterated that the choice of cell broadcast implementation partner lay with the respective Telecom Service Providers.

10. Thereafter, Airtel and Vodafone-Idea submitted letters of support dated 24.08.2023 and 17.08.2023 respectively, confirming their readiness to implement the nationwide Cell Broadcasting project using the petitioner's system and requesting funding for the same. The said letters of support are enclosed as Annexure P10(Colly) to the present petition.

11. A review meeting was held on 21.08.2023, involving the respondents and the Telecom Service Providers, to deliberate upon the issues pertaining to implementation of Cell Broadcasting (CB). During the said meeting, DoT was directed to take into account the inputs of the petitioner for finalizing the testing process. The records of the said meeting (F.No.15-2/2021-DM, dated 28.08.2023) record that the Telecom Service Providers operating on the petitioner's platform reported dissemination times of 3-4 seconds, whereas C-DOT's solution, tested with Jio, BSNL, and MTNL, was significantly slower, taking 10-40 seconds.

12. On 26.09.2023, a nationwide implementation review meeting was chaired by DoT, with NDMA, C-DOT, Telecom Service Providers, and the petitioner in attendance. The meeting focused on finalizing implementation plans for Cell Broadcasting services across all Telecom Service Providers, with emphasis on meeting the 01.11.2023 deadline. DoT requested both the petitioner and C-DOT to coordinate testing schedules to ensure smooth and timely execution.

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13. Between 14.10.2022 and 31.10.2023, the petitioner conducted over 50 successful trials under the supervision of DoT and NDMA. Airtel and Vodafone-Idea affirmed the success of these trials, acknowledging that all tests proposed by DoT and NDMA had been completed prior to the 01.11.2023 implementation deadline.

14. On 14.12.2023, the inter-departmental committee constituted by the DOT, comprising personnel from DoT and NDMA to address funding requirements for Cell Broadcasting solutions across Telecom Service Providers, submitted its report, recommending a two-party Cell Broadcasting mechanism for dissemination of critical alerts. The committee fixed a per-user cost payable to Telecom Service Providers, who would in turn pay the CB solution provider. In April, 2024, DoT forwarded the committee’s recommendations to NDMA for further action and release of funds to Telecom Service Providers.

15. On 20.05.2024, NDMA declined to issue a completion certificate sought by C-DOT, stating that integration testing conducted with BSNL, MTNL, and Reliance Jio could not be deemed implementation of the CB Alert System. NDMA cited inconsistent test results, incomplete integration with 2G/3G subscribers, and lack of essential operational parameters such as security and redundancy. The said communication dated 20.05.2024 reads as under:

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राष्ट्रीय आपदा प्रबंधन प्राधिकरण
एन.डी.एम.ए. भवन, ए – १, सफदरजंग इंक्लेव, नई दिल्ली – ११००२९
Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
"NDMA Bhawan", A-1, Safdarjung, Enclave, New Delhi –110029

No. 12/01/2018/CIT (110893) Dated: 20 May 2024

To,

The Chief Executive Officer (CEO),
Centre for Development of Telematics,
CDOT Campus, Mehrauli, New Delhi

Subject: **Implementation of Cell Broadcast**

Sir,

Please refer your letter No C-DOT/DSA/CAP/SACHET/NDMA/2024/05/2 dated 10 May 2024.

2. CDOT, as directed by DOT, carried out integration testing for CB with BSNL, MTNL and Reliance Jio. This integration testing cannot be deemed to be implementation of CB Alert system in view of the following:-

a) The test results were in-consistent and at times at variance with the desired QoS (Essential specifications/requirements for Disaster Grade CB Alert system laid down by NDMA is attached).
b) No rigorous stress testing was carried out. Integration with RAN of TSP for 2G/3G subscribers was not 100 percent.
c) Operational parameters pertaining to security and redundancy were not implemented (parameters laid down by NDMA are enclosed as attachment).

3. In view of the above, issue of completion certificate to CDOT for having implemented CB in BSNL, MTNL and Reliance Jio will be factually incorrect and misleading.

4. This has the approval of competent authority, NDMA

Yours faithfully,

20/05/24

(Bhupender Singh)
Asstt. Advisor (Comn & IT)

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16. On 27.05.2024, NDMA addressed a letter bearing No.17/01/2021/CAP/DOT/CIT (112569) to respondent no.1/ MHA, seeking final release of funds noting that the Inter-Ministerial Committee's report had been approved by the Union of India. It recorded that DoT had recommended implementation of CB by two agencies: the petitioner for Airtel and Vodafone-Idea, and C-DOT for BSNL and Jio.

17. On 21.06.2024, NDMA convened a meeting to resolve outstanding issues in CAP implementation. NDMA reiterated concerns regarding the quality of C-DOT's services, and recommended that Telecom Service Providers finalize agreements with CB solution providers for speedy implementation while budgetary allocations were being finalized.

18. On 04.07.2024, a meeting chaired by respondent no.1/MHA was held with representatives of DoT, NDMA, and C-DOT. In the said meeting respondent no.1 stated that it had received a financial proposal from DOT, under which Cell Broadcast with 2 Telecom Service Providers would be implemented by the Petitioner while C-DOT would be implementing Cell Broadcast for the other Telecom Service Providers. However, DoT suggested adoption of a single implementing agency, namely C-DOT, for nationwide implementation, citing ease of management and lower costs. This was made conditional upon the willingness of Airtel and Vodafone-Idea to work exclusively with C-DOT and the meeting concluded on the note that DOT would seek the approval of TSPs to engage C-DOT as the single and exclusive implementing agency. On 30.07.2024, DoT issued a communication to Telecom Service Providers, including those already working with the petitioner, requesting implementation of C-DOT's full-

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fledged CB solution across all networks. The said communication is as under:

No. 15-2/2021-DM
Government of India
Ministry of Communications
Department of Telecommunications
(Disaster Management Division)
606, Mahanagar Doorsanchar Bhawan, JLN Marg, New Delhi - 110002

Dated: 30th July, 2024

To,

Regulatory heads of M/s Bharti Airtel/ BSNL/ MTNL Reliance-Jio/ VI

Subject: Implementation of Cell Broadcasting regd.

Sir/ Ma'am,

Reference is invited to OM dated 10th June, 2022 which instructed TSPs to implement Cell Broadcasting (CB) through CAP platform. C-DoT has indigenously developed the CB solution, which has been implemented and tested across network of Reliance-Jio, BSNL and MTNL. It would be prudent to have a single implementing agency for complete solution for all the TSPs for efficient & coordinated response.

2. In view of above, it is requested to implement the full fledged C-DOT CB solution in your network.

19. The TSPs filed detailed responses to the aforesaid communication dated 30.07.2024. Airtel, by email dated 14.08.2024, confirmed successful integration of the petitioner's solution with approximately 1600 base stations, and reiterated its preference to continue with the petitioner, cautioning that any change of partner would cause significant delays. The letter dated 14.08.2024 addressed by M/s Bharti Airtel to the C-DOT is as under:

To,

Dr. Pankaj Kumar Dalela
Centre for Development of Telematics,
Telecom Technology Centre of Govt. of India,
C-DOT Campus, Mehrauli,
New Delhi - 110030

Sub: - C-DOT Cell Broadcast Solution Deployment in Bharti Airtel

Ref: - C-DOT's Letter No. C-DOT/Bharti/CRO/2024/1 dated August 13, 2024

Dear Sir,

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W.P.(C)-15291/2024

This is with reference to your letter dated August 13, 2024, regarding the initiation of Proof of Concept (PoC) testing for the C-DOT Cell Broadcast solution and the provision of test sites for 2G, 4G, and 5G demonstrations.

At the outset, we would like to respectfully submit that Airtel has already conducted both small and large-scale PoC tests for Cell Broadcasting across India with our current implementation partner, Celltick. These tests were conducted in line with DoT directive, which allows TSPs to select their implementation partners to ensure the rapid deployment of Cell Broadcasting solutions.

However, following advice from DoT, we have now started engaging with C-DOT team and held initial discussions on July 12, 2024 for a PoC testing of C-DoT Cell Broadcast solutions. Subsequently, we prepared a comprehensive document (25 pages) detailing all aspects of implementation and solution readiness and shared it to C-DOT for their comments on July 24, 2024.

While C-DOT responded to our submission on August 5, 2024, their response was quite general in nature (one page) against our detailed document (25 pages). On the same day, we again requested C-DoT to send the para wise response to our detailed document to proceed further. Further, in order to proceed further, we called C-DoT team too on the same date and requested them to share the specifications of their server so that we may allocate the space and power.

Further, on 12th August 2024, we again sent an email to C-DoT team seeking hardware details to start the integration work with our core nodes. However, the said information/data is still awaited from C-DoT. In parallel, we started fetching the details of controllers and sites for 2G, 4G, and 5G technologies, which we have shared with C-DoT also on 13.08.2024. The relevant emails are also attached for your reference.

As stated earlier, we are happy to engage with C-DoT for the PoC of its Cell Broadcast solution; however, you would appreciate that the same cannot be initiated without receiving the complete details from your side including the required hardware specifications. Given the complexity of our network, which involves various technologies, spectrum bands, and multiple vendors, this information is crucial. We are sure that the same would be provided to us at the earliest in order to proceed further.

We look forward to your prompt response on the above.

Thanking you,

Yours Sincerely,
For **Bharti Airtel Limited**

20. Vodafone-Idea, by letter dated 16.08.2024, reiterated its choice of the petitioner as implementation partner, highlighting successful circle-wise testing and readiness by November 2023. It cautioned that introduction of C-

DOT at this stage would delay the project by 12–15 months. The letter dated 16.08.2024 is as under:

VIL/RCA/GB/Aug/24/1601

16th August 2024

Assistant Director General (DM-A)
(Disaster Management Division)
Department of Telecommunications (DoT)
Ministry of Communications, Government of India
606, Mahanagar Doorsanchar Bhawan,
JLN Marg, New Delhi – 110002

Kind Attention :- Shri. Shriphal Meena

Subject :- Implementation of Cell Broadcasting regarding

Reference :- DoT letter no. 15-2/2021 - DM dated 30th July 2024

Dear Sir,

1. As you are aware, as part of the National Disaster Management Policy, the Department of Telecommunications (DoT) had in May 2023, set a target date of 1st November 2023 for launching the disaster alert messaging using Cell Broadcast Center (CBC) technology within telecom networks to mobile subscribers.

2. Further, in a review meeting held in July 2023 DoT had clearly stated that the option of going with CDOT or any other compliant service provider for CB implementation is left to the TSP and that all TSPs should conclude the 100% PAN INDIA testing of CB system no later than 31st August 2023 in presence of LSA /NDMA representatives and give certificates for the same.

3. To meet this mandate, Vodafone Idea Limited (VIL) utilized its existing CBC platform from M/s Celltick (now M/s Utimaco), a global leader in public warning systems and successfully integrated the Celltick CBC platform across its nationwide multi-vendor, multi-technology network. A comprehensive circle-wise testing was conducted to validate and fine-tune the performance of the CBC platform and network nodes before the demonstration to DoT and National Disaster Management Authority (NDMA) officials.

4. It was also agreed by DoT that financial assistance should be provided for development of CB solution for all TSPs and accordingly, an inter-departmental committee comprising officials of DoT, NDMA was formed to decide upon funding of the CB solution for all TSPs.

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5. By November 2023, VIL had successfully showcased the Emergency Broadcast capability using cell broadcast technology on its live network in each circle to DoT and NDMA officials, earning commendations for the results. Celltick played an extremely crucial role in supporting VIL to meet DoT's CBC requirements including by upgrading their existing platform to include disaster alert messaging and polygon-based location broadcasting, integrated it with VIL's nationwide 4G and 2G networks, and working closely with VIL's central and circle operations. They leveraged their global experience for successful implementation and actively participated in discussions with government agencies from the start of this project.

6. With this humongous effort spanning over 18 months from VIL as well as Celltick, from a network integration perspective, VIL is now fully prepared to launch the CBC disaster alert service. The only remaining step is to upgrade the CBC platform to enhance capacity and resiliency, which was to be done upon receiving funding from NDMA as per the agreement between DoT and the Telecom Service Providers (TSPs).

7. It may be appreciated that at this critical juncture, DoT's request to implement the full fledged CDOT CB solution in our network, would present substantial challenges and also require significant efforts. This transition would necessitate starting the project anew, nullifying the efforts put in till date by all stakeholders including DoT and NDMA officials.

8. Notwithstanding the above, it is submitted that if VIL is to consider implementation of the CDOT CBC platform in its network, we would like to draw the attention of the DoT to the following critical aspects:

a) VIL currently has complex network of 2G and 4G technologies and plans to launch 5G soon, with 880 BSCs for 2G and 140 MMEs for 4G across VIL's nationwide network. Since CBC integration in 2G is network OEM specific integration, CDOT will have to develop this interface for all the 4 OEMs of 2G technology (Nokia, Ericsson, ZTE & Huawei) present in VIL network. Considering the fact that CDOT has integrated their CBC solution with products from relatively limited number of Vendors, longer lead time for this integration and testing is expected for complex network like VIL. Since the 2G equipment are old and any interoperability issues would necessitate OEM support leading to additional efforts and time. CDOT will also have to integrate and test with Nokia, Ericsson, ZTE & Huawei nodes in the VIL 4G network. In the case of 5G, CDOT will have to integrate and test their platform to the VIL selected vendor/OEM partner. NDMA / CDOT will have to bear these costs.

b) Integrating the CBC platform involves complex tasks such as edge-level integration with VIL network nodes, involving establishing connectivity, integration, performance fine tuning to meet the DOT guidelines, rigorous testing of the new CBC platform in every circle before demonstrating the services to the DOT and NDMA officials for their approvals.

