

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 17341 of 2012****With****CIVIL APPLICATION (FOR DIRECTION) NO. 1 of 2016
In R/SPECIAL CIVIL APPLICATION NO. 17341 of 2012**

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IDEA CELLULAR LIMITED & 1 other(s)

Versus

UNION OF INDIA THRO DIRECTOR & 1 other(s)

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Appearance:

MR MIHIR JOSHI, SENIOR ADVOCATE WITH MR SHAMIK BHATT FOR
SINGHI & CO(2725) for the Petitioner(s) No. 1,2

MR DEVANG VYAS(2794) for the Respondent(s) No. 1,2

MR. PARTH H BHATT(6381) for the Respondent(s) No. 1,2

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CORAM:HONOURABLE MR. JUSTICE A.S. SUPEHIA**Date : 01/08/2022****ORAL ORDER**

1. The present writ petition emanates from the demand notices dated 14.12.2012 issued by the respondent No.2 and the communications dated 11.07.2012, 13.09.2012, 09.10.2012, 09.11.2012 and 05.12.2012, which require the petitioners to submit the Customers Activation Form (CAF) in hard-copy/physical copy.

2. It is the case of the petitioners that due to the incident, which occurred in their warehouse, the CAFs, which were stored in physical form was destroyed in fire, which took place on 22.02.2011 at 16:30 hrs, leading to extensive damage. There was total 71.9 lakh subscribers as on January, 2011 and the CAFs and other stored documents were destroyed in fire however, the petitioner was having scanned copy/photo copy (Soft copy) of such forms as on 22.02.2011.

3. During the course of hearing, learned advocate Mr.Parth Bhatt appearing for the respondents, upon instructions, has submitted that since 2011 till 30.06.2022, the petitioners have supplied the scanned copies of such forms and only 93,000 remain as on today.

4. It is stated by the learned advocates for the respective parties that the policy of the Central Government has changed and new policy has been introduced on 11.10.2021, which mandates supplying of only digitally signed soft copy of such CAFs.

5. Learned advocate Mr.Bhatt has submitted that as on now, it is not known that under audit, which customers will be examined and all depends on the future action by the respondent authority.

6. Heard the learned advocates for the respective parties and also perused the documents as pointed out by them.

7. It is not in dispute that the petitioners are having scanned copy of such CAFs. It is also not disputed that the physical forms were destroyed in fire on 22.02.2011. At that time, the petitioners were having active 71.9 lakh subscribers. The petitioners, during pendency of this writ petition, have been intermittently supplying the scanned copy available to the respondent authorities and as on today, only

93,000 scanned copies remain. A statement is made before this Court that accordingly they will keep on supplying such forms in monthly audit to the respondents as per the notification and they may supply soft copy/scanned copy digitally signed by the petitioners. The respondents are not denying the fact that hard copies of the forms were destroyed in fire. It is not the case of the respondents that the petitioners have for extraneous reasons destroyed the physical forms.

8. It is clarified that since the petitioners are not having original physical copy of such forms, if they are called upon to compare the scanned copy with the physical forms, the same would be an utterly impossible task and cannot be performed and hence, the respondents shall accept the scanned copy of such CAFs having digitally signed by the petitioners.

9. Under the circumstances, the respondents, while examining such forms, shall keep in mind that original physical forms were destroyed in fire and are impossible to recover. The respondent shall accordingly accept the scanned copy of such documents of the CAFs, which shall be provided by the petitioners to the respondents with their digital signature. It goes without saying that the aforesaid observation will apply to all the forms, which are destroyed in the fire and accordingly, penalty which are prescribed in the impugned notices and communications shall

also be reconsidered sympathetically by the respondent authority in light of the observations made by this Court.

10. The present writ petition stands disposed of with the aforesaid direction. Notice is discharged. In view of the aforesaid observations, there is no reason left for this Court to continue with the interim order.

11. As a sequel, connected civil application also stands disposed of.

NVMEWADA

Sd/-
(A. S. SUPEHIA, J)

