



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3<sup>RD</sup> DAY OF JULY, 2024

PRESENT



THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE K V ARAVIND

WRIT APPEAL NO. 949 OF 2024 (GM-RES),

WRIT APPEAL No.951 OF 2024 (GM-RES),

WRIT PETITION No.10639 OF 2024 (GM-RES) AND

WRIT PETITION No.10553 OF 2024 (GM-RES)

IN WRIT APPEAL No.949 OF 2024

BETWEEN:

1. M/S. POWER SMART MEDIA PVT LTD  
1<sup>ST</sup> PHASE, POWER TV NEWS  
POWERSMART MEDIA  
NO.7, 11<sup>TH</sup> MAIN  
MATHIKERE MAIN RD  
1<sup>ST</sup> STAGE, GOKULA EXTENSION  
YESWANTHPURA  
BENGLAURU - 560 054  
REP BY ITS ADDITIONAL DIRECTOR  
SRI. RAKESH SANJEEVA SHETTY  
@ RAKESH SHETTY
2. M/S MITCON INFRA PROJECT  
PRIVATE LIMITED  
B-61, 6<sup>TH</sup> FLOOR  
PLOT NO. 210  
B-WING, MITTAL TOWER  
FREE PRESS JOURNAL WING  
NARIMAN POINT  
MUMBAI - 400 021





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**WA No. 949 of 2024, WA No.951 of 2024,**  
**WP No.10639 of 2024 & WP No.10553 of 2024**

REPRESENTED BY ITS  
MANAGING DIRECTOR

...APPELLANTS

(BY SRI. S.S. NAGANAND, SENIOR ADVOCATE A/W  
SRI. R. SWAROOP ANAND, ADVOCATE)

AND:

1. UNION OF INDIA  
THROUGH MINISTRY OF  
INFORMATION AND BROADCASTING  
"A" WING, SHASTRI BHAVAN  
NEW DELHI - 110 001  
REPRESENTED BY ITS  
SECRETARY
2. DR. B.R. RAVIKANTHE GOWDA  
S/O BESAGARAHALLI RAMANNA  
AGED ABOUT 57 YEARS  
RESIDING AT BALAJI GARDEN  
DOOR NO. 50, OBJECHUDA HALLI  
UTTARAHALLI HOBLI  
BANGALORE SOUTH TALUK - 560 082

...RESPONDENTS

(SRI. N. ARAVIND KAMATH, ASGI AND  
SRI. H. SHANTHI BHUSHAN, DSGI A/W  
SRI. M.N. KUMAR, CGSC FOR RESPONDENT No.1  
SRI. C.V. NAGESH, SENIOR ADVOCATE A/W  
SRI. B.N. MUNEDRAPPA, ADVOCATE FOR CAVEATOR/  
RESPONDENT No.2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE  
JUDGEMENT AND ORDER DATED 25.06.2024 PASSED IN  
W.P.No.10639/2024 IN THE INTEREST OF JUSTICE.



**IN WRIT APPEAL No. 951 OF 2024**

**BETWEEN:**

1. M/S POWER SMART MEDIA PRIVATE LIMITED  
ALSO KNOWN AS  
M/S. POWER SMART MEDIA (OPC)  
PRIVATE LIMITED  
POWER TV TRADE MARK HOLDER  
INCORPORATED AND REGISTERED UNDER  
COMPANIES ACT, 1956  
REPRESENTED BY ITS DIRECTOR  
DABBEGATTA GOWDA MADHU LAKSHMANA  
DIN NUMBER 08262181  
NO.7, 11<sup>TH</sup> MAIN  
MATHIKERE MAIN ROAD  
1<sup>ST</sup> STAGE, GOKULA EXTENSION  
YESHWANTHPUR  
BENGALURU – 560 054
  
2. M/S. MITCON INFRAPROJECTS PVT. LTD  
POWER TV: PERMITTED COMPANY  
UNDER MINISTRY OF INFORMATION  
AND BROADCASTING  
INCORPORATED AND REGISTERED  
UNDER COMPANIES ACT, 1956  
REPRESENTED BY ITS DIRECTOR  
MR. SHRIKANT MITESH BHANGDIYA  
DIN NUMBER 02628216  
B-61, FLOOR-6, PLOT NO.210  
'B' WING, MITTAL TOWER  
FREE PRESS JOURNAL MARG  
NARIMAN POINT  
MUMBAI – 400 021
  