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c) Given the overall complexity and scale of this project, diversity of technologies & network OEMs in VIL's network, integration of the CDOT CBC platform into VIL's PAN India network may require 12 to 15 months for it to be launch ready across all circles. The pertinent point to be noted is that CDOT has to play a pivotal role in success of this program in terms of technology integration and skilled resource requirement to work with VIL and OEMs.

9. Having said that, we would like to also bring to your kind attention that we are already engaging with CDOT on implementation and have already asked for its comments on the following critical broad requirements that would be required to be fulfilled by CDOT, for any decision to be taken by VIL to partner with it for the CBC implementation.

a) *CDOT shall be responsible for procuring and deploying a comprehensive end-to-end solution, which includes hardware (servers, storage, network switches, routers, load balancers, firewalls, etc.), third-party software, and application software (including any software requirement from the VIL network OEMs (current & future), along with necessary tools for troubleshooting integration and/or performance issues and providing necessary number of teams and human resources for integration and operations at its own cost.*

b) *CDOT shall lead the integration of their CBC platform with VIL's network nodes from various OEMs and, if necessary, customize the application software to meet network integration requirements, as per the current installations, any equipment swaps or upgrades and future network expansion plans of VIL including 5G. VIL will provide network integration support.*

c) *CDOT shall operate and manage end to end CBC service, overseeing the CBC platform and its operations, including on-field support for testing and issue resolution. CDOT's team shall collaborate closely with VIL and VIL's partner teams (including planning, operations, SNOC, central & circle teams, and IT) to resolve any issues that arises. In case of any issues with the service, CDOT shall be responsible to trouble shoot an issue and identify the root cause. CDOT's team should raise issues to VIL for any network-related issues with required artifacts. All field support for testing to resolve these issues will be provided by CDOT.*

d) *CDOT shall be responsible to manage lifecycle of the entire CBC platform stack in terms of timely hardware refresh (servers, storage, network switches, routers, load balancers, firewalls, etc.), version upgrades of core CBC application, all third-party software and all technology tools including Annual Maintenance Contracts.*

e) *CDOT team will do the complete project management and during this process CDOT's team shall need to travel to various circles for testing, troubleshooting, demonstrations, meetings with regulatory bodies and final Acceptance Testing with DOT/NDMA.*

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f) *The CDOT platform must conduct Interoperability testing with nodes deployed by all OEMs within VIL's network; VIL will not provide a lab environment for this Interoperability testing.*

g) *The CDOT CBC platform must comply with VIL's security policies.*

h) *CDOT platform shall ensure conformance to the Service Level Agreements (SLAs) and Key Performance Indicators (KPIs) stipulated by DoT/NDMA for disaster alert messaging, including deployment and management of a Disaster Recovery platform/site.*

10. However, CDOT in its reply dated 29 July 2024 has not addressed any of the concerns that have been highlighted by VIL. Copy of CDOT reply is attached as Annexure-1.

11. It may be appreciated that if VIL is to consider implementation of the CDOT CBC platform in its network :-

a) **The broad requirements highlighted by VIL above, will need to be addressed by CDOT.**
b) **Given the overall complexity and scale of this project, diversity of technologies & network OEMs in VIL's network, integration of the CDOT CBC platform into VIL's PAN India network may require 12 to 15 months for it to be launch ready across all circles.**
c) **As per the agreed model in case of Cell tick platform with NDMA/DOT, in case of CDOT platform also, all costs (one time and recurring) associated with this project during all phases of implementation and operation of the CDOT CBC platform will be borne by CDOT/NDMA and VIL will not bear any cost related to this platform.**

We hope that our above submissions will merit your kind consideration and support.

Warm Regards,

Gagandeep Bajaj

Gagan Deep Bajaj
Vice President – Regulatory & Corporate Affairs
Vodafone Idea Limited

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21. NDMA issued a letter dated 08.08.2024 to the respondent no.1/MHA, referring to the meeting held on 04.07.2024 and pointing out that implementation of the Cell Broadcasting System had already been undertaken by C-DOT and the petitioner. NDMA further stated that the project in its entirety, along with financial implications, was ready to be sanctioned and that details had been forwarded to the MHA on 27.05.2024. In the said communication, NDMA categorically noted delays and shortcomings in C-DOT's Cell Broadcast solution. It recommended that research and development (R&D) was not required for implementation, as the solution was commercially available off the shelf, and suggested that a tender process be considered. NDMA reiterated its recommendation for an open tender in its subsequent letter dated 05.09.2024, suggesting adoption of a multi-vendor solution for Phase-II of the Sachet project.

22. NDMA categorically stated that, as recommended by DoT, implementation was to be carried out by two agencies. The choice of implementing partner had been decided by the Telecom Service Providers and approved by DoT. NDMA also submitted a detailed objective analysis of the capabilities and performance of C-DOT vis-à-vis the petitioner, unequivocally stating that DoT's altered approach was at complete variance with its earlier stance, which had been acceptable to all stakeholders, and had resulted in inordinate delay. NDMA emphasized that Airtel and Vodafone-Idea together accounted for more than 50% of the subscriber base nationwide, and that testing C-DOT's solution across all their circles would take considerable time, thereby depriving citizens of a vital early warning mechanism. Consequently, NDMA strongly recommended that the current proposal be revisited, either by reverting to the two-vendor solution or by

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adopting an open tendering process. The letter dated 08.08.2024, annexed as Annexure P-25 to the present petition, is as under:

F.No.17/01/2021/Comn&IT(112569) Dated, the 8th Aug., 2024.

Sub: Pan India Implementation of Cell Broadcast (CB).

Respected Sir,

Please refer to meeting chaired by the Home Secretary on the subject held on 04 July 2024.

2. I am writing to you in connection with implementation of Pan India CB solution for instant delivery of Alerts pertaining to imminent hazards like Lightening, Industrial Disasters (gas leak and radiation hazards), Tsunami etc which have a very short lead time to undertake mitigation measures in order to save lives and property.

3. NDMA had undertaken proof of concept of CB technology in its CAP integrated alert platform project. The proof of concept was carried out successfully with the help of multiple implementing vendors and Telecom Service Providers (TSPs). On 16 Mar 2023, during a briefing to PMO, directions were issued by the PMO to complete implementation of this project by 01 Nov 2023. Various activities and decisions taken on the subject are listed chronologically at Appendix 'A' attached.

4. The delay from the deadline of 01 Nov 2023 was primarily due to extensive testing with each TSP in all circles and validation of financial implications by DOT. The project in totality with financial implications was ready to be sanctioned and the details were forwarded to MHA on 27 May 2024. In this project, as recommended by DOT the implementation was to be carried out by two agencies, namely CDOT (for BSNL, MTNL and Reliance-Jio) and Utimaco (for Bharti-Airtel and Vodafone-Idea). The choice of implementing partner was decided by the TSPs and approved by DOT.

5. An objective analysis of capabilities and performance of CDOT and Utimaco solutions is attached as Appendix 'B'.

6. This issue was deliberated once again in the meeting chaired by the Home Secretary on 4 Jul 2024 wherein on insistence by DOT directions were issued to seek willingness of Bharti-Airtel and Vodafone-Idea to incorporate CDOT solution. Accordingly, on 30 Jul 2024, DOT issued directions to this effect to these two TSPs. CDOT has now on 07 Aug 2024, approached DOT for convening a meeting with these two TSPs to initiate the process of testing and finalizing financial modalities.

7. It is submitted that the change in the approach to implement this project by DOT is resulting in inordinate delay in completion of this project. Bharti-Airtel and Vodafone-Idea together have more than fifty percent subscriber base across the country and testing CDOT technology across all circles and finalizing financial implications will take considerable time thereby depriving citizens of this very important means of early warning.

8. NDMA, in the interest of promulgating directions of PMO in a timely manner and greatly enhancing early warning capability of the nation, strongly recommends that the current proposal of DOT which is in variance with their earlier stance acceptable to all stakeholders should be revisited. Accordingly, if deemed necessary, MHA may consider issuing directions to acquire services of CB for pan India implementation by means of an open tender since the implementation of CB does not involve and R&D and the solution is available commercially off the shelf. Alternately, the already approved methodology of two vendor based solution may be adopted.

with highest regards.

Yours sincerely,

(Rajendra Singh)

Shri A. K. Bhalla
Union Home Secretary
MHA, North Block

23. *Vide* letter dated 05.09.2024, NDMA informed MHA that none of the Telecom Service Providers had given express consent to adopt C-DOT's solution. NDMA further recorded that Airtel and Vodafone-Idea had engaged the petitioner pursuant to DoT's directions, and that after extensive pan-India integration trials spanning nearly 18 months, their networks were ready to provide Cell Broadcast services on the petitioner's platform. The communication dated 05.09.2024 is as under:

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By:ABHISHEK THAKUR
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भारत सरकार
राष्ट्रीय आपदा प्रबंधन प्राधिकरण
एन.डी.एम.ए. भवन, ए – १, सफदरजंग इंक्लेव, नई दिल्ली – ११००२९
Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
"NDMA Bhawan", A-1, Safdarjung, Enclave, New Delhi –110029

No.17/01/2021/CAP/DoT/CIT (115341) Dated: 05 Sep 2024

The Additional Secretary (DM & PM)
Ministry of Home Affairs (DM Division),
193, A-1, North Block
New Delhi – 110 001 (jsdm@nic.in)

Subject: Implementation of Cell Broadcast (CB)

1. Please refer to the following (copies enclosed):-

(a) DOT OM 15-2/2021-DM dated 30 Jul 2024 addressed M/s Bharti Airtel and M/s Vodafone-Idea Limited (VIL) directing them to implement CDOT solution.

(b) DOT OM 15-2/2021-DM dated Nil Aug 2024 enclosing responses received by DOT from Airtel and VIL.

(c) DOT OM F. No. 15-2/2021-DM dated Nil Aug 2024 enclosing Techno Commercial Proposal for Implementation of CB services submitted to DOT by CDOT.

2. Responses of Airtel and VIL. During the meeting held under the chairmanship of Home Secretary on 4th July 2024, directions were issued to DOT to seek willingness of all service providers to engage CDOT as a single implementing agency for CB solution under CAP. DOT reached out to both the service providers vide their OM referred to at Ser 1(a). Responses received from the service providers to DOT have been forwarded to NDMA by DOT vide their OM referred to at Ser 1(b). On perusal of the responses from the service providers, the following has emerged:-

(a) Airtel and VIL had requested CDOT to furnish various technical details and confirmations. CDOT, while responding to Airtel on 05 Aug 2024 and VI on 29 July has not furnished the required technical details and confirmations. Both TSPs have raised their concerns about the non-committal reply received from CDOT. Airtel has commented in the mail "*Their (CDOT) response was quite general in nature (one page) against our detailed document (25 pages)*". VIL has commented in their email "*We have already asked for comments on critical broad requirements. CDOT in its reply dated 29 July has not addressed any of the concerns that have been highlighted by VIL*".

(b) Both service providers have raised their concerns about integration with multiple vendor technology, especially for 2G and 4G. It may be noted that CDOT has not been able to achieve 100 % integration with 2G technology in their CB solution for BSNL. It is also highlighted that 2G subscriber base comprises of the most vulnerable strata of society and 100 percent integration is of paramount importance.

(c) None of the TSPs has given their express consent on adopting CDOT solution. Their commitment is subject to CDOT furnishing details as asked for followed by successful integration with multiple technology and pan India integration testing. Airtel has quoted "*We are happy to engage with CDOT for POC of CB however, same cannot be initiated without receiving the complete details from your side*". VIL has quoted "*if VIL is to consider implementation of the CDOT CBC platform in its network, the broad requirements highlighted by VIL will need to be addressed by CDOT*".

(d) Subsequent to CDOT response to technical and general requirements, the POC will take substantial time thus further delaying the implementation of the project which has already exceeded the deadline of 01 Nov 2023 laid down by the PMO. Quoting VIL email "*Given the overall complexity and scale ...... integration of CDOT CBC solution into VIL's PAN India network may require 12 to 15 months*".

(e) Both service providers have confirmed that based on directions from DOT, they engaged Celltick for CB solution and after extensive pan India integration trials spanning nearly 18 months and their network is ready to provide CB on Celltick platform. Quoting VIL email "*With its humongous effort spanning over 18 months from VIL as well as Celltick, from a network integration perspective, VIL is now fully prepared to launch the CB disaster alert service*". Quoting Airtel email "*Airtel has already conducted both small and large scale PoC tests for CB across India with our current implementation partner, Celltick*".

