

M/S Rayudu Vision Media Ltd vs The Ministry Of Information And ... on 29 January, 2024

Author: Surepalli Nanda

Bench: Surepalli Nanda

IN THE HIGH COURT OF TELANGANA AT HYDERABAD

W.P.No.18617 OF 2023

Between:

M/s. Rayudu Vision Media Ltd.
Rep. by its Jt. Managing Director,
Rayudu V V S

... Petitioner

And

The Ministry of Information and Broadcasting
Rep. by the Secretary, A-Wing, Shastri Bhavan,
New Delhi - 110001.

... Respondent

JUDGMENT PRONOUNCED ON: 29.01.2024

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

1. Whether Reporters of Local newspapers : Yes
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes
see the fair copy of the Judgment?

SUREPALLI NANDA, J

THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P.No.18617 OF 2023

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M/s. Rayudu Vision Media Ltd.
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Rep. by the Secretary, A-Wing, Shastri Bhavan,
New Delhi - 110001.

... Respondents

< Gist:

> Head Note:

! Counsel for the Petitioner	:	Mr.P.Sri Ram
^ Counsel for Respondent	:	Mr.B.Narasimha Sharma, Ld.Addl. Solicitor General of India

? Cases Referred:

- (1) (2009) 12 SCC 40
- (2) (2023) 6 SCC 1
- (3) (1992) Supp (2) SCC page 501
- (4) (2017) SCC Online Hyd 426)
- (5) 2021 SCC Online SC 3422
- (6) (2004) 2 SCC page 447

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THE HON'BLE MRS JUSTICE SUREPALLI NANDA

W.P. No. 18617 of 2023

ORDER:

Heard the Learned Senior Designated Counsel Mr. P.Raghuram appearing on behalf of the Petitioner representing the Learned Counsel on Record Mr. P.Sri Ram and the Learned Additional Solicitor General of India Mr. B. Narasimha Sharma, learned Additional Solicitor General of India appearing on behalf the Respondent.

2. The Petitioner approached the Court seeking prayer as under :

"To issue a Writ in the nature of mandamus or any other appropriate Writ, Direction or Order against the Respondent to set aside its order dated 07.07.2023, whereby the Permission for Uplinking and Downlinking of the News Channel of the Petitioner was revoked by Respondent under clause 25 (1) (xii) 25 (2) and 26 (2) of the Policy Guidelines, 2022 for Uplinking and Downlinking of Satellite Television Channels in India, 2022 ("MIB Guidelines 2022"), in an arbitrary, high handed and unlawful manner and by not affording Petitioner, an opportunity of any personal hearing under the principles of Natural justice before the Competent WP_18617_2023 SNJ Authority in violation of the rights of the Petitioner under Article 19(1)(a) of the Constitution of India along with being in violation of Section 20 of the Cable Television (Networks) Regulation Act, 1995."

3. PERUSED THE RECORD :

The relevant paragraph Nos. 12, 13, 14, 15, 16, 17, 18, 19, 20, Para 22 Clause D & G of the Counter affidavit filed by the Respondent herein, read as under :

"12. It is further submit that, all the Show Cause Notices and Final Cancellation order was issued with the approval of the Competent Authority in the Ministry as applicable in case to case basis and not by the Under Secretary alone as alleged by the petitioner. The competent authority has carefully perused the submissions of the petitioner and the circumstantial evidences on record before giving approval for cancellation of the channel. The show cause notice dated 26-04-2023 was issued to provide an opportunity of being heard to the petitioner in tune with the natural principles of justice.

13. In reply to Para No.23: It is submitted that the central monitoring committee as mentioned by the petitioner has been constituted under this Ministry to look into the matter related to content violation only and not for the violations of policy guidelines for WP_18617_2023 SNJ Uplinking/Downlinking. The Hon'ble Minister of Information and Broadcasting is the competent authority to grant permission for new TV channels and is also the authority for revoking the permission for any violation of policy Guidelines.

14. With regard to Para No.24: It is submitted that the petitioner has been given plenty of opportunities though Show Cause Notices and letters to present their views in this regard. A table of such opportunities provided to the company is annexed and

marked as Annexure R3.

15. With regard to Para No.25: It is submitted that from the details of the information placed by the company on its contact us page, the owner of the TV channel is mentioned as M/s Samhitha Broadcasting Pvt. Ltd. and not M/s Rayudu Vision Media Ltd which led to issuance of a showcause notice. However, it is not the only reason for which the permission of the channel was withdrawn.