3. MR. RAKESH SANJEEVA SHETTY  
@ RAKESH SHETTY  
S/O SANJEEVA ANTHAYYA SHETTY  
ADDITIONAL DIRECTOR  
DIN NUMBER 01980021  
POWER SMART MEDIA (OPC)  
PRIVATE LIMITED  
T-008, KRISHNA DWELLINGTON  
DEVINAGAR MAIN ROAD  
LOTTEGOLLAHALLI



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**WP No.10639 of 2024 & WP No.10553 of 2024**

RMV EXTENSION STAGE II  
BENGALURU – 560 094

...APPELLANTS

(BY SRI. M. DHYAN CHINNAPPA, SENIOR ADVCOATE A/W  
SRI. SWAROOP ANAND R, ADVOCATE)

AND:

1. UNION OF INDIA  
THROUGH MINISTRY OF INFORMATION  
AND BROADCASTING  
“A” WING, SHASTRI BHAVAN  
NEW DELHI – 110 001  
REPRESENTED BY ITS SECRETARY
2. SRI. H.M. RAMESH GOWDA  
SO LATE H.G. MUNIYAPPA  
@ MUNE GOWDA  
AGED ABOUT 43 YEARS  
RESIDING AT HMR RAMYA  
SUKRUTHA NIVASA  
NO.6, MAIN, 1<sup>ST</sup> CROSS  
BYRAWESHWARA LAYOUT  
HENNUR BANDE  
KALYAN NAGAR POST  
BENGALURU - 560 043
3. SMT. DR. A. RAMYA RAMESH  
W/O H.M. RAMESH GOWDA  
AGED ABOUT 39 YEARS  
RESIDING AT HMR RAMYA  
SUKRUTHA NIVASA  
NO.6, 1<sup>ST</sup> MAIN, 1<sup>ST</sup> CROSS  
BYRAWESHWARA LAYOUT  
HENNUR BANDE  
KALYAN NAGAR POST  
BENGALURU - 560 043
4. UNION OF INDIA  
BY MINISTRY OF HOME AFFAIRS  
GOVERNMENT OF INDIA  
REPRESENTED BY ITS SECRETARY  
NORTH BLOCK  
NEW DELHI – 110 001



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**WP No.10639 of 2024 & WP No.10553 of 2024**

5. KIRTIKUMAR MITESH BHANGDIYA  
DIRECTOR MITCON INFRAPROJECTS PVT. LTD  
DIN NUMBER 01942251  
B-61, FLOOR-6, PLOT NO.210  
'B' WING, MITTAL TOWER  
FREE PRESS JOURNAL MARG  
NARIMAN POINT  
MUMBAI – 4000

...RESPONDENTS

(SRI. K. ARAVIND KAMATH, ASGI AND  
SRI. H. SHANTHI BHUSHAN, DSGI,  
SRI. M.N. KUMAR, CGC FOR RESPONDENT No.1 AND 4;  
SRI. PRABHULING K. NAVADGI, SENIOR ADVOCATE A/W  
SRI. NAVEEN CHANDRASHEKAR, ADVOCATE FOR CAVEATOR/  
RESPONDENT No.2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT PRAYING TO ALLOW THIS APPEAL  
TO SET ASIDE THE JUDGEMENT AND ORDER DATED 25/06/2024  
PASSED IN WP NO.10553/2024 IN THE INTEREST OF JUSTICE.

**IN WRIT PETITION No.10639 OF 2024**

**BETWEEN**

1 . DR. B R RAVIKANTHEGOWDA  
S/O BESAGARAHALLI RAMANNA  
AGED ABOUT 57 YEARS  
RESIDING AT BALAJI GARDEN  
DOOR NO.50, OBJECHUDAHALLI  
UTTARAHALLI HOBLI  
BANGALORE SOUTH TALUK

...PETITIONER

(BY SRI C.V.NAGESH, SENIOR ADVOCATE FOR  
SRI B.N. MUNENDRAPPA, ADVOCATE)