3. Techno Commercial Proposal (TCP)by CDOT for Implementation of CB services. CDOT has forwarded a TCP for implementation of CB to DOT which has been forwarded to NDMA vide DOT OM referred to at Ser 1(c). As directed, during the meeting under the chairmanship of Home Secretary held on 4th July 2024, CDOT was required to submit TCP after confirmation of willingness by service providers and formulation of technical requirements by NDMA. **Submission of a TCP for a project to be deployed pan India without confirmation/consultation from Service Providers being the single point of contact for all Service Level Expectations/Agreements and consultation with NDMA does not merit consideration.**

4. It is reiterated that in spite of directions of the PMO to implement CB by 01 Nov 2023, there has been an inordinate delay in finalizing the project. The responses from the service providers and the Techno commercial proposal of CDOT indicate that subject to successful integration testing, it may take another 12 to 18 months to implement the directions of PMO. Speedy implementation of CB assumes greater importance as dissemination of SMS from CAP platform is yet to be optimised and there have been numerous reports of delays in dissemination of Alerts received from many States like West Bengal, Gujrat, Madhya Pradesh and Nagaland.

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5. NDMA recommends that the multi-vendor solution which was finalized, acceptable to all stakeholders and is implementable in less than 3 months' time may be considered to ensure timely implementation in accordance with directions of the PMO. Your attention is also invited to DO written by Member & HOD, NDMA vide 17/01/2021/Comn&IT dated 08 Aug 2024 addressed to the Union Home Secretary (copy enclosed).

6. This has the approval of HOD, NDMA.

Yours faithfully,

Nawal
5/9/24

(Nawal Prakash)
Joint Advisor (IT)

24. Thereafter, respondent no.1/ MHA, convened another meeting on 19.09.2024. In this meeting, the decision taken on 04.07.2024 was reiterated, and it was stated that the meeting was called to finalize the pathway from proof of concept to a commercial-grade solution, including scope, implementation, and project timelines. It was allegedly stated by Respondent No.4, C-DOT, that its equipment and hardware (servers) had already been installed with Airtel and Vodafone-Idea. Respondent No.3, NDMA, however, raised concerns regarding the timelines specified by C-DOT, which sought a period of 12 months for deployment. Despite prior deficiencies in C-DOT's solution, it was allegedly decided that C-DOT would be granted nationwide single implementation of the CAP-based Cell Broadcasting project.

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25. It is in the aforesaid background that the present petition has been filed.

SUBMISSIONS ON BEHALF OF THE PETITIONER

26. It is the case of the petitioner that the impugned decision of respondent nos. 1 and 2, that is, appointment of respondent no.4/ C-DoT as the sole implementing agency for the Cell Broadcasting System (CBS), is vitiated by lack of authority, in breach of the Disaster Management Act, 2005, non-compliance with the General Financial Rules, 2017 (GFR), absence of contemporaneous justification for bypassing open tender, disregard of technical evaluation, and breach of legitimate expectation and public trust.

27. It is submitted that respondent no.3/ NDMA is the statutory nodal authority for CBS implementation under the Disaster Management Act, 2005, including the selection of the implementing agency. NDMA, *vide* letters dated 08.08.2024 and 05.09.2024 categorically flagged shortcomings in C-DOT's solution and recommended either adoption of a two-vendor model or an open tender process. Despite NDMA's statutory authority and repeated objections and recommendations, those views were disregarded by respondent nos.1 and 2 in appointment of C-DOT as the sole implementing agency.

28. The petitioner contends that Rule 194 of GFR, 2017, (which deals with procurement procedures for "consultancy services") is inapplicable to the present matter. It is submitted that the CBS constitutes a "non-consultancy service" and therefore Rule 204 of GFR, 2017, governs procurement in the present matter. It is submitted that Rule 204 permits

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procurement by nomination only in exceptional circumstances and requires detailed contemporaneous justification to be an integral part of the proposal.

29. The petitioner asserts that the respondents have failed to comply with the mandatory requirements of Rule 204. There is no contemporaneous record demonstrating proper justification for bypassing the tender process. The justifications advanced belatedly in these proceedings, viz. "natural continuation," "urgency," or "national security," do not satisfy the requirements of Rule 204 and cannot validate the arbitrary appointment of C-DOT as the sole implementing agency.

30. Learned counsel for the petitioner further submits that the respondents' reliance on "national security" and "indigenous technology" is ex facie unsustainable, as the said grounds do not find mention in the impugned decision and were raised only subsequently in affidavit/s filed before this Court, amounting to post facto rationalisations.

31. The petitioner points out that CAP Phase-I SMS alerts continue to operate through foreign vendors, a substantial proportion of Telecom Service Provider equipment is sourced from non-Indian vendors, and operational control over CBS remains with NDMA and the Department of Telecommunications (DoT). It is submitted that if security and indigenisation were genuine and decisive concerns, they ought to have been incorporated as conditions in a transparent tender process. The petitioner, an indigenous Category-1 Make in India Company, already compliant and integrated with major TSPs, offered comprehensive transfer-of-technology, and it is submitted that this thereby met any such requirement.

32. It is submitted that C-DOT's techno-commercial proposal and technical bid did not comply with the requirements of the Request for

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Proposal (RFP) dated 07.10.2024. The petitioner relies upon the report of the Technical Evaluation Committee (TEC) dated 27.11.2024, which expressly rejected C-DOT's proposal as non-compliant with essential and inescapable requirements. It is contended that no fresh evaluation was undertaken after C-DOT submitted a revised proposal on 28.12.2024 and the core deficiencies persisted. The absence of re-evaluation, despite NDMA's insistence that the RFP criteria continued to apply, demonstrates that the respondents acted in disregard of mandatory statutory and technical safeguards.

33. It is contended that the departure from the constitutionally mandated rule of open tender was effected without cogent justification. Judicial review requires scrutiny of whether such departure is supported by contemporaneous reasons consistent with Article 14 of the Constitution and the GFR, 2017.

34. The petitioner submits that its platform is field-proven and has been demonstrated successfully, and is already integrated with Airtel, Vodafone-Idea and BSNL. The petitioner refers to letters from Airtel and Vodafone-Idea dated 14.08.2024 and 16.08.2024, respectively, in which, the said TSPs expressly preferred the petitioner and cautioned that replacing it with C-DOT would cause delay and operational risk. The petitioner further states that it has approximately 85 CBS deployments worldwide, has been selected through open global tenders, and has successfully implemented CBS for disaster alerts in Andhra Pradesh. It is thus submitted that the petitioner was ready and capable of immediate implementation.

35. The petitioner submits that the impugned decision violates the doctrines of promissory estoppel and legitimate expectation, inasmuch as the

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respondents had repeatedly assured that Telecom Service Providers would retain autonomy to select their implementation partners, and relying upon the said assurances, the petitioner undertook extensive trials and integration, and achieved readiness by November 2023. The abrupt imposition of C-DOT, despite the petitioner's compliance and preparedness, constitutes breach of fairness and legitimate expectation.

36. It is further submitted that the unilateral designation of C-DOT as the sole implementing agency, while ignoring established guidelines, technical assessments and NDMA's statutory role, the impugned decision violates the doctrine of public trust. The petitioner contends that the State, as a trustee of public resources, is bound to act in good faith and protect public interest. Public safety cannot be compromised for cost considerations or for promotion of indigenous technology, particularly when NDMA itself has found C-DOT's solution deficient.

37. The petitioner draws attention to the steps taken by the respondents in the aftermath of the present petition, including NDMA's Memorandum of Understanding with C-DOT dated 28.02.2025 and the proposed launch of CBS. The petitioner submits that the same are also vitiated. Reference is made to the order dated 10.03.2025, passed in the present proceedings, which records that any agreement/award in favour of C-DOT shall be subject to the outcome of the present petition.

38. In support of its submissions, the petitioner has placed reliance upon the following:

a. ***Ramana Dayaram Shetty v. International Airport Authority of India*** (1979) 3 SCC 489;

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b. ***Bansidhar Construction v. Bharat Coking Coal,*** (2024) 10 SCC 273;

c. ***Raunaq International Ltd. v. I.V.R. Construction Ltd. and Others***, (1999) 1 SCC 492;

d. ***Mohinder Singh Gill & Anr vs The Chief Election Commissioner, New Delhi & Ors*** 1978 (1) SCC 405;

e. ***Indian Medicines Pharmaceutical Corporation v. Kerala Ayurvedic Co-operative Society Limited,*** 2023 SCC OnLine SC 5;

f. ***Noida Toll Bridge Company Ltd v. Federation of Noida Residents Welfare Association,*** 2024 SCC OnLine SC 3831;

g. ***Global Rescue Foundation v. Union of India,*** 2019 SCC OnLine Del 12244;

SUBMISSIONS ON BEHALF OF RESPONDENT NO(s). 1-3

39. At the outset, it is submitted that the challenge to the Office Memorandum dated 01.10.2024 is misconceived and devoid of merit. The said decision was premised upon the considerations of larger public interest, the need for uniformity and the requirement of a coordinated nationwide implementation of the Cell Broadcasting System (CBS) under the Common Alerting Protocol (CAP) based Integrated Alert System "Sachet."

40. It is submitted that the impugned decision to designate respondent no. 4/ C-DOT as the sole implementing agency for the nationwide CBS was taken after due deliberation and in accordance with law. The said decision was directed to ensure operational ease, cost efficiency, seamless integration across all Telecom Service Providers, uniformity and coordinated nationwide

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implementation of a life-saving alerting mechanism. It is contended that a single implementing agency was necessary to avoid fragmentation, interoperability issues and delay in rollout. Multiplicity of vendors would have undermined reliability and timeliness of alerts during disasters. The adoption of a single agency was therefore a considered policy decision taken in the larger interest of public safety.

41. It is further submitted that the decision followed structured inter-ministerial deliberations chaired by the Union Home Secretary on 04.07.2024 and 19.09.2024, attended by the representatives of the Ministry of Home Affairs (MHA), National Disaster Management Authority (NDMA), Department of Telecommunications (DoT), and other stakeholders. In the meeting dated 04.07.2024, it was discussed that a single agency for the complete solution across all TSPs would be prudent, and DoT was directed to seek willingness from all service providers. In the meeting dated 19.09.2024 it was agreed in principle to assign nationwide implementation of CAP to C-DOT, with NDMA to provide clear requirements and C-DOT to submit a detailed proposal for approval.

42. Learned counsel for the respondents submits that pursuant to the aforesaid meeting dated 19.09.2024, NDMA issued an RFP to C-DOT on 07.10.2024. Although the initial proposal was found unresponsive by the Technical Evaluation Committee on 27.11.2024, C-DOT submitted a revised proposal on 28.12.2024 incorporating NDMA's observations. The revised proposal, on 02.01.2025, was placed before the Appraisal Committee chaired by the Head of Department, NDMA and was approved with concurrence of the Financial Adviser and other evaluators. The proposal was thereafter approved by the Sub-Committee of the National

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Executive Committee (SC-NEC) (chaired by the Union Home Secretary) on 23.01.2025 and sanctioned by the Hon'ble Union Home Minister on 19.02.2025 for an outlay of Rs. 99.82 crores, funded from the Preparedness and Capacity Building window of the National Disaster Response Fund (NDRF). The OM dated 19.02.2025 is as under:

No. 47-02/2025-DM-III -239-245
Government of India
Ministry of Home Affairs
(Disaster Management Division)
*****

3rd Floor, B-Wing, NDCC-II Building,
Jai Singh Road, New Delhi – 110001
Dated ~~17th~~ 19th February, 2025

OFFICE MEMORANDUM

Sub: Sanction of Scheme "implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks" to be funded under Preparedness and Capacity Building funding window from National Disaster Response Fund.

The sanction of the Competent Authority is hereby accorded to the scheme of 'Implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks' for Rs.99.82 crore [Rupees Ninety Nine Crore and Eighty Two Lakh only] with the implementation timeline for 6 months with 3years warranty tobe funded from the Funding Window of Preparedness and Capacity Building under National Disaster Response Fund (NDRF).

2. The Project is to be implemented by National Disaster Management Authority (NDMA) in partnership with all States and UTs and with C-DoT as implementation partner. In CAP Phase-1 project, C-DoT has developed a state-of-the-art Solution for ITU Common Alert Protocol based 'SACHET' platform under the guidance of NDMA and Department of Telecommunications (DoT). Therefore, approval of Hon'ble Union Home Minister is obtained for C-DoT as implementation partner on nomination basis for the instant scheme also.

3. Component-wise financial outlay for the Scheme is as under:

Component No.	Item	Cost (in Rs. Crore)
1	CB Solution Software including support during 3years warranty period	46.56
2	Integration services including support during 3 years warranty period	21.00
3	Project implementation services	4.47
4	3rd party hardware including support during 3years warranty period	3.68
5	3rd party software including support during 3years warranty period	1.53
6	MPLS connectivity charges from CBE to TSP network edge for 42 months (6months project implementation time + 3years warranty period)	1.84

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7	Cost of 24 X 7 managed services in remote mode for 42 months (6months project implementation time + 3years warranty period)	5.51
	Sub-Total	84.59
	Adding 18% GST	15.23
	Total	99.82

4. The expenditure on the implementation of Scheme will be debited from the Funding Window of Preparedness and Capacity Building under National Disaster Response Fund (NDRF). D/o Expenditure will issue LoA in favour of NDMA to undertake the activities under the proposed funding requirement to cover all planned expenses approved under the Scheme.