16. With regard to Para Nos.26 to 31: The company M/s RVML was asked to furnish various documentary evidences to substantiate that the operations, management, network creation, techno commercial are strictly within their domain and M/s Samhitha Broadcasting Private Limited has no role except space selling and air time slot filling. M/s RVML, despite multiple opportunities, has failed to produce any WP_18617_2023 SNJ documentary proof to show that it is actually running and operating the TV channel 'Prime9 News' itself and has not contracted out the operations of the TV channel 'Prime9 News'. Even the bank statements show a monthly credit of fixed sum received by M/s RVML for contracting out of operations. There is no expense incurred by the company in running the channel. Even the payment to leased line operator has been borne by M/s Samhitha Broadcasting Private Limited.

17. All the circumstantial evidences have been confronted to the company and their replies taken into consideration before arriving at the conclusion There are atleast 7 reasons mentioned in Para 22 of the Order dated 7.7.2023 to refute the contentions of the company. M/s. RVML was found to have misused the permission by authorizing or enabling or contracting out to M/s SBPL the operations or other core functions/activities of the channel through an explicit or implicit agreement or arrangement i.e. through a colorable device - Time Slot Agreement. Thus, from 16.10.2018 onwards, the company M/s RVML had been violating Clause 11 of earlier Policy guidelines 2011 and thereafter of Clause 32 of the Policy Guidelines, 2022.

18. It is to note that the Security clearance from MHA is an essential condition for continuation of permission and in the said case, M/s RVML has allowed its NEWS channel 'Prime9 News' to be run by a non-permitted WP_18617_2023 SNJ and non-Security cleared entity namely M/s. SBPL. As per the Policy Guidelines, changes in Share Holding Pattern, appointment of Directors in the board are required to be approved by the Ministry. Allowing a non-permitted entity without Security Clearance to control the operation of a News TV channel, can be a big threat to National Security. This highlights the malafide intention of the company M/s RVML to circumvent the terms and conditions of the permission granted to it for TV channel 'Prime9 News' (earlier R TV) by designing a colourable device by the name of "Time Slot Agreement" to contract out the operations of the news channel to M/s SBPL.

19. I further submit that Clause 26 (2) states that The Ministry shall have the right to suspend the permission of a channel for a specified period or cancel its permission in public interest or in the interest of national security to prevent its misuse, including where the company/LLP is found to have misused the permission by authorizing or enabling or contracting out to any other person the operations or other core functions/activities of the channel through any explicit or implicit agreement or arrangement, or there is a substantive change in ownership of the company/LLP leading to complete change in management and control over the company/LLP without prior permission of the Ministry, and the company or the LLP shall immediately comply with such directives. Thus, enabling or WP_18617_2023 SNJ contracting out to any other person the operations or other core functions/activities of the channel through any explicit or implicit agreement or arrangement is considered as gross violation of national security.

20. Hence, it was evident that the company has been blatantly and continuously violating the Uplinking and Downlinking guidelines since 16.10.2018 onwards and therefore attracts the maximum penalty applicable, looking into the nature and gravity of the continued violations.

22. With regard to Para Nos.33 to 46, it is submitted that Para 33 to 46: The contention of the company M/s RVML does not hold ground for the following reasons:

(d) Clause 25 (4) of the Policy Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 provides that "No penal action shall be taken under this para, unless the company/LLP has been given an opportunity of being heard".

However, the said clause does not necessitate the requirement for in-person hearing.

(g) I submit that in the letters dated 19.06.2023, 23.06.2023 and 03.07.2023, the company had also requested an opportunity of personal hearing through their representative to clarify any further doubt in this regard. The company was given ample opportunities to present their stand in the matter by means of repeated WP_18617_2023 SNJ letters dated 18.05.2023, 14.06.2023, 20.06.2023, 26.06.2023, 27.06.2023 and Final SCN dated 06.06.2023. With reference to personal hearing requests, it is to mention that the company failed to provide the requisite documents repeatedly to MIB i.e. Time Slot Agreement that expired on 16.09.2019, rental agreements, details of employees, salary paid to such employees and just kept on asking for personal hearing instead of making required compliance. In lieu of personal hearing, MIB provided repeated opportunities to the company to submit their written submissions."