**AND**

1 . UNION OF INDIA  
THROUGH MINISTRY OF INFORMATION  
AND BOARDCASTING, "A" WING  
SHASTRI BHAVAN



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**WA No. 949 of 2024, WA No.951 of 2024,**  
**WP No.10639 of 2024 & WP No.10553 of 2024**

NEW DELHI – 110 001  
REPRESENTED BY ITS SECRETARY

2 . POWER TV  
M/S. POWER SMART MEDIA PVT LTD.  
1<sup>ST</sup> PHASE, POWER TV NEWS  
POWERSMART MEDIA  
NO.7, 11<sup>TH</sup> MAIN  
MATHIKERE MAIN ROAD  
1<sup>ST</sup> STAGE, GOKULA EXTENSION  
YESWANTHPURA  
BENGALURU – 560 054  
REP. BY ITS ADDITIONAL DIRECTOR  
SRI RAKESH SANJEEVA SHETTY  
@ RAKESH SHETTY

3 . M/S MITCON INFRA PROJECT  
PRIVATE LIMITED  
B-61, 6<sup>TH</sup> FLOOR  
PLOT NO.210, B WING  
MITTAL TOWER  
FREE PRESS JOURNAL WING  
NARIMAN POINT, MUMBAI – 400 021  
REPRESENTED BY ITS  
MANAGING DIRECTOR

...RESPONDENTS

(SRI N.ARAVIND KAMATH, ASGI &  
SRI H.SHANTHI BHUSHAN, DSGI A/W  
SRI M.N.KUMAR, CGC FOR RESPONDENT No.1  
SRI S.S.NAGANAND, SENIOR ADVOCATE A/W  
SRI R.SWAROOP ANAND, ADVOCATE FOR RESPONDENT NOS.2 & 3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND  
227 OF CONSTITUTION OF INDIA PRAYING TO DIRECT  
RESPONDENT No.1 TO CONSIDER THE COMPLAINT DATED  
04.03.2024 FILED BY PETITIONER AND CONSEQUENTLY TAKE  
ACTION BY STOPPING THE RESPONDENT No.2 TV CHANNEL



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FROM TELECASTING/BROADCASTING ANY NEWS FORTHWITH  
AND ETC.

**IN WRIT PETITION No.10553 OF 2024**

**BETWEEN**

- 1 . SRI H M RAMESH GOWDA  
S/O LATE H G MUNIYAPPA @  
MUNE GOWDA  
AGED ABOUT 43 YEARS  
R/AT HMR RAMYA SUKRUTHA NIVASA  
NO.6, 1<sup>ST</sup> MAIN, 1<sup>ST</sup> CROSS  
BYRAWESHWARA LAYOUT  
HENNUR BANDE  
KALYAN NAGAR POST  
BENGALURU - 560 043
  
- 2 . SMT. DR. A RAMYA RAMESH  
W/O H M RAMESH GOWDA  
AGED ABOUT 39 YEARS  
R/AT HMR RAMYA SUKRUTHA NIVASA  
NO.6, 1<sup>ST</sup> MAIN, 1<sup>ST</sup> CROSS  
BYRAWESHWARA LAYOUT  
HENNUR BANDE  
KALYAN NAGAR POST  
BENGALURU - 560 043

...PETITIONERS

(BY SRI PRABHULING K.NAVADGI, SENIOR ADVOCATE A/W  
SRI NAVEEN CHANDRASHEKAR, ADVOCATE)

**AND**

- 1 . UNION OF INDIA  
BY MINISTRY OF HOME AFFAIRS  
GOVERNMENT OF INDIA  
REPRESENTED BY ITS SECRETARY  
NORTH BLOCK  
NEW DELHI - 110 001



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- 2 . MINISTRY OF INFORMATION  
AND BROADCASTING  
BROADCASTING WING,  
GOVERNMENT OF INDIA  
REPRESENTED BY ITS SECRETARY  
A WING, SHASTRI BHAWAN  
NEW DELHI - 110 001
  
- 3 . M/S. POWER SMART MEDIA PRIVATE LIMITED  
ALSO KNOWN AS M/S. POWER SMART MEDIA (OPC)  
PRIVATE LIMITED  
POWER TV TRADEMARK HOLDER  
INCORPORATED AND REGISTERED UNDER  
COMPANIES ACT, 1956  
REPRESENTED BY ITS DIRECTOR  
DABBEGATTA GOWDA MADHU LAKSHMANA  
DIN NUMBER: 08262181  
NO.7, 11<sup>TH</sup> MAIN, MATHIKERE MAIN ROAD  
1<sup>ST</sup> STAGE, GOKULA EXTENSION  
YESHWANTHPUR  
BENGALURU - 560 054
  