5. NDMA will take necessary action for raising demand for release of funds from the prescribed funding window and ensure adherence to the following as also decided during the SC-NEC meeting held on 23.01.2025:

i. Guidelines on Constitution and Administration of Preparedness and Capacity Building funding window under NDRF/SDRF issued vide order dated 22.04.2022 based on the recommendation of XV Finance Commission.
ii. Due convergence of funds already sanctioned under CAP Phase-1 e.g. for CAPEX as well as sustenance of Rs.151.34 crore for 10 years.
iii. To bring in synchronization of project activities of the instant proposal with the solutions already available with C-DoT.
iv. No duplication in terms of hardware and software procured from other sources of the Government of India to C-DoT
v. Submission of deliverables and Utilisation Certificates for disbursement of funds;
vi. Provisions of General Financial rules 2017 while incurring expenditure under the scheme as well as for payment of advances to be given to C-DoT after signing of MoU; and
vii. All other codal formalities.

(Gouri Shankar Jha)
Under Secretary to the Government of India
Tel: 011- 23438144
Email:usdm3-mha@nic.in

43. Attention is drawn to the letter dated 28.02.2025, addressed by the NDMA to C-DOT, whereby, NDMA consented to proceed with the signing

of MoU with respondent no.4/ C-DOT, as regards engagement of C-DOT as the sole agency nationwide for CBS implementation. The said letter dated 28.02.2025 is as under:

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राष्ट्रीयआपदाप्रबंधनप्राधिकरण
एन.डी.एम.ए. भवन, ए – १, सफदरजंगइंक्लेव, नईदिल्ली – ११००२९
Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
"NDMA Bhawan", A-1, Safdarjung, Enclave, New Delhi –110029

No. 17/01/2021/CAP/DoT/CIT (115341) Dated: 28 Feb 2025

To,

The Chief Executive Officer (CEO),
Centre for Development of Telematics (CDOT),
CDOT Campus, Near Chhatarpur Metro Station,
Mehrauli, New Delhi (ceo@cdot.in)

Subject: **IMPLEMENTATION OF INDIGENOUS CELL BROADCAST SOLUTION FOR INDIAN TELECOM NETWORKS**

Please refer following:-

(a) MHA (DM Division) OM No. 47-02/2025-DM-III-239-245 dated 17/19 Feb 2025. (Copy attached)
(b) MHA (DM Division) OM No. 47-02/2025-DM-III-76-90dated 29 Jan2025. (Copy attached)

2. The necessary approvals for progressing the implementation of Cell Broadcast have now been received vide letter under reference above. A meeting to finalize the MoU in an early time frame was also conducted on 27 Feb 2025 wherein it was requested that observation of DoE as mentioned in letter under reference (as applicable) be incorporated in the draft MoU along with proposed acceptance procedure.

3. Accordingly, it is requested that draft MoU be finalized as early as possible and date for signing of MoU be informed.

28/02/25

(Bhupender Singh)
Asstt Advisor (Comn & IT)

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44. The aforesaid procedure culminated in an MoU dated 28.02.2025 between NDMA and C-DOT, consistent with CAP Phase-I, and the techno-commercial proposal submitted by C-DOT was appraised by NDMA in the context of the 'Guidelines on Constitution and Administration of Preparedness and Capacity Building Funding Window under the National Disaster Response Fund (NDRF) and State Disaster Response Fund (SDRF)'. The respondents assert that the appraisal, recommendation and approval were carried out in accordance with the said guidelines.

45. It is submitted that single-source selection in the present case is squarely covered by Rule 194 of the General Financial Rules, 2017, which permits single-source selection in cases representing a natural continuation of previous work or in situations where timely completion is critical, such as natural disasters. CAP Phase-II is stated to be a continuation of CAP Phase-I, which had been implemented by respondent no. 4 through the "Sachet" platform. The appointment of respondent no. 4 is therefore contended to be logical and permissible under the extant rules and statutory provisions.

46. The respondents further submit that Rule 204 of the GFR, 2017 empowers the competent authority to procure services from a specifically chosen contractor in consultation with the Financial Adviser upon recording justification. The respondents assert that such justification was duly recorded and approved at all requisite levels, including SC-NEC and the Union Home Minister.

47. Reliance is placed upon the Disaster Management Act, 2005, which empowers NDMA, NEC and the Central Government to take necessary measures for disaster preparedness, continuity and response. Allocation of

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Business Rules, 1961, are relied upon to state that disaster management falls within the domain of the Ministry of Home Affairs. It is submitted that the decision to proceed with respondent no.4 was taken in exercise of statutory and policy discretion and cannot be characterised as arbitrary.

48. It is emphasised that the impugned decision is a policy matter of strategic and national importance within the sovereign domain of the Union. Relying upon the principles laid down in ***Shri Sitaram Sugar Co. Ltd. v. Union of India; BALCO Employees' Union v. Union of India; Kirloskar Ferrous Industries Ltd. v. Union of India, and Tata Cellular v. Union of India;*** it is submitted that judicial review of policy decisions is limited and that courts should not substitute their judgment for that of the executive in matters of policy.

49. It is contended that the petitioner has no locus to assail the impugned decision. It is submitted that the petitioner, a foreign entity, was engaged only for proof-of-concept trials by two TSPs, namely Airtel and Vodafone-Idea, under their private contractual arrangements. The petitioner was never issued any Letter of Award, Letter of Intent or any commitment by the respondents for full-scale deployment. It is further submitted that the petitioner's participation in meetings was limited to monitoring the progress of the proof-of-concept and the same cannot be construed as recognition of the petitioner as an implementation agency.

50. The respondents refute the petitioner's reliance on the report of the Inter-Departmental Committee (IDC). It is clarified that the IDC was constituted to recommend funding modalities for Cell Broadcast implementation and not to determine or allocate implementation responsibilities. It is asserted that any suggestion that the IDC recommended

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a dual mechanism with the petitioner as implementer for certain TSPs, is to misrepresent the mandate and findings of the IDC.

51. It is submitted that for effective nationwide implementation of CBS, integration of the Cell Broadcast Entity with the national disaster management platform and uniform deployment across all Telecom Service Providers is imperative. It is further submitted that the solution developed by respondent no. 4 is fully integrated with the "Sachet" platform and has undergone extensive testing with Reliance Jio, BSNL, and MTNL, with deployments for Airtel and Vodafone-Idea at an advanced stage.

52. The respondents emphasise that considerations of national security and indigenisation were central to the impugned decision. C-DOT's platform is described as indigenous, integrated with SACHET, operational across States and UTs, and having disseminated substantial SMS alerts since 2021. A unified implementation by respondent no. 4 ensures consistency, interoperability, and disaster-readiness, and is aligned with the objectives of the Atmanirbhar Bharat initiative promoting indigenous technology in critical infrastructure.

53. It is also pointed out that C-DOT's platform has been operationalised across all States and UTs and has disseminated over 4100 Crore SMS alerts during emergencies since 2021, demonstrating its effectiveness in severe weather events, cyclones and other disasters.

54. The respondents therefore submit that the impugned decision to appoint respondent no.4 as the sole implementing agency for CBS was bona fide, taken in the public interest, in accordance with the applicable statutory and financial rules and after due process and approvals; and that the petition is liable to be dismissed as devoid of merit.

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SUBMISSIONS ON BEHALF OF RESPONDENT NO.4

55. Learned counsel for respondent no.4, Centre for Development of Telematics (C-DOT), submits that its Cell Broadcast (CB) solution is indigenously designed, fully functional, tested and deployed with BSNL, MTNL and Reliance Jio.

56. It is submitted that C-DOT's solution has been tested across 2G, 3G, 4G and 5G networks, and meets all technical parameters. The solution has been certified by the Telecommunication Engineering Centre of the Department of Telecommunications, which issued a Certificate of Mandatory Conformance on 12.04.2024. The said certificate is enclosed as Annexure 1 to the additional affidavit dated 25.03.2025 filed on behalf of the respondent no. 4.

57. The CB solution developed by Respondent No.4 has been recognised as a trusted tested product by the National Security Council Secretariat (NSCS) for deployment in Indian telecom networks:

TRUSTED PRODUCTS

Report generated on 26-11-2024 at 12:55 by 'RAVINDER AMBARDAR' (aravi@cdot.in)

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1. Please ensure that the format given below is only used for submission of One Time Exemption.
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Sl No.	Product Id	Company Name	Requested By	Asset Class	Product Name	Model No.	Date of Approval	Valid Upto	Conditions (If any)
1	PRD_715801	CENTRE FOR DEVELOPMENT OF TELEMATICS	Self Created	Core	C-DOT Cell Broadcast System	CBS - 5G	19-11-2024	18-11-2029	
2	PRD_715800	CENTRE FOR DEVELOPMENT OF TELEMATICS	Self Created	Core	C-DOT Cell Broadcast System	CBS - 4G	19-11-2024	18-11-2029	
3	PRD_715799	CENTRE FOR DEVELOPMENT OF TELEMATICS	Self Created	Core	C-DOT Cell Broadcast System	CBS - 3G	19-11-2024	18-11-2029	
4	PRD_715797	CENTRE FOR DEVELOPMENT OF TELEMATICS	Self Created	Core	C-DOT Cell Broadcast System	CBS - 2G	19-11-2024	18-11-2029	

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58. It is submitted that Phase I and Phase II of the CAP-SACHET project are distinct; Phase I covered SMS dissemination while Phase II introduced Cell Broadcast. Phase II is a natural continuation of Phase I and was entrusted to C-DOT pursuant to a Government-to-Government MoU dated 28.02.2025. It is further submitted that the project was completed within the stipulated six-month period. The shortcomings identified during testing were part of the normal testing process of a novel project; all bugs and deficiencies have since been rectified. The solution has been deployed in live disaster conditions, including Cyclone Montha and the Kumbh Mela, demonstrating operational reliability.

59. The solution has been operationalised pan-India, with State Operation Centres established for NDMA and all State Disaster Management Authorities, and with training and standard operating procedures provided for their operation. The platform integrates alert-generating agencies with Telecom Service Providers through proprietary adapters to ensure secure and efficient dissemination of disaster alerts.

60. It is submitted that the Department of Telecommunications recommended adoption of a single vendor to facilitate better technical supervision and consistent results. The Government's policy of Atmanirbhar Bharat and the objective of promoting an indigenous solution and architecture were material considerations in the decision to designate C-DOT. The decision to entrust C-DOT was taken by the Ministry of Home Affairs in exercise of its sovereign authority, with public safety and national interest as the guiding considerations.

61. It is emphasized that C-DOT's CB solution has received certifications relating to functionality, security and hosting from relevant

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Government agencies, thereby supporting the policy choice for a unified, indigenous implementation.

62. Learned counsel for the respondent submits that interference with the project at this stage would cause irreparable harm to public safety, national preparedness and technological sovereignty.

ANALYSIS AND CONCLUSION

I. The nature of the project and the scope of the challenge

63. The present challenge is directed against the Office Memorandum dated 01.10.2024, insofar as it records the in-principle decision to entrust nationwide implementation of the Cell Broadcasting component of the CAP-based Integrated Alert System ("Sachet") to a single agency, i.e., respondent no.4/ C-DOT.

64. At the threshold, it is necessary to bear in mind the nature of the project. The Sachet project is not an ordinary commercial procurement; it is a public-safety initiative directed towards rapid dissemination of emergency alerts to citizens during disasters. The subject matter of the impugned decision is thus intimately connected with disaster preparedness and the protection of life. This aspect has a bearing on the scope of judicial review.

65. Four principal contentions have been made on behalf of the petitioner: (i) that the impugned decision disregards the statutory primacy of NDMA and its recorded objections; (ii) that the nomination of C-DOT falls foul of the General Financial Rules, 2017, there being no contemporaneous justification for bypassing an open tender; (iii) that the justifications now offered, including "natural continuation", "urgency" and "national security",

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are impermissible post facto rationalisations hit by the principle enunciated in Mohinder Singh Gill (supra); and (iv) that the impugned decision breaches the petitioner's legitimate expectation founded on the respondents' repeated assurances that Telecom Service Providers would be free to choose their implementation partners. These contentions have been dealt with hereunder.

II. Absence of any enforceable right in the petitioner

66. The petitioner's claim is founded, in substantial measure, upon inter-departmental communications, minutes of review meetings, the recommendations of the Inter-Departmental Committee, and letters of support issued by two Telecom Service Providers. It is not in dispute that no Letter of Award, Letter of Intent, or any concluded contractual commitment was ever issued by the respondents in favour of the petitioner. The petitioner's engagement was under its arrangements with Airtel and Vodafone-Idea for proof-of-concept trials; the trials were conducted pursuant to requisitions from, and under the supervision of DoT and NDMA.