Relevant Provisions :

25. Consequences of violation of other terms and conditions : (1) Where a permission holder is found to be violating any of the terms and conditions of the permission or any other provisions of these guidelines, other than violation referred to in para 24(1), the Ministry shall have the right to take action, as under:

TABLE : ACTION FOR VIOLATION Sl.No. Violation Penal Action for violation

(i) Delay in intimation regarding change Warning in shareholding pattern of the company

(ii) Appointment of a Chief Executive Warning, with the condition that Officer or Director/Designated the Chief Executive Officer or Partner without prior permission of Director shall not function in that the Ministry capacity till such time the appointment is approved by the Ministry.

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(iii) Non-removal of Chief Executive Prohibition of broadcast up to 30 Officer or Director/Designated days; suspension of permission Partner who has been denied in case of continued default security clearance

(iv) Showing dual logo/logo or name not Order directing removal of the permitted by the Ministry dual logo/unpermitted logo;

Prohibition of broadcast for up to 30 days for non-compliance

(v) Not maintaining the stipulated net Warning worth for at least two consecutive financial years

(vi) In respect of a channel, for being Warning non-operational continuously for more than 60 (but less than 90) days, without intimating the Ministry.

(vii) In respect of a channel, for being Suspension; revocation of non-operational for a continuous permission for continued default period exceeding 90 days.

(viii)	Non-payment of annual permission fees beyond a period of one year from the due date	Prohibition of broadcast up to 30 days, Suspension of channel for continued default
(ix)	Non-registration for telecast of a Live event by a non-news and current affairs channel	Warning and/or stoppage of live broadcast; Prohibition of broadcast upto 10 days, debarment from live broadcast for a period upto six months;
(x)	Telecast of an event Live by a non-news channel, content of which is in contravention of the Programme Code	Stoppage of live broadcast; prohibition of broadcast upto 10 days
(xi)	Usage of non-permitted SNG/DSNG	Prohibition of broadcast upto 30

	equipment	days; Suspension/cancellation of permission for continued default
(xii)	Transfer of a channel without permission of the Ministry	Suspension/cancellation of permission
(xiii)	Uplinking of a non-permitted suspended/cancelled TV channel by a teleport Operator	Forfeiture of Security Deposit. The teleport would be required to furnish fresh Security Deposit as mentioned in Appendix IV within 15 days of forfeiture; Suspension/cancellation of permission for continued default

(2) In case of continued default of any one or more of the violations specified in the aforementioned table, the Ministry may impose a higher degree of penal action.

WP_18617_2023 SNJ (3) Contravention of any of the terms and conditions of permission, other than those specified in sub-para (1), may invite one or more of the penal action mentioned in sub-para (1) having regard to the nature and gravity of contravention. (4) No penal action shall be taken under this para, unless the company/LLP has been given an opportunity of being heard."

4. The case of the Petitioner, in brief, is as under :

"The Petitioner company was incorporated under Companies Act, 1956 on 08.04.2005 and the Petitioner Company i.e., Rayudu Vision Media Limited, is being represented by its authorized representative, Rayudu VVS, Joint Managing Director. The Petitioner company had obtained permission for Uplinking and Downlinking News Channel in the year 2007 that is on 04.12.2007 vide Registration No.108/I/2007-TV(I) and the said permission had been renewed till 03.12.2027 vide Letter dated 18.03.2021.

Petitioner company is currently running News Channel "Prime 9 News" previously under name "RTV". Thereafter Petitioner applied for permission to go back to its original name "RTV" in January 2023 and the same is pending with the Respondent.

The Petitioner company also operates several You Tube WP_18617_2023 SNJ Channels in name of RTV collectively under RTV news network. The RTV news network is one of the fast emerging Social Media News Network on You Tube and other Social Media Platforms and is well connected with public in general.