- 4 . MR RAKESH SANJEEVA SHETTY @  
RAKESH SHETTY  
S/O SANJEEVA ANTHAYYA SHETTY  
ADDITIONAL DIRECTOR  
DIN NUMBER 01980021  
POWER SMART MEDIA (OPC)  
PRIVATE LIMITED  
T-008, KRISHNA DWELINGTON  
DEVINAGAR MAIN ROAD  
LOTTEGOLLAHALLI  
RMV EXTENSION STAGE II  
BENGALURU - 560 094

ALSO AT  
M/S POWER SMART MEDIA PRIVATE LIMITED  
NO.7, 11<sup>TH</sup> MAIN, MATHIKERE MAIN ROAD  
1<sup>ST</sup> STAGE, GOKULA EXTENSION  
YESHWANTHPUR  
BENGALURU - 560 054





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- 5 . M/S. MITCON INFRAPROJECTS PVT. LTD.  
POWER TV: PERMITTED COMPANY UNDER  
MINISTRY OF INFORMATION  
AND BROADCASTING  
REPRESENTED BY ITS DIRECTOR  
MR SHRIKANT MITRESH BHANGDIYA  
DIN NUMBER 02628216  
B-61, FLOOR-6, PLOT NO.210 'B' WING  
MITTAL TOWER, FREE PRESS JOURNAL MARG  
NARIMAN POINT, MUMBAI – 400 021
  
- 6 . KIRTIKUMAR MITESH BHANGDIYA  
DIRECTOR MITCON INFRAPROJECTS PVT LTD.  
DIN NUMBER: 01942251  
B-61, FLOOR-6,  
PLOT NO. 210 'B' WING  
MITTAL TOWER, FREE PRESS JOURNAL MARG  
NARIMAN POINT  
MUMBAI – 400 021

... RESPONDENTS

(SRI N.ARAVIND KAMATH, ASGI &  
SRI H.SHANTHI BHUSHAN, DSGI A/W  
SRI M.N.KUMAR, CGC FOR RESPONDENT Nos.1 AND 2  
SRI M.DHYAN CHINNAPPA, SENIOR ADVOCATE A/W  
SRI R.SWAROOP ANAND, ADVOCATE FOR RESPONDENT NOS.3 TO 5

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA PRAYING TO DIRECT THE IMMEDIATE STOPPAGE OF BROADCAST INCLUDING TELECAST OF THE NEWS, FEATURES AND SUCH OTHER PROGRAMMES DISSEMINATED IN THE NEWS CHANNEL BEING RUN IN THE NOMENCLATURE OF POWER TV AND ETC.

THE WRIT APPEALS AND WRIT PETITIONS, COMING ON FOR PRELIMINARY HEARING THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:



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CORAM : HON'BLE THE CHIEF JUSTICE MR. JUSTICE  
N.V. ANJARIA  
and  
HON'BLE MR. JUSTICE K.V. ARAVIND

**ORAL JUDGMENT**

(PER : HON'BLE THE CHIEF JUSTICE MR. JUSTICE  
N.V. ANJARIA)

These two appeals arise from two different, but *verbatim* same, orders dated 25.06.2024 passed by learned Single Judge in the respective writ petitions. The first mentioned Writ Appeal No.949 of 2024 is referable to the order passed in Writ Petition No.10639 of 2024, whereas the other writ appeal pertains to the order in Writ Petition No.10553 of 2024.

2. The appeals are by two appellants, named M/s. Power Smart Media Private Limited and M/s. Mitcon Infra Project Private Limited respectively, who are the original respondent Nos.2 and 3 in the writ petitions.

2.1 Since the facts in both the cases run parallel and the issues are identical, both the appeals were heard together to be disposed of by this common judgment.



2.2 Both the appeals impugn two orders of even date passed by learned Single Judge in the petitions concerned, which are the interim orders passed pending the final adjudication of the petitions.