67. It is well settled that recommendations and deliberations exchanged between governmental authorities in the course of the decision-making process do not, by themselves, confer any enforceable rights. In ***Mahadeo v. Sovan Devi,*** (2023) 10 SCC 807, the Supreme Court reaffirmed the position in the following terms:

> *"15. It is well settled that inter-departmental communications are in the process of consideration for appropriate decision and cannot be relied upon as a basis to claim any right. This Court examined the said question in a judgment reported as Omkar*

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Sinha v. Sahadat Khan [(2022) 12 SCC 228]. Reliance was placed on Bachhittar Singh v. State of Punjab [1962 SCC OnLine SC 11 : AIR 1963 SC 395] to hold that merely writing something on the file does not amount to an order. Before something amounts to an order of the State Government, two things are necessary. First, the order has to be expressed in the name of the Governor as required by clause (1) of Article 166 and second, it has to be communicated…"

68. The various meetings and communications relied upon by the petitioner, including the minutes dated 31.05.2022, 09.07.2023 and 21.07.2023, the IDC report dated 14.12.2023 and the NDMA communications of August-September 2024, were all steps in an evolving consultative process which had not attained finality.

69. As an entity which participated in the trials at the instance of the TSPs and whose candidature was under active consideration in the consultative process, the petitioner is entitled to invite scrutiny of the decision-making process on recognised public law grounds. However, the absence of a vested right severely narrows the scope of the present writ petition.

III. The disregard of NDMA's recommendations and the alleged volte-face

70. The petitioner has strongly emphasised that the considered objections and recommendations of NDMA, conveyed *vide* communications dated 08.08.2024 and 05.09.2024 (wherein NDMA flagged shortcomings in C-DOT's solution and recommended either continuation of the multi-vendor model or resort to an open tender), were disregarded by respondent nos. 1 and 2 while designating C-DOT as the sole implementing agency. It has also been submitted that until mid-2024, the consistent trajectory of the process

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pointed towards a two-vendor implementation with the petitioner as partner for Airtel and Vodafone-Idea. In this regard, reference has been made to the minutes dated 31.05.2022 and 21.07.2023 recording TSP autonomy in the choice of implementation partner, the meeting dated 09.07.2023 wherein NDMA rejected C-DOT's proposal, the IDC report dated 14.12.2023, and NDMA's communication dated 27.05.2024 recording the two-agency recommendation. It appears that a contrary view was taken in the meeting dated 04.07.2024.

71. The aforesaid contentions do not furnish a cogent ground for interference. It is evident from a perusal of the record that NDMA's views were before the decision-making authority and were deliberated upon; the minutes of the meetings dated 04.07.2024 and 19.09.2024 record NDMA's participation, including its concerns regarding the timelines proposed by C-DOT.

72. Under the Government of India (Allocation of Business) Rules, 1961, disaster management falls within the domain of the Ministry of Home Affairs, and the ultimate decision on the architecture of a nationwide alerting system vested in respondent no.1. A decision which considers and consciously departs from a recommendation, for recorded reasons, cannot be equated with a decision which ignores it. Significantly, NDMA's own subsequent conduct in issuing the RFP dated 07.10.2024, evaluation through its Technical Evaluation Committee and Appraisal Committee, and execution of the MoU dated 28.02.2025, demonstrates that NDMA ultimately aligned itself with, and effectuated, the decision.

73. Also, a change of course by the decision making authorities, is not *per se* a ground of judicial review. The administration is entitled to reassess its

approach in the light of evolving circumstances. What the law frowns upon is change that is unreasoned, covert, *mala fide* or discriminatory. In the present case, the change was effected at a formally minuted inter-ministerial meeting dated 04.07.2024. The same was made conditional upon the willingness of Airtel and Vodafone-Idea; it was communicated to the TSPs *vide* DoT's letter dated 30.07.2024; the responses of the TSPs dated 14.08.2024 and 16.08.2024, as also NDMA's contrary recommendations dated 08.08.2024 and 05.09.2024 were received and the decision was thereafter reiterated at the meeting dated 19.09.2024.

74. The fact that the outcome of the decision making process did not meet with the expectations of the petitioner, has no bearing on the legality thereof. The remit of judicial review extends to verifying that the change of course was effected by the competent authority, upon deliberations, and for discernible reasons, not to evaluating the soundness of the technical or strategic logic underlying the choice of respondent no.4.

75. It would be wholly inappropriate, and beyond the province of this Court in these proceedings, to sit in judgement as to the technical aspects of the model ultimately adopted and / or as to whether a single-agency architecture is, in technical or strategic terms, superior to a two-vendor model.

IV. The applicable provision of the General Financial Rules, 2017

76. The petitioner contends that the engagement of C-DOT is procurement of a "non-consulting service" governed by Rule 204; the respondents invoke Rule 194 (single source selection of consultancy by nomination), relying on clause (i) thereof. The same refers to "*tasks that*

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represent a natural continuation of previous work carried out by the firm". In the course of submissions, reliance was also placed on clause (iv) of Rule 194, as recorded in the order dated 11.11.2025 passed in these proceedings. Rules 194 and 204 read as under:

> *"**Rule 194. Single Source Selection/Consultancy by nomination.** — The selection by direct negotiation/nomination, on the lines of Single Tender mode of procurement of goods, is considered appropriate only under exceptional circumstance such as:*
>
> *(i) tasks that represent a natural continuation of previous work carried out by the firm;*
>
> *(ii) in case of an emergency situation, situations arising after natural disasters, situations where timely completion of the assignment is of utmost importance; and*
>
> *(iii) situations where execution of the assignment may involve use of proprietary techniques or only one consultant has requisite expertise.*
>
> *(iv) Under some special circumstances, it may become necessary to select a particular consultant where adequate justification is available for such single-source selection in the context of the overall interest of the Ministry or Department. Full justification for single source selection should be recorded in the file and approval of the competent authority obtained before resorting to such single-source selection.*
>
> (v) *It shall ensure fairness and equity, and shall have a procedure in place to ensure that the prices are reasonable and consistent with market rates for tasks of a similar nature; and the required consultancy services are not split into smaller sized procurement."*
>
> *xxx xxx xxx*
>
> *"**Rule 204. Procurement of Non-consulting services by nomination.** — Should it become necessary, in an exceptional situation to procure a non-consulting service from a specifically chosen contractor, the Competent Authority in the Ministry or Department may do so in consultation with the Financial Adviser. In such cases the detailed justification, the circumstances leading to such procurement by choice and the special interest or purpose it shall serve, shall form an integral part of the proposal."*

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77. In the considered view of this Court, the deployment, integration and operationalisation of a Cell Broadcasting system across telecom networks partakes predominantly of the character of a non-consulting service; it involves the supply, installation and running of a technological system rather than the rendering of advice or professional counsel. The submission of the petitioner that Rule 204, and not Rule 194, is the applicable provision, therefore, merits acceptance. However, the acceptance of that submission does not carry the petitioner's case materially further, for the reasons which follow.

78. Rule 204 itself contemplates procurement by nomination in an "exceptional situation", upon consultation with the Financial Adviser, with the justification forming an integral part of the proposal. The record discloses that each of these requirements stands substantially satisfied:

(i) The exceptionality of the situation finds reflection in the minutes of the meetings dated 04.07.2024 and 19.09.2024 themselves, which takes note of the ease of implementation and management that would be occasioned by selecting a "single implementation agency". The minutes dated 19.09.2024 refer to the continuing nature of the project with the proof- of-concept (POC) of Cell Broadcasting having been tested in Phase-I and due for roll out in Phase-II.

It can hardly be disputed that the platform sought to be developed is inherently a critical one being in the nature of a life-saving national early-warning system. The same is stated to be in continuum with Phase-I already implemented by C-DOT under the MoU dated 16.01.2020 ;

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(ii) The revised proposal submitted by the respondent no.4/ C-DOT was placed before the Appraisal Committee on 02.01.2025, in the attendance of the Financial Adviser. Upon consideration by the Appraisal Committee, in the presence of the Financial Adviser, the proposal was recommended for being placed before the Appropriate Authority under MHA, that is, Sub-Committee of the National Executive Committee (SC-NEC). According to the respondent nos. 1-3, the decision enjoys the concurrence of the Financial Adviser, inasmuch as a recommendation to place the proposal before SC-NEC is, by the scheme of the governing rules, is a step that follows only upon consideration and approval by the Appraisal Committee. The minutes of the meeting held on 02.01.2025, enclosed in the OM dated 07.01.2025, record the said recommendation as under:

Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
"NDMA Bhawan", A-1 Safdarjung Enclave,
New Delhi –110029

No. 05/184/2020/NDMA/CBT Dated: 07.01.2025

OFFICE MEMORANDUM

Subject: Minutes of Meeting of Appraisal Committee held on 2nd January 2025 at 1130 hrs in the Ops Room of NDMA Bhawan

The undersigned is directed to forward herewith Minutes of Meeting of Appraisal Committee held under the chairmanship of Shri Rajendra Singh, Member & HoD NDMA on 2nd January 2025 at 1130 hrs in Ops Room of NDMA Bhawan to discuss proposal on "Tecno-Commercial Proposal for Implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks for NDMA" from the Preparedness & Capacity Building funding window of National Disaster Response Fund based on the recommendations of 15th Finance Commission for information and necessary action.

R.K. Mishra
7/1/25
(R. K. Mishra)
Under Secretary to the Govt of India
Tel No.011-26701730
E-Mail: cbt@ndma.gov.in

To (Members of the Committee),

1. Member (SAH), NDMA – as special invitee
2. DG, NDRF (Email: dg.ndrf@nic.in)
3. ED, NIDM (Email: ed.nidm@nic.in)
4. Financial Advisor, NDMA
5. Advisor (CBT), NDMA
6. Director, Indian Institute of Technology(IIT), Madras(Email: director@iitm.ac.in)
7. Director, Institute of Rural Management Anand (IRMA), Gujarat (dirofic@irma.ac.in)
8. JA(CBT), NDMA - as Convenor
9. Sr. Consultant (Comn & IT), NDMA – for presentation of the proposal

Copy for information to:

PPS/PS/PA to Member (RS), & HoD NDMA (Chairman of the Committee)

MINUTES OF THE MEETING

Subject: Meeting of Appraisal Committee held on 02.01.2025 at 1130 hrs at NDMA Bhawan, New Delhi to discuss project proposal on "Tecno-Commercial Proposal for Implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks for NDMA"

The Meeting of Appraisal Committee was convened under the chairmanship of Shri Rajendra Singh, Member & HoD, NDMA on 2nd January 2025 at 1130 hrs (in hybrid mode) to appraise proposal on "Tecno-Commercial Proposal for Implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks for NDMA" from the Preparedness & Capacity Building funding window of National Disaster Response Fund based on the Recommendations of 15th Finance Commission.

2. The list of participants is enclosed as Annexure A.

3. Lt Col Surya Prakash Pandey, Joint Advisor (CBT), NDMA and Convener of the Appraisal Committee welcomed all participants and shared agenda of the meeting.

4. Thereafter, the representative from C-DOT made a detailed presentation on the said proposal. The proposal included objective, activities and deliverables.

5. Shri Rajendra Ratnoo, ED NIDM suggested that there should be a graded alert system in the proposal

6. Regarding the observation of ED NIDM, Col K P Singh, Advisor NDMA appraised the committee that the system being developed by C-DOT is for disaster like earthquakes, tsunami, chemical leakages etc where lead time is too less.

7. The Appraisal Committee considered the proposal and recommended to place the proposal before the Appropriate Authority in MHA.

8. The meeting ended with vote of thanks to the Chair.

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(iii) The justification travelled with the proposal through the Appraisal Committee, the SC-NEC and the sanction of the Union Home Minister dated 19.02.2025. The OM dated 19.02.2025 reads as under:

-19-

OFFICE MEMORANDUM

Sub: Sanction of Scheme "implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks" to be funded under Preparedness and Capacity Building funding window from National Disaster Response Fund.

The sanction of the Competent Authority is hereby accorded to the scheme of 'Implementation of Indigenous Cell Broadcast Solution for Indian Telecom Networks' for Rs.99.82 crore [Rupees Ninety Nine Crore and Eighty Two Lakh only] with the implementation timeline for 6 months with 3years warranty tobe funded from the Funding Window of Preparedness and Capacity Building under National Disaster Response Fund (NDRF).

2. The Project is to be implemented by National Disaster Management Authority (NDMA) in partnership with all States and UTs and with C-DoT as implementation partner. In CAP Phase-1 project, C-DoT has developed a state-of-the-art Solution for ITU Common Alert Protocol based 'SACHET' platform under the guidance of NDMA and Department of Telecommunications (DoT). Therefore, approval of Hon'ble Union Home Minister is obtained for C-DoT as implementation partner on nomination basis for the instant scheme also.

3. Component-wise financial outlay for the Scheme is as under:

Component No.	Item	Cost (in Rs. Crore)
1	CB Solution Software including support during 3years warranty period	46.56
2	Integration services including support during 3 years warranty period	21.00
3	Project implementation services	4.47
4	3rd party hardware including support during 3years warranty period	3.68
5	3rd party software including support during 3years warranty period	1.53
6	MPLS connectivity charges from CBE to TSP network edge for 42 months (6months project implementation time + 3years warranty period)	1.84

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7	Cost of 24 X 7 managed services in remote mode for 42 months (6months project implementation time + 3years warranty period)	5.51
	Sub-Total	84.59
	Adding 18% GST	15.23
	Total	99.82

4. The expenditure on the implementation of Scheme will be debited from the Funding Window of Preparedness and Capacity Building under National Disaster Response Fund (NDRF). D/o Expenditure will issue LoA in favour of NDMA to undertake the activities under the proposed funding requirement to cover all planned expenses approved under the Scheme.