The Petitioner company faced difficulty in generating revenues to stay afloat and the situation worsened after Covid pandemic. As such the Petitioner company had entered into Agreement with M/s. Samhitha Broadcasting Private Limited, dated 15.02.2021 and Addendum dated 02.03.2021. Though the Petitioner company entered into an Agreement dated 16.08.2018 with M/s.Samhitha Broadcasting

Private Limited, it did not come into force due to change of minds between parties. The Petitioner company after deciding to adopt a new name had made an application to the Respondent regarding change of name and logo from 'RTV' to 'Prime 9 News' old logo vide letter dated 16.03.2021. Thereafter the Respondent vide letter dated 08.04.2021 had granted permission for change of logo from RTV to Prime 9 News old logo. After a business meeting and after a strategy the Petitioner company took the decision to change the new Prime 9 News logo and to go back to its original name 'RTV' and to terminate the WP_18617_2023 SNJ Agreement with SBPL. The Petitioner paid the requisite fee and also filed an application dated 16.01.2023 before the Respondent as per Rules for change of name/logo. The Petitioner also addressed a representation dated 03.04.2023, but however, the Respondent remained silent for more than 6 months in clear violation of Clause 20(3) and Clause 6(b) of the MIB Guidelines, 2022. The Petitioner was surprised to receive Show Cause Notice dated 26.04.2023 with a preconceived notion of revoking the permission for Uplinking and Downlinking of news channel of Petitioner and it is alleged in the said Show Cause Notice dated 26.04.2023 that the Petitioner had submitted forged documents of Application No. 5538744, dated 21.07.2022 by forging the name of Rayudu Vision Media Limited as applicant. The Petitioner again received another Show Cause Notice dated 18.05.2023 and Final Show Cause Notice dated 06.06.2023 on the same preconceived notion of revoking the permission to Uplink and Downlink News and Current Affairs Channel of Petitioner on the ground that the Petitioner had made a false claim of being owner of Prime 9 News and a simple Google search with Prime 9 News indicates M/s. Samhitha Broadcasting Private WP_18617_2023 SNJ Limited as owner and not the Petitioner herein. It is the specific case of the Petitioner that the Agreement entered into between the Petitioner and SBPL did not whisper of transfer of ownership and a Google search result cannot be the criteria for showing the ownership. All the Show Cause Notices dated 14.06.2023, 20.06.2023 and 27.06.2023 had been issued to the Petitioner under Clause 25(1)(ix), 25(2) and 26(2) of MIB Guidelines, 2022 by retrospective application for the allegations said to have taken place even before the release of MIB Guidelines, 2022 and the said Guidelines were released on 09.11.2022 and the Show Cause Notices sought information related to events alleged to have taken place prior to the release of the 2022 MIB Uplinking and Downlinking Policy Guidelines. It is further the specific case of the Petitioner that the Respondent had resorted to retrospective application of Guidelines without any clear manifestation. The Respondent had passed the order impugned dated 07.07.2023 wherein the permission for Uplinking News Channel of Petitioner was revoked under pretext of Clause 25(1)(ix), 25(2) and 26(2) of MIB Guidelines, 2022, without considering all the pleas put-forth WP_18617_2023 SNJ by the Petitioner and aggrieved by the same the Petitioner filed the present Writ Petition.

5. The learned Senior Counsel Mr. P. Raghu Ram appearing on behalf of the Petitioner mainly put-forth the following submissions :

i. The order impugned is passed in violation of principles of natural justice.

ii. The Petitioner had not been provided with an opportunity of being heard before the competent authority inspite of several requests made by the Petitioner for personal hearing vide replies dated 13.06.2023, 19.06.2023, 26.06.2023 and 03.07.2023.

iii. Hundreds of the employees of the Petitioner News Channel Prime 9 News were deprived of their livelihood causing serious and irreparable injury to the Petitioner company.

iv. Without establishing that the Petitioner channel had acted against the public interest and against the national security, the Respondent referred to Clause 26(2) of the Policy Guidelines, 2022.

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vi. The Petitioner had been denied of personal hearing before the Competent Authority while dealing with the vital issue of revocation of permission under Clause 26(2) in consonance with Cable TV Act and Article 19 of the Constitution of India.

vii. The Respondent adopted an unwarranted, unlawful interpretation of Clause 26(2) of MIB Guidelines, 2022, more so when admittedly there is no whisper in any of the Show Cause Notices issued to the Petitioner that the Petitioner had acted or telecasted against public interest or national interest.

viii. The guidelines cannot over ride the statutory law and fundamental rights.

ix. The Respondent acted in violation of Article 19 of the Constitution of India and Section 20 of the Cable TV Act.