2.3 It appears that respondent No.2 in the writ petition—Power TV has been facing certain allegations and the consequential notices for alleged violations of applicable legal provisions. During the pendency of the proceedings of the petitions, when show-cause-notice dated 09.02.2024 was produced before the Court, in light of that development, learned Single Judge passed the interim orders, which are now subject-matter of consideration in the present appeals.

2.4 The operative portion of the order in paragraph 7 is extracted herein,

“Under these circumstances, in the light of the undisputed fact that the proceedings have been initiated by the Union of India pursuant to the final show-cause notice dated 09.02.2024, it would be just and appropriate to direct respondent No.3/respondent No.5 and other private respondents not to continue with any broadcast and restrain all the private respondents from carrying on any broadcast activity till the next date of hearing.



Re-list this matter on 09.07.2024.”

2.5 The aforesaid order directing respondent-Power TV not to continue with any telecast and broadcast and further restraining the private respondents from carrying on the telecast activity till the next date of hearing came to be passed by learned Single Judge upon noticing and observing certain aspects figured in course of consideration of the controversy.

3. It would be necessary to notice the basic facts operating in the background. The first Writ Petition No.10639 of 2024 came to be filed by the petitioner who is stated to be in police service serving in IPS cadre, whereas the petitioner in the other petition from which Writ Appeal No.951 of 2024 arises happens to be a Member of Legislative Council. Both felt aggrieved by the Power Channel broadcast and telecast of allegedly defamatory programmes and filed the writ petitions.

3.1 Drawing the facts from the first petition relatable to Writ Appeal No.949 of 2024, it is the case of the petitioner that the two appellants herein are the owners and run TV Channel in the name of Power TV. It is the allegation that it is appellant No.2-M/s.Mitcon



Infra Project Private Limited though claims to be having the authorization to run the Channel, the Channel is run by appellant No.1-M/s. Power Smart Media Private Limited. It was pleaded in the petition that on 08.09.2023, the respondent-Power TV released a broadcast and certain promos, which according to the petitioner, were defamatory, derogative and malicious, lowering the reputation of the petitioners and that the story broadcasted in the promotional programmes was a concocted story. Be that as it may.

3.1.1 It was further stated that in that view the petitioner had to institute civil suit being Original Suit No.1602 of 2023 in the competent civil court at Bengaluru Rural District. In the said defamation suit, injunction was granted against the respondent-TV Channel restraining it from telecasting or publishing any defamatory news about the petitioner. It is the case of the petitioners that despite the injunction, again on 22.09.2023, the TV Channel and the owners thereof proceeded to telecast the programme titled as "Dushta IPS" and tarnished the image of the petitioner. It was stated that a contempt petition was also filed.

3.1.2 The petitioners stated that they filed representation. The petitioner of first case made representation dated 16.10.2023



before respondent No.1-Union of India, Ministry of Information and Broadcasting, to raise the issue that the TV Channel and the owners had been violating Section 5 of the Cable Television Networks (Regulation) Act, 1995 and Cable Network Rules, 1994 as well as the relevant Rules of the Programme Code. Pursuant to this complaint, M/s. Mitcon Infra Project Private Limited has been facing notice from the competent authority issued on 21.11.2023. It was averred by the petitioner that M/s. Mitcon Infra Project Private Limited did not respond to the Ministry.

3.1.3 It is the case that the petitioner came to know about respondent No.3-M/s. Mitcon Infra Project Private Limited only upon the aforesaid notice came to be issued to it. It was further stated that as no response forthcame, yet another representation dated 28.12.2023 came to be submitted by the petitioner. The respondent-M/s. Mitcon Infra Project Private Limited was subjected to one more notice dated 18.01.2024 by the Ministry.

3.1.4 It is the allegation in the notices issued by the Ministry of Information and Broadcasting, Union of India, and it is the also the case of the petitioner, that the TV Channel concerned has been telecasting the programmes and the other promos without having



security clearance which is supposed to be obtained from the Ministry for downlinking and uplinking channel operations.

3.2 Upon such premise of basic facts and raising various grounds in the petition, referring the alleged violations of law, the petitioner prayed to direct respondent No.1-Union of India to consider the complaint dated 04.03.2024 which was lastly filed by the petitioner and to take consequential action by stopping respondent No.2-TV Channel from telecasting/broadcasting any news.

