

Office of the
Chief General Manager, Telecom, Orissa Circle,
Bhubaneswar-751001

No.Eng-21/08-09/CMTS

Dated at Bhubaneswar

04.06.88
05.08

To

The Chief Secretary,
Govt. of Orissa, Orissa Secretariat
Bhubaneswar-751001

Sub: **Levy of Uniform License fee for installation of Telecom
Towers in different Urban Local Bodies.**

Ref: Govt. of Orissa Notification No. Gen(TEL-06/2007/6867/com dated
16.08.2007 on the above mentioned subject.

Sir,

I invite your kind attention to the above mentioned notification of Govt. of Orissa dated 16.08.2007 prescribing imposition of uniform license fees for installation of Telecom Towers etc. in different urban and local bodies in Orissa. The said notification stipulates that no objection certificate is to be obtained from the concerned authorities for the said purpose by depositing requisite fees. This notification also further prescribes for renewal of license for operating the Tower on payment of annual renewal fees.

In this connection I am to bring the following provisions of the Orissa Municipal Act, 1950, Orissa Municipal Corporation Act, 2003 and Indian Telegraph Act 1985 to your kind notice.

- i) Section 192 of Orissa Municipal Corporation Act 2003 specifies the power to levy taxes for the Corporation. Section 192(2) -ibid envisages that the Corporation may subject to the prior approval of the Government levy any tax, which the state legislatures has powers to levy under the constitution for realizing the revenue of the Corporation.

The construction of Telecom Towers comes under item 31 of List-I (Union List) of the 7th schedule of the Constitution of India. The list II (State List) does not contain any item for levy of tax on Telecommunication Tower.

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Hence levy any tax on Telecommunication system comes within the domain of Union of India.

- ii) Section 131(I) (I) of Orissa Municipal Act 1950 deals with the provision for giving license and permission to be granted by the Municipal Authority required as per the Municipal Act or any Rule or Bye-Law made under the Act. Similarly Sec 194 of Orissa Municipal Corporation Act 2003 gives power to the Corporation for levy of fees for issuing license for various purposes. The installation of Telecom Tower is not coming under the provision of Section 192 of M.C. Act 2003 as well as of Sec-131(I) of O.M. Act 1950.
- iii) As per Section 10 © of Indian Telegraph Act 1885, Telegraph Authority shall not exercise any powers under Sec 10 (a) & 10 (b) in respect of land belonging to the Local authority and Section 12 prescribes that local authority shall give permission under Sec 10(C) for any activity of Telegraph authority on the land belonging to the local authority. But when the activity like construction of Telecom Towers etc are carried out on the land not belonging to the local authority such permission of local authority is not required .
- iv) The Govt. of Orissa notification dated 16.08.07 does not indicate the source for issuance of such notification.

In view of the statutory provisions explained above, the notification of the Orissa Govt. dated 16.08.2007 regarding levy of license fee by local authorities is perhaps without any jurisdiction and such notification can not perhaps override the statutory provisions in this regard and impose restrictions on the Telecom Authorities to maintain the Telephone lines.

Hence, it is requested that Govt. of Orissa may kindly review and withdraw such notification dtd.16.08.2007 as the activities of Telecom authority comes under the domain of Union list and Central Govt. However, if during the course of providing service, if any damage is done to the property of the local authority, it is open for such authority to levy compensation on the Telegraph Authority.

With kind regards.

Yours faithfully,



**Chief General Manager Telecom
BSNL Orissa Circle, Bhubaneswar**

S. Ajit Singh