The Learned Senior Counsel appearing on behalf of the Petitioner referring in particular to the Policy WP_18617_2023 SNJ Guidelines for Uplinking and Downlinking of Television Channels, dated 09.11.2022 and in particular referring to the penalties for violation under Part-ix of the said Guidelines, Clause 25(iv) contended that no penal action should be taken for violation of transfer of Channel without the permission of the Ministry by suspending or cancelling the permission unless the Company had been given an opportunity of being heard, and since the same had not been followed even as admitted in the counter affidavit filed by the Respondent herein, the petitioner is entitled for the relief as prayed for in the present writ petition and the writ petition should be allowed as prayed for.

6. The Learned Additional Solicitor General of India appearing on behalf of the Respondent placing reliance on the counter affidavit filed by the Respondent mainly put-forth the following contentions.

i. The Competent Authority has carefully perused the submissions of the Petitioner and the circumstantial evidences on record before giving approval for cancellation of the channel.

WP_18617_2023 SNJ ii. The Petitioner Company had been provided plenty of opportunities through Show Cause Notices and letters to present their views.

iii. The Petitioner Company was asked to furnish various documentary evidences to substantiate that the Operations, Management, Network Creation, Techno Commercial are strictly within their domain and M/s. Samhitha Broadcasting Private Limited, had no role except space selling and air time slot filling. Despite multiple opportunities Petitioner Company failed to produce any documentary proof to show that it is actually running and operating the TV channel "Prime 9 News" itself and has not contracted out the operations of the TV channel "Prime 9 News". Even the bank statements show a monthly credit of fixed sum receipt for Petitioner Company for contracting out of operations. There is no expense incurred by the company in running the channel. Even the payment to leased line operator has been borne by M/s. Samhitha Broadcasting Private Limited.

WP_18617_2023 SNJ iv. The Petitioner company had been violating Clause 11 of earlier Policy Guidelines, 2011 and thereafter of Clause 32 of the Policy Guidelines, 2022.

v. Allowing a non-permitted entity without security clearance to control the operation of News TV Channel can be a big threat to National Security.

vi. The Petitioner company had been continuously violating the uplinking and downlinking guidelines since 16.10.2018 onwards and therefore attracts maximum penalty applicable, looking into the nature and gravity of the continued violations.

vii. The Petitioner company misused the permission without prior permission of the ministry.

viii. Clause 25(4) of the Policy Guidelines for uplinking and downlinking of Satellite Television Channels in India, 2022 provides that no penal action shall be taken under this para, unless the company/LLP has been given an opportunity of being heard. However the said Clause does not necessitate the requirement for inperson hearing.

WP_18617_2023 SNJ ix. Contention of the Petitioner company in respect of retrospective application of guidelines being unwarranted, arbitrary and unlawful is incorrect.

x. With reference to personal hearing requests it is to mention that the company failed to provide the requisite documents repeatedly to MIB i.e., Time Slot Agreement that expired on 16.09.2019, Rental Agreements, Details of Employees, Salary paid to such employees and kept on asking for personal hearing instead of making required compliance. In lieu of personal hearing, MIB provided repeated opportunities to the Company to submit their written submissions.

xi. The Petitioner Company had contracted out all the liabilities related to content creation and operation control apart from authorizing M/s. SBPL to provide content to be aired along with marketing, distribution and promotion rights for the channel "Prime 9 News". Thus the contention of the Petitioner that content creation has been done by the Petitioner itself and the entire editorial control was in the hands of the Petitioner alone could not be corroborated along WP_18617_2023

SNJ with documentary evidences by the Company. This tantamounts to contracting out the operations of the TV channel in the garb of so called colourable device i.e., "Time Slot Agreement", therefore the above violation is liable for penal action under Policy Guidelines of 2011 as well as 2022.

On the basis of the above submissions the Learned Additional Solicitor General of India, though admitted that an opportunity of personal hearing was not provided to the Petitioner even as per the counter affidavit filed by the Respondent herein yet submitted that the Petitioner was provided a reasonable opportunity and the principles of natural justice had been duly followed and therefore the Petitioner is not entitled for the relief as prayed for. DISCUSSION & CONCLUSION :

7. A bare perusal of the Policy Guidelines for Uplinking and Downlinking of Television Channels, dated 09.11.2022, Part-ix dealing with Penalties for Violation of Clause 25 clearly indicates that the penal WP_18617_2023 SNJ action is contemplated for violation pertaining to transfer of a Channel without permission of the Ministry i.e., suspension/cancellation of permission and Sub-Clause 4 of Clause 25 clearly indicates that no penal action shall be taken under this para unless the Petitioner Company had been given an opportunity of being heard. The counter affidavit filed by the Respondent in particular Para 22 Clause 'd' and 'g' read as under :

"(d) Clause 25 (4) of the Policy Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 provides that "No penal action shall be taken under this para, unless the company/LLP has been given an opportunity of being heard".