3.3 The facts involved in the other petition are similar and pleadings contain the allegations on the same lines. The prayer made in that petition is to direct respondent No.1-Union of India to take action against respondent Nos.3 to 6 for violating the provisions of the Cable Television Networks (Regulation) Act, 1995, the Cable Television Networks Rules, 1994 and also the Policy Guidelines for Uplinking and Downlinking of Television Channels in India, 2022.

3.3.1 It appears that in course of the hearing of the writ petitions, where the learned Single Judge was apprised of



development about the Union of India, Ministry of Information and Broadcasting having already issued notice dated 09.02.2024, upon gathering the further facts, learned Single Judge passed interim order, now impugned in the appeals.

3.4 In the said interim orders dated 25.06.2024, learned Single Judge highlighted certain facts and aspects which are relevant to be noticed,

(i) The contention in the petition was that the respondents-appellants herein-the TV Channel and owners of the channel, had been continuing the telecast/broadcast without obtaining necessary approval/renewal of approval and that broadcast activity is without obtaining necessary approval.

(ii) The proceedings were already initiated by the Central Government against the respondents for alleged violations and despite that, the telecasting of the programmes was carried on. It was noted that the submission of advocate for the respondent-Union of India was that, the proceedings have already been initiated against respondent No.3/respondent No.5 and other





private respondents and that final show-cause-notice dated 09.02.2024 has been issued.

(iii) The final show-cause-notice was reproduced in the order. The aspect was revealed in the said notice that M/s. Mitcon Infra Project Private Limited was granted permission by the Ministry by the letter dated 13.10.2011 to uplink and downlink a news and current affairs in the TV Channel namely "Power TV".

(iv) The said permission was valid till 12.10.2021 and that the company had applied for renewal of the permission.

(v) The application for renewal was made on 30.12.2022 which is under examination by the Ministry for its merits.

(vi) The communication dated 06.02.2024 reflected that the Central Government had addressed a communication to the Director of respondent No.3/respondent No.5 informing them that Power Smart Media Limited is not permitted by the Ministry in relation to uplinking and downlinking of a TV Channel. The case of the respondents was that the necessary renewal was obtained and that they had permission to uplink the channel. However, no renewal has been granted in favour of the said respondents.



(vii) No material is produced by the respondents either showing approval for grant of licence or that such approval of licence are valid and subsisting as on date.

4. All the learned counsels for the respective parties were extensively heard yesterday. However, due to paucity of time, order could not be dictated, which was today dictated in the open court.

4.1 Learned Senior Advocate Mr.S.S.Naganand and learned Senior Advocate Mr.Dhyan Chinnappa assisted by learned advocate Mr.R.Swaroop Anand for the appellants appearing in the respective appeals seriously questioned the impugned order. They vehemently submitted that without deciding the main controversy, learned Single Judge has passed the interim orders against the appellants' TV Channel. They submitted that the development of issuing notice dated 09.02.2024 took place in course of the hearing of the petitions and did not form part of the pleadings and that the interim order could not have been passed when the facts were not pleaded.



4.2 Learned Senior Advocates for the appellants asserted that the TV Channel is being run since several years with authorization and that it is only on the basis of mere allegations of violation that licence is not taken, learned Single Judge came to the conclusion to direct stoppage of broadcast. Learned Senior Advocates proceeded to submit further that in any case the renewal application is made, and when the appellants have been running TV Channel until the renewal is rejected, the Court has to view that there is a deemed permission and the broadcast could not have been abruptly halted by an interim order.

4.3 It was further sought to be submitted that the allegations in the notice are unsubstantiated and are yet to be tested for their merit. It was finally submitted that right to telecast through an electronic media is a concomitant right to the fundamental right of freedom of speech and expression flowing from Article 19 (1) (g) of the Constitution.

4.4 It was submitted that the show-cause-notice dated 09.02.2024 preceded the grant of applications as many as three times made by the TV Channel for change of portals and change of location, which according to the submission of learned Senior



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Advocates, implied that the authorities had no complaint against the TV Channel. It was submitted that in view of the said aspect, there should not be any impediment to renew the licence.

