



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR JUSTICE M.G.S. KAMAL

WRIT PETITION NO. 45162 OF 2019 (GM-RES)

BETWEEN:

1. MOHAMMED DASTAGIR,
S/O ABDUL RAHAMAN,
AGED ABOUT 65 YEARS,
NO.159, 4TH MAIN, UDAYAGIRI 2ND STAGE
MYSURU-570019, (PARTY IN PERSON).

...PETITIONER

(BY SRI MOHAMMED DASTAGIR (PETITIONER IN PERSON))

AND:

1. TELECOM REGULATORY AUTHORITY OF INDIA
(REPRESENTED BY ITS CHAIRMAN),
MAHANAGAR DOORSANHAR BHAWAN,
JAWAHAR LAL NEHRU MARG, NEW DELHI-110002.
2. BHARATH SANCHAR NIGAM LIMITED,
RAJASTHAN CIRCLE,
REPRESENTED BY ITS
CHIEF GENERAL MANAGER TELECOM,
SARDAR PATEL MARG, C - SCHEME, JAIPUR-302008.
3. ONEXTEL MEDIA PVT LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR,
H-28, 2ND FLOOR, SECTOR-63, NOIDA-201301.
4. BHARATH SANCHAR NIGAM LIMITED,
UTTAR PRADESH WEST CIRCLE,
REPRESENTED BY ITS CHIEF GENERAL MANAGER
TELECOM, TEJGHARI CIRCLE, RAMGARHI
MEERUT-250001.





5. CHIEF EXECUTIVE OFFICER,
SUNVISION HOLDING PVT LTD.,
(INDIANMONEY.COM), NO.50,
VINAY ARCADE, K H ROAD, SHANTINAGAR
SUDHAMA NAGAR, BENGALURU-560027.

6. RELIANCE JIO INFOCOMM LIMTIED,
REPRESENTED BY ITS MARKETING MANAGER
(KARNATAKA),RMZ ICON, 51,
CUNNINGHAM ROAD, BENGALURU-560051.

...RESPONDENTS

(BY SRI M N KUMAR, CGC FOR R1, R2 AND R4,
SMT VIJAYA BELAVADI, ADVOCATE FOR R5,
SRI PRAVEEN PRABHAKAR, ADVOCATE FOR R6,
NOTICE TO R3 IS ACCEPTED V/O/DT: 06.01.2020)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO- a. DIRECT THE R-2 AND 4 TO REOPEN THE UCC COMPLAINTS DATED 28.02.2019 AND 15.04.2019 RESPECTIVELY AND TO TAKE APPROPRIATE PENAL ACTION AGAINST R-3 AND 5, THE OFFENDING TELEMARETERS AND ETC.

THIS PETITION COMING ON FOR ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE M.G.S. KAMAL

ORAL ORDER

Petitioner is before this Court seeking following reliefs:

- (a) *Issue a writ of mandamus or any other writ, order or direction directing the Respondent Nos.2 and 4 to reopen the UCC complaints dated 28-02-2019 and 15-04-2019 respectively and to take appropriate penal*



action against Respondent Nos.3 and 5, the offending telemarketers;

- (b) Issue a writ of mandamus or any other writ, order or direction directing Respondent No.1 to take appropriate penal action against Respondent Nos.3 and 5, the offending telemarketers and also against Respondent Nos.2 and 4, the offending service providers for arbitrarily refusing to take action against Respondent Nos.3 and 5, the offending telemarketers;*
- (c) Direct Respondent No.1 to take urgent steps to prevent telemarketers from creating fake records, electronic or otherwise, to include the names of telecom subscribers in the list of numbers to whom they intend to send UCCs by providing for stringent punishment for such fraudulent practices;*
- (d) Award exemplary costs and/or punitive damages recoverable from the Respondents for having allowed Telemarketers to send UCCs in spite of the telephone number of the petitioner being listed on the NDNC Registry under fully blocked category, which has in turn resulted in violation of the fundamental right of the petitioner as guaranteed by Article 21 of the Constitution;*
- (e) Apportion the exemplary costs/or punitive damages as awarded prayer (d) above amongst the Respondents and direct Respondent 1 to pay the same to the petitioner in the first instance and recover same from other offending Respondents;*
- (f) Grant costs of all proceedings which the petitioner was constrained initiate including the costs of this petition; and*



- (g) *Grant such other relief or reliefs as this Hon'ble Court may deem fit in the circumstances of the case;*

2. It is the case of the petitioner that he is a customer of respondent No.6. That he had purchased a pre-paid sim card from an agent of the respondent No.6 in July, 2017. On 10.07.2017, petitioner requested respondent No.1 to register his number under the 'Fully Blocked Category' from receiving unwanted calls. On 19.07.2018 respondent No.1 issued fresh Regulations repealing the 2010 Regulations which was in force. However, unsolicited commercial communications were being received by the petitioner for which he often raised complaints with the respondent No.6 and replies were also received. On 10.07.2019 petitioner received an e-mail from respondent No.2 stating that petitioner had opted to receive UCC from respondent No.3 which was done fraudulently. Petitioner got issued legal notices to concerned respondents. Due to inaction on the part of the respondents, petitioner/party-in-person is before this Court.

3. Despite repeated questions by this Court, party-in-person is unable to point out either from the petition averments or the documents enclosed therewith as to his constitutional or



contractual rights, which according to him, have been breached by any of the respondents, though claims and submissions are made by him that his right to privacy is breached by unsolicited calls by the respondent No.3. He is also unable to point out the contractual obligation which his service provider owes to him, warranting any interference under Article 226 of the Constitution of India.

4. Learned counsel for the respondents on the other hand pointing out a document produced at Annexure - R6, a response issued by respondent No.2 to the notice issued by the petitioner wherein it is stated that petitioner had given his consent on telemarketer Portal Multigames4U.biz on 13.02.2019 and had thus become registered user of multigames4U which is why the sms was sent on his mobile. The said communication further indicate that in respect of another complaint of the petitioner, penalty of Rs.25,000/- has been imposed on telemarketer M/s.Mgage India Pvt. Ltd., for misusing transactional bandwidth for promotional activities for sending sms to the telephone number of the petitioner.



5. Learned counsel for respondents further submit petitioner may institute such proceeding seeking such reliefs as may be available for breach of terms contract or deficiency in service by the respondents if any.

6. In view of the above, petition is dismissed. However, liberty is reserved to the petitioner to approach the appropriate forum, if he has any right, to seek adjudication of his grievances.

**Sd/-
(M.G.S. KAMAL)
JUDGE**