5. NDMA will take necessary action for raising demand for release of funds from the prescribed funding window and ensure adherence to the following as also decided during the SC-NEC meeting held on 23.01.2025:

i. Guidelines on Constitution and Administration of Preparedness and Capacity Building funding window under NDRF/SDRF issued vide order dated 22.04.2022 based on the recommendation of XV Finance Commission.
ii. Due convergence of funds already sanctioned under CAP Phase-1 e.g. for CAPEX as well as sustenance of Rs 151.34 crore for 10 years.
iii. To bring in synchronization of project activities of the instant proposal with the solutions already available with C-DoT.
iv. No duplication in terms of hardware and software procured from other sources of the Government of India to C-DoT
v. Submission of deliverables and Utilisation Certificates for disbursement of funds;
vi. Provisions of General Financial rules, 2017 while incurring expenditure under the scheme as well as for payment of advances to be given to C-DoT after signing of MoU; and
vii. All other codal formalities.

(Gouri Shankar Jha)

79. Even if the respondents' invocation of Rule 194 was incongruous, the conditions which Rule 194 identifies as justifying nomination (natural continuation of previous work, emergency and timely completion), are conceptually identical to the "exceptional situation" contemplated by Rule 204. Thus, the essential discipline which Rule 204 contemplates, was

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observed in substance. There was recorded justification, financial concurrence and approval of the competent authority. Phase-I (SMS dissemination) and Phase-II (Cell Broadcasting) are components of a unified alerting project; the implementation of Phase-I by C-DOT furnished continuity of expertise, integration with the Sachet platform and installed infrastructure which extended naturally into Phase-II.

80. At this juncture, it is apposite to advert to the order dated 11.11.2025 passed in these proceedings. During the course of rejoinder arguments, it was strenuously contended on behalf of the petitioner that there was flagrant disregard of the GFR, 2017 in engaging C-DOT as a 'single source vendor', and that Rule 194 was *ex-facie* inapplicable. Taking note of the stand of the respondents that the decision to proceed with C-DOT was based on Rule 194(iv), the concerned respondent/s were directed to file an affidavit clearly stating whether the "full justification" for the single source selection was duly recorded in the file and placed for approval of the Competent Authority, and whether the approval of the Competent Authority was accorded after specifically considering the provisions of Rule 194(iv) of the GFR.

81. In the affidavit filed in compliance with the said order (affirmed on 05.12.2025) on behalf of respondent nos. 1 and 3, it has been candidly acknowledged that Rule 194 was not explicitly cited or adverted to at the stage of proposal submission and appraisal. However, the said affidavit encloses the note sheet containing the justification placed before the competent authority; the record further establishes the appraisal of the revised proposal by the Appraisal Committee on 02.01.2025, its approval by the SC-NEC on 23.01.2025, and the sanction accorded by the Union Home

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Minister on 19.02.2025. In these circumstances, the omission to cite the specific enabling provision does not vitiate the decision. It is well settled that an erroneous or absent reference to the source of power does not invalidate the exercise thereof, so long as the power in fact exists and the substantive conditions for its exercise stand fulfilled. What Rule 204 (as also Rule 194) guards against is an unrecorded and unconsidered nomination, and not a mere failure to recite the relevant rule.

82. In a situation where the substantive safeguards of Rule 204 have been complied with, the decision cannot be said to be vitiated. Importantly, judicial review in procurement matters does not proceed on the footing that every procedural aberration is fatal; the enquiry is whether the decision is *mala fide*, arbitrary or such that no reasonable authority could have arrived at it. The Supreme Court in ***Tata Cellular v. Union of India*** (1994) 6 SCC 651 held as under:

> "***70.*** *It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. ………. There can be no question of infringement of Article 14 if the Government tries to get the best person or the best quotation. The right to choose cannot be considered to be an arbitrary power. Of course, if the said power is exercised for any collateral purpose the exercise of that power will be struck down.*
>
> ***72.*** *Lord Scarman in Nottinghamshire County Council v. Secretary of State for the Environment [1986 AC 240, 251 : (1986) 1 All ER 199] proclaimed:*
>
> > *" 'Judicial review' is a great weapon in the hands of the judges; but the judges must observe the constitutional limits set by our parliamentary system upon the exercise of this beneficial power."*

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__74.__ Judicial review is concerned with reviewing not the merits of the decision in support of which the application for judicial review is made, but the decision-making process itself.

__77.__ The duty of the court is to confine itself to the question of legality. Its concern should be:

> *1. Whether a decision-making authority exceeded its powers?*
>
> *2. Committed an error of law,*
>
> *3. committed a breach of the rules of natural justice,*
>
> *4. reached a decision which no reasonable tribunal would have reached or,*
>
> *5. abused its powers.*

Therefore, it is not for the court to determine whether a particular policy or particular decision taken in the fulfilment of that policy is fair. It is only concerned with the manner in which those decisions have been taken. The extent of the duty to act fairly will vary from case to case. Shortly put, the grounds upon which an administrative action is subject to control by judicial review can be classified as under:

> *(i) Illegality : This means the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it.*
>
> *(ii) Irrationality, namely, Wednesbury unreasonableness.*
>
> *(iii) Procedural impropriety.*

The above are only the broad grounds but it does not rule out addition of further grounds in course of time. As a matter of fact, in R. v. Secretary of State for the Home Department, ex Brind [(1991) 1 AC 696] , Lord Diplock refers specifically to one development, namely, the possible recognition of the principle of proportionality. In all these cases the test to be adopted is that the court should, "consider whether something has gone wrong of a nature and degree which requires its intervention".

__94.__ The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

Based on these principles we will examine the facts of this case since they commend to us as the correct principles."

83. In ***Kirloskar Ferrous Industries Ltd. v. Union of India,*** (2025) 1 SCC 695, the Supreme Court, while emphasizing judicial restraint, held as under:

"***54.*** *Judicial restraint is rooted in the understanding that courts should respect the decisions made by the legislative and executive branches, provided these decisions are legally sound and constitutionally valid. By adhering to judicial restraint, courts avoid overstepping their constitutional role and thereby prevent potential conflicts with the executive and legislative branches. The principle of separation of powers supports the idea that each branch has a unique role, and mutual respect between these branches is essential for the proper functioning of the Government. The courts are to ensure that laws and policies do not infringe upon citizens' rights or exceed the authority granted by law. However, this role does not extend to evaluating whether a policy is "wise" or whether a better one could be devised, and rather this process is entrusted to the legislature and executive, which have the expertise*

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to make these determinations.

55. *The doctrine of judicial restraint, which is central to this discussion, emphasises that courts should exercise caution and avoid involvement in policy decisions, as these are complex judgments that require a balancing of diverse and often competing interests. Policies are crafted based on thorough analysis of social, economic, and political factors, considerations beyond the court's purview. The court is tasked with ensuring that policies do not breach constitutional provisions or statutory limits; however, they should not replace policy-makers' judgments with their own unless absolutely necessary.*

56. *Policy decisions often require the expertise of professionals and specialists in fields such as economics, public health, national security, and environmental science. These domains involve specialised knowledge that Judges, as generalists in legal matters, may lack. For instance, in economic policy, the executive may decide on trade tariffs or subsidies based on extensive data and projections that aim to balance domestic industry support with global trade commitments. The courts, lacking the same level of economic expertise and without the authority to make trade-offs among competing policy objectives, are typically not equipped to second-guess these kinds of decisions.*

57. *While courts have the power of judicial review to ensure that executive actions and legislative enactments comply with the Constitution, this power is not absolute. Judicial review is meant to act as a safeguard against actions that overstep legal boundaries or infringe on fundamental rights, but it does not entail a comprehensive re-evaluation of the policy's wisdom. The judicial review of policy decisions is limited to assessing the legality of the decision-making process rather than the substantive merits of the policy itself. For example, if a government policy infringes on fundamental rights or discriminates against a particular group, the courts have a duty to strike down such policies. However, in the absence of constitutional or legal violations, the courts should respect the policy choices made by the executive or legislature.*

58. *The duty of the court in policy-related cases is primarily to determine whether the policy falls within the scope of the authority granted to the relevant body. If the policy decision is within the executive's legal authority and has been made following proper*

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procedures, the courts should defer to the expertise and discretion of the policy-makers, even if the policy appears unwise or imprudent. This restraint ensures that the courts do not impose its own perspective on policy matters that are rightly the responsibility of other branches.

***59.** Economic and social policies often involve significant redistribution of resources, prioritisation of interests, and balancing of public needs, which requires careful consideration by those with specialised knowledge and broad perspectives. In the realm of economic policy, for instance, questions regarding the allocation of subsidies, fiscal deficits, or budget allocations are best managed by the executive, which has access to economic data and is accountable to the public for its financial management. Judicial interference in such areas risks creating disruptions in the economic balance that policy-makers are trying to achieve.*

***60.** The courts should assume that policy-makers act in good faith unless there is clear evidence to the contrary. As long as the policy does not contravene the Constitution or violate statutory provisions, it is not the role of the courts to question the wisdom or fairness of such policy."*

84. Recently, in ***Pace Digitek (P) Ltd. v. BSNL,*** 2025 SCC OnLine Del 6344, the Division Bench of this Court held as under:

*"**72.** Contrary to the aforesaid judgments relied upon by the petitioners, the respondents including BSNL, have heavily relied upon the judgment of the Hon'ble Supreme Court in Jagdish Mandal (supra). In Jagdish Mandal (supra), the Hon'ble Supreme Court after having considered the law laid down in Tata Cellular v. Union of India, (1994) 6 SCC 651 and Raunaq International Ltd. (supra) succinctly formulated two questions which it mandated that every Constitutional Court while exercising the power of judicial review under Article 226 of the Constitution must consider and examine before interfering in a tender dispute. The said questions are extracted hereunder:—*

> ***"22.** Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made "lawfully" and not to check whether choice or decision is "sound". When the power of judicial*

review is invoked in matters relating to tenders or award of contracts, certain special features should be borne in mind. A contract is a commercial transaction. ***Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court.*** *Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold.* ***Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:***

(i) Whether the process adopted or decision made by the authority is mala fide or intended to favoursomeone*;*

OR

Whether the process adopted or decision made is so arbitrary and irrational that the court can say:"thedecision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached";

(ii) Whether public interest is affected*. If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer/contractor or distribution of State*

> *largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action."*
>
> *(emphasis supplied)*

73. *We find that Jagdish Mandal (supra) also refers to another judgment of the Hon'ble Supreme Court in the case of Air India Ltdv. Cochin International Airport Ltd., (2000) 2 SCC 617 wherein in para 7 it was held that,* ***"…Though that decision is not amenable to judicial review, the court can examine the decision-making process and interfere if it is found vitiated by mala fides, unreasonableness and arbitrariness. The State, its corporations, instrumentalities and agencies have the public duty to be fair to all concerned. Even when some defect is found in the decision-making process the court must exercise its discretionary power under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. The court should always keep the larger public interest in mind in order to decide whether its intervention is called for or not. Only when it comes to a conclusion that overwhelming public interest requires interference, the court should intervene"****.*

(emphasis supplied)

74. *The aforesaid judgments relied upon by the respondents lay down the law that a Constitutional Court may interfere to the extent of examining the decision making process and has complete jurisdiction to interfere provided such decision making process is found to be vitiated by malafides, unreasonableness and arbitrariness. It appears that the Hon'ble Supreme Court was anxious to ensure and declare that while a State has complete discretion while entering into contracts through public tenders, it and its instrumentalities have a public duty and responsibility to be fair to all concerned parties to such public tenders. Of course, this is not to disregard that the primary objective of a Court is to be acutely aware of the paramount public interest which may be involved, while proposing to interfere or interdict a tender process.*

75. *That said, this Court is acutely aware of the fact that no stay or any interim order was passed during the pendency of the present writ petition which resulted in the tender process being proceeded with and declaration of certain bidders as L1 who also furnished*

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PBGs. Further it appears that BSNL has disbursed advance money to certain L1 bidders. Interfering with the tender at this stage and that too having wide amplitude and of such huge amount may create a rippling effect across the 16 packages involved in the tender process. Moreover, the tender and the project it implements is greatly significant and of paramount national importance and interference at this stage may not be conducive to the nation itself keeping in view that the whole nation and every village is being united by OFC which would undoubtedly enhance communication and connectivity and cannot be undermined. Furthermore, as enunciated by the Hon'ble Supreme Court in Jagdish Mandal (supra); Tata Cellular (supra); and Raunaq International (supra), the Constitutional Courts ought to consider whether interference in such matters would be in public interest and in the absence whereof, even if there is an element of error, Courts would do well not to interdict tender process. [See para : 72 and 73 above]. The Hon'ble Supreme Court in R D Shetty (supra) also held that even though there was reason to interfere in the dispute arising in that case, yet, refrained from passing any order in favour of the petitioners. Our interference would surely not serve any public interest since there are a number of bidders who have been declared as successful L-1 Bidders; many of them have already been awarded contracts; furnished their PBGs to the extent of more than Rs. 700 crores; and BSNL appears to have disbursed advance money to the extent of more than Rs. 800 crores and some respondents also claim to have commenced the works too. In contradistinction, our interdiction would create a rippling effect on all the 16 packages and have a nationwide impact on all those bidders who may be otherwise successful on their own merits. It may further cause an unending chaos and multiple litigations, burdening the State unnecessarily. We have no doubt that it may further delay and protract the implementation of the tender, unnecessarily enhancing the project cost which is stated to be Rs. 65,000 crores as of now.