4.5 On the other hand, learned Additional Solicitor General of India Mr.Aravind Kamath with learned Central Government Standing Counsel Mr.M.N.Kumar appearing for respondent-Union of India as well as learned Senior Advocate Mr.C.V.Nagesh with learned advocate Mr.B.N.Munendruppa for respondent No.2 in Writ Appeal No.949 of 2024 and learned Senior Advocate Mr.Prabhuling K.Navadgi assisted by learned advocate Mr.Naveen Chandrashekar appearing for respondent No.2 in Writ Appeal No.951 of 2024, submitted that the order passed by learned Single Judge was based on relevant considerations and cogent grounds.

4.6 Learned Additional Solicitor General refuting the case that the details and materials on which the order was based were not part of the proceedings, submitted that the respondent was well aware of the issuance of notice dated 09.02.2024 and that during the proceedings of the writ petition, the respondent took time on the said ground for as many as three times. It was submitted that the



developments were argued and became part of the proceedings which led learned Single Judge to pass the interim orders.

4.7 Learned Additional Solicitor General invited attention of the Court to the Guidelines dated 09.11.2022 issued by the Ministry of Information and Broadcasting, Government of India which are Policy Guidelines for uplinking and downlinking of television channels (page 149 onwards in the compilation of Writ Appeal No.949 of 2024). The said guidelines, it was stated, stem from Section 4 of the Indian Telegram Act, 1885 and have a statutory force. It was submitted that for any TV Channel or TV telecaster obtaining permission from the competent authority for uplinking and downlinking the TV news or any other broadcast item, it was emphasized, is imperative for both disciplinary and security purposes. It was submitted that it is an obligation in law. It was then pointed out from pages 192, 197 and 221 of the compilation (Writ Appeal No.949 of 2024) that the respondents-TV Channel and their owners have time to time sought permission for change of uplinking and downlinking, change of teleport and satellite linking, as well as change of locations to submit that the respondents were not steady broadcasters.



4.8 Learned Senior Advocate for respondent No.2 highlighted that since November-2021, the appellants do not have any licence which is an undisputed fact. He further submitted that renewal is only applied and so far has not been granted. It was submitted that when the TV Channel has been facing a case for statutory violations and non-compliance of legal provisions, until and unless the same decided to its logical end, the question of renewal of permission/licence does not arise and the renewal issue has to wait subject to outcome of notice which is being adjudicated. He submitted that there is nothing like deemed approval in law. He also figured out that there are as many as 50 criminal cases registered against the Director of appellant No.1.

5. The submission on part of the appellants that learned Single Judge travelled beyond the pleadings or that the relief granted is not traceable from the relief prayed for in the petitions, is stated to be rejected. Running through the pleadings in both the petitions, it could be immediately noticed that the allegations are made against the TV Channel for alleged misuse of broadcasting rights and telecasting of promos. In that regard a complaint was also filed by the petitioner. Notices were already issued by the Union of India



calling upon the Channel and its owners to explain the alleged violations which have remained unresponded by them. The last representation-cum-complaint was made by the petitioner on 04.03.2024 which became subject matter of prayer of the petition in Writ Petition No.10639 of 2024. The direction to stop respondent No.2-TV Channel from telecasting/broadcasting any news, was already part of the principal prayer. Therefore, it could be said that prohibition of telecast ordered by the interim direction has no genesis in the principal prayer. It could be well-linked with the pleadings and the prayers made.

5.1 Having regard to the nature of order which is being passed herein, the Court does not think it proper to delve into or decide any of the submissions of the parties on merits, for, it may affect their case which is yet to be decided by the authorities, except those necessary for and in context of the impugned interim orders.

5.2 Dealing with this submission about breach of right to speech and expression and right to telecast in banning the telecast pending adjudication, the argument is attractive at the first blush, however, not acceptable in substance. The appellants-respondents have been facing legal notices even before the notice dated 9<sup>th</sup>



February 2024 was received. All the earlier notices remained unattended and unanswered by them. The appellants are alleged of running the Channel without licence and in violation of the relevant laws, rules and the statutory guidelines.

5.3 In the petition, the averments are about indiscreet telecast of defamatory and malicious nature. Although these allegations of violation are to be probed, the fact remains that since November 2021, the channel's licence does not exist and the renewal application was subsequently made in December. It is not the case that pending the life of the licence, renewal is applied for, and in the mean time the prayer is made to permit to continue telecast.