However, the said clause does not necessitate the requirement for in-person hearing.

(g) I submit that in the letters dated
19.06.2023, 23.06.2023 and 03.07.2023, the

company had also requested an opportunity of personal hearing through their representative to clarify any further doubt in this regard. The company was given ample opportunities to present their stand in the matter by means of repeated letters dated 18.05.2023, 14.06.2023, 20.06.2023, 26.06.2023, 27.06.2023 and Final SCN dated 06.06.2023.

WP_18617_2023 SNJ With reference to personal hearing requests, it is to mention that the company failed to provide the requisite documents repeatedly to MIB i.e. Time Slot Agreement that expired on 16.09.2019, rental agreements, details of employees, salary paid to such employees and just kept on asking for personal hearing instead of making required compliance. In lieu of personal hearing, MIB provided repeated opportunities to the company to submit their written submissions."

8. This Court opines that the plea of the Respondent herein in the counter affidavit at para 22(d) that Clause 25(iv) (referred to and extracted above) of the Policy Guidelines for Uplinking and Downlinking of Satellite Television Channels in India, 2022 does not necessitate the requirement for in person hearing is not only a statement made contrary to the Guidelines but also a statement made in clear violation of principles of natural justice. The averments made by the Respondent in the

counter affidavit at para 22(g) (referred to and extracted above) clearly indicate that admittedly the Petitioner Company vide letters dated 19.06.2023, 23.06.2023 and 03.07.2023 had requested WP_18617_2023 SNJ an opportunity of personal hearing through their representative to clarify the subject issue, but however, in lieu of personal hearing, MIB provided repeated opportunities to the Company to submit their written submissions is a clear indication of violation of the relevant guidelines and also an example of clear violation of the procedure as mandated under law.

9. This Court opines that the impugned proceedings dated 07.07.2023 of the Respondent herein need to be set aside for the following reasons :

(I) Breach of Rules of Natural Justice.

A) In the present case the allegation levelled against the Petitioner is that the Petitioner allowed a non-

permitted entity without security clearance to control the operation of a News TV Channel, and that the same can be a big threat to National Security which according to the Petitioner is factually incorrect and the Petitioner cannot establish the same as true unless the Petitioner is provided with a reasonable opportunity of personal hearing which admittedly even as per the counter affidavit Para 22 Clause (g) had not been WP_18617_2023 SNJ provided to the Petitioner though it is admitted in the counter affidavit filed by the Respondent at Para 22 Clause (d) that no penal action shall be taken unless the company has been given an opportunity of being heard as per Clause 25(4) of the Policy Guidelines of Uplinking and Downlinking of Satellite Television Channels in India, 2022. This Court opines that right of an individual to have the safeguard of the principles of natural justice before being adversely commented upon is statutorily recognized and violation of the same will have to bear the scrutiny of judicial review." This Court opines that fairness in action requires that procedures which permit impairment of Fundamental Rights ought to be just, fair and reasonable.

B) The Apex Court in the judgment reported in (2009) 12 SCC 40 in "UMANATH PANDEY & OTEHRS v. STATE OF UTTAR PRADESH & ANOTHER" at paras 10 & 11 observed as under :

Para 10 : The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the WP_18617_2023 SNJ parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as audi alteram parte rule. It says that no one should be condemned unheard. Notice is the best limb of this principle. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The

concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vacate, interrogate and adjudicate". In the celebrated case of *Cooper v. Wandsworth Board of Works* the principle was thus stated: (ER p.420). "Even God himself did not pass sentence upon Adam before he was called upon to make his defence. 'Adam' (says God), WP_18617_2023 SNJ 'where art thou? Hast thou that thou shouldest not eat?'. Since then the principle has been chiseled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond. Para 11 : "Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice".

This Court opines that the Petitioner ought to have been provided with an opportunity of personal hearing prior to issuing the present impugned order dated 07.07.2023 by the Respondent herein in all fairness and admittedly as borne on record the Petitioner had not been heard prior to passing of the impugned order dated 07.07.2023 by the Respondent herein and therefore the order impugned dated 07.07.2023 of the Respondent is in clear violation of audi alteram partem rule.