76. *Thus, balancing the controversy, though there has been a display of some error, we do not find any paramount public interest that may impel this Court to interfere or interdict either the tender process or the further award of contracts to the successful L-1 bidders across any of the packages.*

77. *It is trite that exercise of jurisdiction under Article 226 of the Constitution of India is discretionary and relief may not* *necessarily be granted in all cases. In particular, where public interest would far outweigh private interests, then, even where there is some infraction by the State, the Constitutional Courts may refuse to grant relief. Even when some defect is found in the decision-making process, the Court must exercise its discretionary powers under Article 226 with great caution and should exercise it only in furtherance of public interest and not merely on the making out of a legal point. [See : Air India Limited (supra) and followed in Tata Motors Ltd. v. Brihan Mumbai Electric Supply & Transport Undertaking, (2023) 19 SCC 1]. Applying the said principle in the present case, though we find errors in action of the BSNL, for the reasons and the conclusions drawn above in para 75 and 76, we are unable to grant any discretionary relief as sought in the present writ petition. The petition is thus dismissed. Pending applications, if any, too are disposed of."*

85. There can also be no cavil with the proposition that although public contracts should ordinarily be awarded by open and transparent tender process, the same admits of exceptions where the departure is for cogent reasons germane to public interest. In the present case, reasons for the departure exist and stand reflected in the record viz. the continuity of work; the certified technical conformance of C-DOT's platform (Certificate of Mandatory Conformance dated 12.04.2024 issued by the Telecommunication Engineering Centre, Department of Telecommunications, Government of India, and recognition by the National Security Council Secretariat); the stated imperative of uniform, interoperable nationwide implementation of a disaster-alerting system; and the layered approvals culminating in the sanction of the Union Home Minister. Whether these reasons reflect the best technical or strategic course is not for this Court to adjudge; it suffices that they are germane, recorded and cannot be said to be tainted with *mala fides*. Importantly, the choice of a Government-established society (respondent no4/ C-DOT) with an existing government-to-government relationship, for a sovereign public-safety

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function, stands on a materially different footing from the grant of commercial largesse to a private entity by nomination.

86. The proposition that the rule of open tender, though salutary, is not inviolable, is settled by a long line of authorities. In ***Kasturi Lal Lakshmi Reddy v. State of J&K***, (1980) 4 SCC 1, it was held as under:

> ***"22.*** *....... We have already discussed the terms of the impugned Order and it is clear from what we have said that the impugned Order was unquestionable and without doubt, in the interest of the State and even with a microscopic examination we fail to see anything in it which could possibly incur the reproach of being condemned as arbitrary or irrational. It is true that no advertisements were issued by the State inviting tenders for award of tapping contract in respect of these blazes or stating that tapping contract would be given to any party who is prepared to put up a factory for manufacture of rosin, turpentine oil and other derivatives within the State, but it must be remembered that it was not a tapping contract simpliciter which was being given by the State. The tapping contract was being given by way of allocation of raw material for feeding the factory to be set up by the 2nd respondents. The predominant purpose of the transaction was to ensure setting up of a factory by the 2nd respondents as part of the process of industrialisation of the State and since the 2nd respondents wanted assurance of a definite supply of resin as a condition of putting up the factory, the State awarded the tapping contract to the 2nd respondents for that purpose. If the State were giving tapping contract simpliciter there can be no doubt that the State would have to auction or invite tenders for securing the highest price, subject, of course, to any other relevant overriding considerations of public weal or interest, but in a case like this where the State is allocating resources such as water, power, raw materials etc. for the purpose of encouraging setting up of industries within the State, we do not think the State is bound to advertise and tell the people that it wants a particular industry to be set up within the State and invite those interested to come up with proposals for the purpose. The State may choose to do so, if it thinks fit and in a given situation, it may even turn out to be advantageous for the State to do so, but if any private party comes before the State and offers to set up an industry, the State would not be committing breach of any constitutional or legal obligation if it negotiates with such party and agrees to provide resources and other facilities for the purpose of setting up the industry. The State is not obliged to tell such party: "Please wait I will first advertise, see whether any other offers are forthcoming and then after considering all offers, decide whether I should let you set up the industry." It would be most unrealistic to insist on such a procedure, particularly in an area like Jammu and Kashmir which on account of historical, political and other reasons, is not yet industrially*

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developed and where entrepreneurs have to be offered attractive terms in order to persuade them to set up an industry. The State must be free in such a case to negotiate with a private entrepreneur with a view to inducing him to set up an industry within the State and if the State enters into a contract with such entrepreneur for providing resources and other facilities for setting up an industry, the contract cannot be assailed as invalid so long as the State has acted bona fide, reasonably and in public interest. If the terms and conditions of the contract or the surrounding circumstances show that the State has acted mala fide or out of improper or corrupt motive or in order to promote the private interests of someone at the cost of the State, the court will undoubtedly interfere and strike down State action as arbitrary, unreasonable or contrary to public interest. But so long as the State action is bona fide and reasonable, the court will not interfere merely on the ground that no advertisement was given or publicity made or tenders invited. Here, the 2nd respondents approached the State for the purpose of setting up a modern factory for manufacture of rosin, turpentine oil and other derivatives and asked for allocation of resin and the State, with a view to offering an incentive to the 2nd respondents to set up the factory, made the impugned Order awarding the tapping contract in respect of these blazes to the 2nd respondents as a part of a package deal. We have already pointed out and we need not repeat again, that the impugned Order was reasonable and in the interest of the State and in the circumstances, we are clearly of the view that it cannot be assailed as invalid merely because no advertisements were issued inviting offers for setting up a factory and taking the tapping contract as an integral part of the transaction."

87. It is significant that in ***Kasturi Lal*** (supra), the Supreme Court emphasised that the transaction in question was not a "tapping contract simpliciter" directed at revenue maximisation, but an allocation of resources in furtherance of a distinct State policy, and that where the predominant object of the State is not the earning of revenue but the achievement of a larger policy objective, the yardsticks appropriate to ordinary commercial transactions cannot be mechanically applied. The analogy to the present case is apparent; the designation of an implementing agency for a nationwide emergency-alerting system is not a revenue-yielding commercial proposition, but the discharge of a sovereign public-safety function.

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88. To similar effect is ***Sachidanand Pandey v. State of West Bengal,*** (1987) 2 SCC 295, wherein the Supreme Court, upholding the grant of a lease by private negotiation without auction or tender, culled out the governing propositions in the following terms:

> ***"4.*** *.....Obviously, if the government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account, it may not be for this Court to interfere in the absence of mala fides. On the other hand, if relevant considerations are not borne in mind and irrelevant considerations influence the decision, the court may interfere in order to prevent a likelihood of prejudice to the public......*
>
> *xxx xxx. xxx.*
>
> ***40.*** *On a consideration of the relevant cases cited at the Bar the following propositions may be taken as well established: State-owned or public-owned property is not to be dealt with at the absolute discretion of the executive. Certain precepts and principles have to be observed. Public interest is the paramount consideration. One of the methods of securing the public interest, when it is considered necessary to dispose of a property, is to sell the property by public auction or by inviting tenders. Though that is the ordinary rule, it is not an invariable rule. There may be situations where there are compelling reasons necessitating departure from the rule but then the reasons for the departure must be rational and should not be suggestive of discrimination. Appearance of public justice is as important as doing justice. Nothing should be done which gives an appearance of bias, jobbery or nepotism."*

89. The scope of scrutiny mandated by ***Kasturi Lal*** (supra) and ***Sachidanand Pandey*** (supra) is thus confined to ascertaining whether reasons for the departure from the ordinary rule of open tender exist, are germane, and are not suggestive of *mala fides* or discrimination.

90. As stated hereinabove, it would be inappropriate for this Court to travel further and sit in judgment over the rationale, or the technical/strategic

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logic, of proceeding with C-DOT as the sole implementing agency; the comparative wisdom of that choice lies within the domain of the executive.

V. The '*Mohinder Singh Gill*' objection

91. It has been vehemently contended on behalf of the petitioner that the justifications of natural continuation, urgency, national security and indigenisation do not find place in the impugned O.M and have been supplied only through affidavit/s filed in these proceedings. According to the petitioner the same is impermissible in view of the law laid down in ***Mohinder Singh Gill & Anr vs The Chief Election Commissioner, New Delhi & Ors*** 1978 (1) SCC 405. The contention proceeds on the settled principle that validity of an administrative order must be judged by the reasons stated in it and cannot be supplemented by fresh reasons in the shape of an affidavit or otherwise.

92. The principle in ***Mohinder Singh Gill*** (supra) has been taken note of by the Supreme Court in numerous subsequent judgments. In ***All India Railway Recruitment Board v. K. Shyam Kumar***, (2010) 6 SCC 614, the Supreme Court took the view that the principle laid down in ***Mohinder Singh Gill*** (supra) is not applicable where larger public interest is involved and that in such situation additional grounds can be looked into to examine the validity of an order. The relevant extracts are as under:

> *"**44.** We are also of the view that the High Court has committed a grave error in taking the view that the order of the Board could be judged only on the basis of the reasons stated in the impugned order based on the report of Vigilance and not on the subsequent materials furnished by CBI. Possibly, the High Court had in mind the Constitution Bench judgment of this Court in Mohinder Singh Gill v. Chief Election Commr. [(1978) 1 SCC 405]*
>
> ***45.** We are of the view that the decision-maker can always rely upon*

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subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti [(1998) 9 SCC 236] found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. ***The principle laid down in Mohinder Singh Gill case [(1978) 1 SCC 405] is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order.*** *The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained."*

93. A similar approach was adopted in ***PRP Exports v. State of T.N.,*** (2014) 13 SCC 692. The aforesaid judgments in ***All India Railway Recruitment Board*** (supra) and ***PRP Exports*** (supra) came to be considered in ***63 Moons Technologies Ltd. v. Union of India,*** (2019) 18 SCC 401, wherein it was held as under:

> ***"100.*** *Valiant attempts have been made by counsel in the High Court as well as counsel in this Court to support the order on grounds which are outside the order, stating that such grounds make it clear that in any case, the government order has been made in public interest. The celebrated passage in Mohinder Singh Gill [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405] states that : (SCC p. 417, para 8)*
>
> > *"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16 : 1952 SCR 135] : (SCR p. 140 : AIR p. 18, para 9)*
> >
> > *'9. … public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of*

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those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.'

Orders are not like old wine becoming better as they grow older."

We are of the view that it is the Central Government that has to be "satisfied" that its order is in public interest and such "satisfaction" must, therefore, be of the Central Government itself and must, therefore, appear from the order itself. All these valiant attempts made to sustain such order must be rejected.