5.4 The show cause notice is being adjudicated. This Court by order which succeeds herein, is inclined to set-down the timeline for final decision to be taken by the competent authority upon the show cause notice. It is needed that a state of equilibrium is ensured when the serious allegations are considered and adjudicated. It is only proper, both in facts and in law, that the appellants are restrained from continuing the activity of telecast, subject to the final outcome of the proceedings against them.





5.5 A temporary prohibition on the telecast, in such circumstances, could not be said to be violation per se of the fundamental right. Temporary phenomenon to prohibit cannot be equated with absolute restriction. The right to telecast is subject to regulatory measure. In the instant case, to be stated at the cost of repetition, licence of the appellants has already expired. All these circumstances could be viewed as reasonable and good grounds not to permit the telecast in the interregnum, pending decisions on the alleged violations. Any fundamental right is not absolute and has to be subjected to legal as well as factual-cum-circumstantial restrictions, which dictum is more true when it comes to the right to free speech and right to telecast, because it is more prone to misuse and indiscriminate dissemination.

5.6 Learned Single Judge could be said to be eminently justified in not deciding the aspects of show-cause-notice dated 09.02.2024 having been issued to the respondents along with the other previous notices by observing that notice is in adjudicating process. The case against the respondents are to be tried after they would reply to the show-cause-notice to be thereafter decided on merits. There is no denial that the permission to uplink and downlink of



news and current affairs accorded to the respondent-TV Channel was valid upto 12.10.2021 only and thereafter, there is no approval. Although the company has applied for renewal permission, it is yet to be considered to be subjected to a decision in accordance with law. It is in this light that learned Single Judge passed the impugned order to stop the broadcast pending the testing of the allegations against the broadcaster and the owners of the broadcaster.

6. The only wanting aspect which the Court finds in the order of learned Single Judge is that learned Single Judge has not set down any timeline for proceedings to be concluded pursuant to the show-cause-notice dated 09.02.2024.

7. In light of the above discussion and the fact situation obtained, the appeals are disposed of by issuing following directions,

(i) The appellants shall have the right to reply to the show-cause-notice dated 09.02.2024. If the reply is already filed, it will be open to them to file a further reply, if they so advised.

(ii) Such reply shall be filed within one week from today.



(iii) The competent authority of respondent No.1-Union of India shall give personal hearing to the appellants, if applied for. Upon such application to be made by the appellants, the personal hearing shall be given, on a date which shall be intimated to the appellants.

(iv) The process of personal hearing shall be completed within further one week from the date of the application, which may be made.

(v) The competent authority shall decide the show-cause-notice after considering the reply of the appellants and all other aspects relating to the controversy within further period of three weeks. A reasoned order shall be passed.

(vi) The authority shall thereafter also decide the renewal application in accordance with law after considering the facts and circumstances of the case, passing necessary order.

(vii) The entire exercise spread over the above stages shall be undertaken and completed expeditiously and within the outer limit of six weeks from today.



8. It is observed and clarified that this Court while noticing and recording the rival contentions, has not expressed any opinion on the merits of the case of the either side, since the issues are at large before the competent authority to be decided finally. Any expression of observation in this order shall not be construed as expression on merits.

8.1 The decision which may be taken by the competent authority, as above, shall govern the rights of the parties and they shall have further right to approach the higher court/forum.

9. In view of the above arrangement and the order passed, learned advocates for the parties in particular the respondent-original petitioner could not dispute that subject-matter of the petitions and the prayers in the petitions could be said to have been finally dealt with. Since the above directions are issued. Learned advocate for the original petitioners, therefore, seeks the disposal of main writ petitions by way of withdrawal.

10. This court grants permission to withdraw the writ petitions. They accordingly and in terms of the present order passed, stand disposed of.



**NC: 2024:KHC:24882-DB  
WA No. 949 of 2024, WA No.951 of 2024,  
WP No.10639 of 2024 & WP No.10553 of 2024**

10.1 In view of disposal of the writ appeals, Writ Petition Nos.10639 of 2024 and 10553 of 2024 shall be listed on Board today before this Court for formal purpose of showing the disposal.

11. Both the appeals are disposed of as above.

In view of disposal of the appeals, the interlocutory applications would not survive and they stand accordingly disposed of.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**

AHB  
List No.: 1 SI No.: 5