WP_18617_2023 SNJ C) The Apex Court in the judgment reported in (2023) 6 SCC 1 in *State Bank of India & Ors., Vs. Rajesh Agarwal & Ors.*, at para 85 observed as under :

A Constitution Bench of this Court in *Union of India and Anr. Vs. Tulsiram Patel and Ors.* has categorically held that violation of the principles of natural justice is a violation of Article 14.

The Court held that any State action in breach of natural justice implicates a violation of Article 14: (SCC p. 476, para 95) "95. The principles of natural justice have thus come to be recognised as being a part of the guarantee contained in Article 14 because of the new and dynamic interpretation given by this Court to the concept of equality which is the subject-matter of that article. Shortly put, the syllogism runs thus: violation of a rule of natural justice results in arbitrariness which is the same as discrimination; where discrimination is the result of State action, it is a violation of Article 14:

therefore, a violation of a principle of natural justice by a State action is a violation of Article

14. Article 14, however, is not the sole repository of the principles of natural justice. What it does is WP_18617_2023 SNJ to guarantee that any law or State action

violating them will be struck down. The principles of natural justice, however, apply not only to legislation and State action but also where any tribunal, authority or body or men, not coming within the definition of "State" in Article 12, is charged with the duty of deciding a matter. In such a case, the principles of natural justice require that it must decide such matter fairly and impartially."

D. In "CANTONMENT BOARD v. TARAMANI DEVI", reported in (1992) Supp (2) SCC page 501, a two-judge Bench of this Court held that the rule of audi alteram partem is a part of Article 14. Similarly, in "DTC v. MAZDOOR CONGRESS" reported in (1991) Supp (1) SCC 600, the Apex Court observed that the rule of audi alteram partem enforces the equality clause in Article

14. Therefore, any administrative action which violates the rule of audi alteram partem is arbitrary and violative of Article 14.

This Court opines that administrative proceedings which entail significant civil consequences must be WP_18617_2023 SNJ read consistent with the principle of natural justice to meet the requirement of Article 14.

10. In "MANGILAL V. STATE OF M.P., reported in (2004) 2 SCC page 447, a two-Judge Bench of Apex Court held that the principles of natural justice need to be observed even if the statute is silent in that regard. In other words, a statutory silence should be taken to imply the need to observe the principles of natural justice where substantial rights of parties are affected: (SCC pp.453-54, para 10) observed as under:

"10. Even if a statute is silent and there are no positive words in the Act or the Rules made thereunder, there could be nothing wrong in spelling out the need to hear the parties whose rights and interest are likely to be affected by the orders that may be passed, and making it a requirement to follow a fair procedure before taking a decision, unless the statute provides otherwise. The principles of natural justice must be read into unoccupied interstices of the statute, unless there is a clear mandate to the contrary. No form or procedure should ever be permitted to exclude the presentation of a litigant's defence or stand. Even in the absence of a provision in procedural laws, power inheres in every tribunal/court of a judicial or quasi-judicial character, to adopt modalities necessary to achieve requirements of natural justice and fair play to WP_18617_2023 SNJ ensure better and proper discharge of their duties. Procedure is mainly grounded on the principles of natural justice irrespective of the extent of its application by express provision in that regard in a given situation. It has always been a cherished principle. Where the statute is silent about the observance of the principles of natural justice, such statutory silence is taken to imply compliance with the principles of natural justice where substantial rights of parties are considerably affected. The application of natural justice becomes presumptive, unless found excluded by express words of statute or necessary intendment. Its aim is to secure justice or to prevent miscarriage of justice. Principles of natural justice do not supplant the law, but supplement it. These rules operate only in areas not covered

by any law validly made. They are a means to an end and not an end in themselves."

11. This Court opines that the order impugned dated 07.07.2023 passed by the Respondent herein is a clear example of Procedural Impropriety.

It is settled law when a statute describes or requires a thing to be done in a particular manner it should be done in that manner or not at all. A) (M.Shankara Reddy Vs. Amara Ramakoteswara Rao reported in (2017) SCC Online Hyd 426).