***101.** However, the learned Senior Advocates on behalf of the respondents have cited All India Railway Recruitment Board v. K. Shyam Kumar [All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC 614 : (2010) 2 SCC (L&S) 293] , which, according to them, renders the judgment in Mohinder Singh Gill [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405] inapplicable where larger public interest is involved. In this judgment, Mohinder Singh Gill [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405] was distinguished thus : (K. Shyam Kumar case [All India Railway Recruitment Board v. K. Shyam Kumar, (2010) 6 SCC 614 : (2010) 2 SCC (L&S) 293] , SCC p. 631, paras 44-45)*

"44. We are also of the view that the High Court has committed a grave error in taking the view [K. Shyam Kumar v. All Railway Recruitment Boards, 2005 SCC OnLine AP 201 : (2005) 4 ALD 411] that the order of the Board could be judged only on the basis of the reasons stated in the impugned order based on the report of Vigilance and not on the subsequent materials furnished by CBI. Possibly, the High Court had in mind the Constitution Bench judgment of this Court in Mohinder Singh Gill v. Chief Election Commr. [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405]

45. We are of the view that the decision-maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti [Madhyamic Shiksha Mandal, M.P. v. Abhilash Shiksha Prasar Samiti, (1998) 9 SCC 236] found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down *in Mohinder Singh Gill case [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405] is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. The finding recorded by the High Court that the report of CBI cannot be looked into to examine the validity of the order dated 4-6-2004, cannot be sustained."*

***102.** It will be seen that there is no broad proposition that the case of Mohinder Singh Gill [Mohinder Singh Gill v. Chief Election Commr., (1978) 1 SCC 405] will not apply where larger public interest is involved. It is only subsequent materials i.e. materials in the form of facts that have taken place after the order in question is passed, that can be looked at in the larger public interest, in order to support an administrative order. To the same effect is the judgment in PRP Exports v. State of T.N. [PRP Exports v. State of T.N., (2014) 13 SCC 692] , SCC para 8. It is nobody's case that there are any materials or facts subsequent to the passing of the final order of the Central Government that have impacted the public interest, and which, therefore, need to be looked at. On facts, therefore, the two judgments cited on behalf of the respondents have no application. Thus, it is clear that no reasonable body of persons properly instructed in law could possibly hold, on the facts of this case, that compulsory amalgamation between FTIL and NSEL would be in public interest."*

94. The somewhat uneven course traversed by the ***Mohinder Singh Gill*** doctrine was comprehensively considered by the Supreme Court in ***SBI v. Tanya Energy Enterprises,*** (2025) 259 Comp Cas 405. The said judgment considers the entire line of authorities. The Supreme Court in ***SBI v. Tanya Energy Enterprises*** (supra) noted the necessity of reconciling the aforesaid decisions and observed as under:

*"**36.** Mohindhr Singh Gill v. Chief Election Commissioner [(1978) 1 SCC 405; 1977 SCC OnLine SC 323.] has been considered by this court in Chairman, All India Railway Recruitment Board v. K. Shyam Kumar [(2010) 6 SCC 614; (2010) 2 SCC (L&S) 293; 2010 SCC OnLine SC 579.] . It has been held there that the principle laid down in Mohindhr Singh Gill v. Chief Election Commissioner [(1978) 1 SCC 405; 1977 SCC OnLine SC 323.] is not applicable where larger public interest is involved and in such*

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a situation, additional grounds can be looked into, to examine the validity of an order. To the same effect is the decision in PRP Exports v. Chief Secretary, Government of Tamil Nadu [(2014) 13 SCC 692; 2013 SCC OnLine SC 1104.] . However, Chairman, All India Railway Recruitment Board v. K. Shyam Kumar [(2010) 6 SCC 614; (2010) 2 SCC (L&S) 293; 2010 SCC OnLine SC 579.] and PRP Exports v. Chief Secretary, Government of Tamil Nadu have been considered in 63 Moons Technologies Ltd. v. Union of India [(2019) 217 Comp Cas 181 (SC); (2019) 18 SCC 401; 2019 SCC OnLine SC 624.] where it has been held in paragraph 102 by a co-ordinate Bench that there is no broad proposition that the law laid down in Mohindhr Singh Gill v. Chief Election Commissioner will not apply where larger public interest is involved. The decisions in Chairman, All India Railway Recruitment Board v. K. Shyam Kumar and PRP Exports v. Chief Secretary, Government of Tamil Nadu were distinguished on the ground that the co-ordinate Benches there had proceeded to consider subsequent materials that emerged for the purpose of validating the order under challenge."

95. The Supreme Court thereafter proceeded to reconcile the position and held as under:

*"**38.** The respective Benches in Commissioner of Police v. Gordhandas Bhanji [1951 SCC 1088; 1951 SCC OnLine SC 70; AIR 1952 SC 16.] , Mohindhr Singh Gill v. Chief Election Commissioner [(1978) 1 SCC 405; 1977 SCC OnLine SC 323.] , Opto Circuit India Ltd. v. Axis Bank [(2021) 6 SCC 707; (2021) 3 SCC (Cri) 105; 2021 SCC OnLine SC 55.] and 63 Moons Technologies Ltd. v. Union of India [(2019) 217 Comp Cas 181 (SC); (2019) 18 SCC 401; 2019 SCC OnLine SC 624.] , in our reading, while mandating what has been noticed above was not required to and, as such, rightly did not go that far in establishing the principle that, in all cases coming before it, the court is necessarily bound to confine itself to the grounds mentioned in the administrative order under challenge and cannot look beyond such grounds at all. While the courts, in course of reviewing administrative orders, may not permit additional grounds not found within the four corners of the said order to be raised in an affidavit or in oral arguments, we are inclined to the view that the factual narrative in such order and the documents referred to therein can certainly be considered together with the case set up in the writ petition, but in appropriate cases. Such cases could include a case, as the present, where the mentioned grounds are found to be*

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untenable and, thus, unsustainable, but an alternative ground (appearing from the factual narrative in the order itself and/or from the records relevant thereto) is traceable which could have validly been mentioned as a ground to support the impugned rejection had there been a proper application of mind by the administrative authority. In all such cases, it would be open to the court to uphold it on such alternative ground subject, of course, to the affected party being put on notice and an opportunity to respond. This approach, which would prioritize fairness and justice over technicalities, does not run contrary to or inconsistent with the law laid down in the afore referred precedents."

96. The position that emerges, therefore, is that as a general proposition the rule in ***Mohinder Singh Gill*** (supra) remains good law and the validity of an administrative order is ordinarily to be tested on grounds stated in it. However, the rule does not altogether disable the Court from considering the factual narrative contained in the impugned order and the documents referred to therein, as also the preceding orders leading up to the issuance of the impugned order.

97. In appropriate cases, the Court may sustain the decision on a ground traceable from such narrative or records, even if they do not find a specific mention in the impugned order as long as, they are clearly discernible. There is thus a clear distinction between supplementing an order/ decision through material extraneous to the record (which is impermissible) and substantiation of the decision on the basis of grounds which are implicit and manifest from the contemporaneous records (the same may be permissible in a given factual context).

98. Importantly also, it cannot be lost sight of that in the very nature of things the impugned OM cannot be read in isolation of the attendant circumstances which led up to its issuance. The impugned OM is not a self-contained, speaking order of an adjudicatory kind. It is a communication

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which records and encloses minutes of meeting dated 19.09.2024 and is in the nature of a crucial step in the decision making process. The said minutes are a part of a chain of events which are inextricably linked to each other. To insist that the impugned order be tested only by what appears within its four corners, divorced from the entire record which led up to it, would be akin to applying ***Mohinder Singh Gill*** (supra) in a manner which would result in distortion/misapplication of the principle laid down therein.

99. In the present case, it is quite evident that the justifications cited by the respondent/ Ministry of Home Affairs, Union of India have not been conjured merely for the purpose of opposing the present petition, they are traceable to the contemporaneous record of which the impugned OM forms a part.

100. The justifications relied upon find an independent anchor in the record antecedent to the present petition. The MoU dated 16.01.2020, followed by the MoU dated 23.08.2021, under which Phase-I (SMS-based dissemination) was entrusted to respondent no.4/C-DOT, predate the impugned OM by several years. The minutes dated 19.09.2024 themselves record the continuing nature of the project, noting that the proof-of-concept for Cell Broadcasting had been tested in Phase-I and was due for roll-out in Phase-II. Further, the Certificate of Mandatory Conformance dated 12.04.2024, and the recognition extended by the National Security Council Secretariat, both precede the impugned OM and were part of the technical record available to the decision-making authority at the relevant time. The status of respondent no.4/C-DOT as a Government-established society, and its pre-existing government-to-government engagement, are matters of record which are independent of, and prior to, the present *lis*.

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101. Thus, none of the justifications relied upon by the respondents can be said to be an afterthought manufactured to meet the petitioner's challenge. Each finds a documentary footing that predates not merely the institution of the writ petition, but the impugned OM itself. It is this antecedent traceability that distinguishes a permissible substantiation of reasons already inherent in the record, from an impermissible post facto rationalisation of the kind proscribed in ***Mohinder Singh Gill*** (supra).

VI. The standard of review and the merits-based objections

102. The petitioner has drawn attention to the fact that the Technical Evaluation Committee (TEC) found C-DOT's initial proposal non-compliant on 27.11.2024 and that no fresh evaluation of the revised proposal dated 28.12.2024 was undertaken; that NDMA had earlier recorded deficiencies and slower dissemination times in C-DOT's solution; and that the petitioner's field-proven platform was ready for immediate deployment.

103. The aforesaid contentions are, in substance, an invitation to this Court to undertake a comparative technical evaluation and to substitute its own assessment for that of the executive. That is impermissible in terms of the dicta laid down by the Supreme Court in ***Tata Cellular v. Union of India,*** (1994) 6 SCC 651; ***Jagdish Mandal v. State of Orissa,*** (2007) 14 SCC 517; ***Michigan Rubber (India) Ltd. v. State of Karnataka,*** (2012) 8 SCC 216. The legal position is well settled that in exercise of the jurisdiction under Article 226 of the Constitution of India, the court reviews the decision-making process, not the merits of the decision; the grounds are concerned with illegality, irrationality and procedural impropriety; and the court does

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not possess the technical expertise to sit in appeal over evaluations made by domain experts.

104. Tested on that touchstone, the merit based objections do not survive. The deficiencies noted by the Technical Evaluation Committee (TEC) on 27.11.2024 were apparently addressed by C-DOT in its revised proposal dated 28.12.2024, which was thereupon appraised by the Appraisal Committee (with the Financial Adviser's concurrence) and approved through the SC-NEC and the Union Home Minister. Whether the appraisal of the revised proposal ought to have taken the form of a fresh reference to the TEC, or whether the Appraisal Committee's scrutiny sufficed, is a matter on which the competent authority's choice is not open to second-guessing. No mala fides are pleaded, much less established.

105. In so far as considerations of national security and indigenisation are concerned, the same reinforces the conclusion that it would be inappropriate for this Court to exercise judicial review. Having perused the record, including the recognition of C-DOT's solution by the National Security Council Secretariat, this Court is satisfied that the invocation of these considerations is not a mere *ipse dixit*.

<u>VII. Discretion, equities and the stage of the project</u>

106. Even where some infraction in the decision-making process is discernible, the grant of relief under Article 226 remains discretionary, and the discretion is to be exercised in furtherance of public interest. In ***Pace Digitek (P) Ltd***. (supra), a Division Bench of this Court, applying the principles enunciated in ***Jagdish Mandal*** (supra), ***Tata Cellular*** (supra), and ***Air India Ltd* v. *Cochin International Airport Ltd*.,** (2000) 2 SCC 617,

declined interference notwithstanding demonstrated errors, having regard to the advanced stage of the project and the paramount public interest in its completion. The twin questions formulated in ***Jagdish Mandal*** (supra) viz. whether the decision is *mala fide* or so arbitrary that no reasonable authority could have reached it, and whether public interest is affected by interference, both stand answered against the petitioner in the present case.

107. Moreover**,** the position on the ground has travelled far beyond the impugned OM. The project stands sanctioned at an outlay of Rs. 99.82 Crores; the MoU dated 28.02.2025 has been executed; the solution is stated to have been deployed, including in live disaster conditions; and the Ministry of Home Affairs has launched the Cell Broadcasting solution on 02.05.2026 (as placed on record in these proceedings). It is true that the order dated 10.03.2025 passed in these proceedings preserved the position by making any agreement or award in favour of C-DOT subject to the outcome of this petition. However, it cannot be disregarded that to displace the implementing agency of an operational nationwide emergency-alert system, and thereby to suspend or interfere with a live early-warning mechanism upon which the safety of citizens depends, would be a remedy wholly disproportionate to any alleged procedural grievances urged. In any event, the alleged procedural infractions have been found to be non-meritorious. Yet, if the petitioner perceives that it has suffered quantifiable loss by reason of any actionable wrong, its remedy, if any, lies in claiming damages. It is made clear that the petitioner is not precluded from doing so.

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VIII. CONCLUSION

108. To summarise: (i) the petitioner acquired no enforceable right from the consultative process, the inter-departmental communications or the TSPs' letters of support; (ii) NDMA's recommendations were considered and consciously departed from for recorded reasons, and NDMA thereafter itself effectuated the impugned decision; the change of course was deliberate, reasoned and documented; (iii) the engagement of C-DOT, being procurement of a non-consulting service, is governed by Rule 204 of the GFR, 2017, the substantive requirements whereof (exceptional situation, consultation with the Financial Adviser and recorded justification) stand satisfied on the record; (iv) the justifications for the decision are traceable from the contemporaneous record and are not impermissible supplementation within the meaning of ***Mohinder Singh Gill*** (supra), as explained in ***SBI v. Tanya Energy Enterprises*** (supra); (v) the merits-based technical objections cannot invite an appellate review, it being inappropriate for this Court to sit in judgment over the rationale or the technical/strategic logic of proceeding with C-DOT; and (vi) in any event, no case for the exercise of discretionary jurisdiction is made out, having regard to the operational status of a critical public-safety system.

109. Before concluding, this Court is constrained to observe that there is no reason why, in a procurement of this magnitude and sensitivity, the applicable rule could not have been specifically identified and its requirements consciously addressed in the final approval itself. The fact that this Court has, on the limited touchstone of judicial review, not found adequate grounds to interfere, must not be construed as diluting the salutary

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nature of this requirement. The Secretary, Ministry of Home Affairs, and other departments of the Union of India, are directed to take appropriate course-correction measures so that in future procurements by nomination, the specific enabling provision of the GFR shall be expressly invoked, the justification there for contemporaneously recorded, and the approval of the competent authority obtained with conscious reference thereto.

110. It is clarified that nothing in this judgment is to be treated as an adjudication upon the comparative technical merit or commercial capability of the petitioner's platform, and this judgment shall not stand in the way of the petitioner participating in any future procurement process that the respondents may undertake in relation to this or any other project.

111. In the circumstances, with the above observations, the present petition (along with pending applications), stands dismissed.

SACHIN DATTA, J

AUGUST 31, 2026
uk, ss

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