WP_18617_2023 SNJ B) The Division Bench of Apex Court in its judgment dated 04.10.2021 in Supertech Ltd., Vs. Emerald Court Owner Resident Welfare Association and Ors., reported in 2021 SCC Online SC 3422, referring to Taylor Vs. Taylor, 1875 (1) Ch D426, Nazir Ahmed Vs. King Emperor reported in (1936) L.R.63 Ind Ap372 and Parbhani Transport Co-operative Society Ltd., Vs. The Regional Transport Authority, Aurangabad & Ors., reported in AIR 1960 SC 801 at para 13 observed as under :

"It is that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden. Hence when a statute requires a particular thing to be done in a particular manner, it must be done in that manner or not at all and other methods of performance are necessarily forbidden. This Court too, as adopted this maxim. This rule provides that an expressly laid down mode of doing something necessarily implies a prohibition on doing it in any other way.

12. In the present case, the procedure laid down under the statute has been totally ignored by the Revising Committee.

WP_18617_2023 SNJ Clause 25(2), Clause 25(4) and 26(2) of the policy Guidelines, 2022 for Uplinking and Downlinking of Satellite, Television Channels in India 2022 "MIB Guidelines 2022" are extracted hereunder:

Clause 25(2) reads as under :

"(2) In case of continued default of any one or more of the violations specified in the aforementioned table, the Ministry may impose a higher degree of penal action."

Clause 25(4) reads as under :

(4) No penal action shall be taken under this para, unless the company/LLP has been given an opportunity of being heard."

Clause 26(2) reads as under :

26. Powers of the Central Government:

"(2) The Ministry shall have the right to suspend the permission of a channel for a specified period or cancel its permission in public interest or in the interest of national security to prevent its misuse, including where the company/LLP is found to have misused the permission by authorizing or enabling or contracting out to any other person the operations or other core functions/activities of the channel through any explicit or implicit agreement or arrangement, or there is a substantive change in ownership of the company/LLP leading to complete change in management and control over the WP_18617_2023 SNJ company/LLP without prior permission of the Ministry, and the company or the LLP shall immediately comply with such directives."

The present impugned order passed by the Respondent is in clear violation of the mandatory procedure laid down under Guideline 25(4) pertaining to suspension/cancellation of permission in relation to transfer of a Channel without permission of the Ministry which clearly mandates in providing an opportunity of being heard to the Company i.e., the Petitioner herein prior to initiation of penal action against the Petitioner which admittedly has not been followed in the present case as borne on record since the order impugned dated 07.07.2023 refers to Clause 25(I) (xii), Clause 25(2) and Clause 26(2) of Policy Guidelines 2022 and a bare perusal of the same extracted above clearly indicate that penal action had been initiated against the Petitioner by the Respondent herein without providing an opportunity of personal hearing to the Petitioner in clear violation of the relevant guidelines and the statute in force.

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13. This Court without going into the other issues and merits of the case upon the consent of all the learned Counsel on record duly taking into consideration the observations made by the Apex Court in the various judgments (referred to and extracted above) and duly considering the averments made in the counter affidavit filed by the Respondent at Para 25(d) and Para 25(g) (referred to and extracted above, this Court is inclined to set aside the order impugned dated 07.07.2023 passed by the Respondent herein pertaining to File No. 1404/6(ii)/2006-TV(I) Vol II, on the ground that it is in clear violation of principles of natural justice and in violation of clause 25 (4) of the policy Guidelines in force, the Respondent herein is directed to reconsider the whole issue afresh again in strict adherence to the relevant guidelines in force (referred to and extracted above) by giving a reasonable opportunity of personal hearing to the Petitioner in accordance to law and pass appropriate reasoned orders pertaining to the subject issue i.e., pertaining to cancellation of permission of the Channel WP_18617_2023 SNJ to M/s. Rayudu Vision Media Limited (RVML) to uplink and downlink a News and Current Affairs TV Channel namely "Prime 9 News" (earlier RTV) which had been granted on 04.12.2007 in favour of the Petitioner herein and had been subsequently renewed on 18.03.2021 for a further period upto 03.12.2027, within a period of 4 weeks from the date of receipt of the copy of the order and duly communicate the decision to the Petitioner herein.

It is further observed that the Petitioner is at liberty to put-forth all the legal pleas available to the Petitioner before the Respondent herein in addition to all the pleas which had been raised and put-forth by the Petitioner in the present writ petition and accordingly, the writ petition is allowed.

However, there shall be no order as to costs.

Miscellaneous petitions, if any pending, in this writ petition shall stand closed.

_____ SUREPALLI NANDA, J Date: 29.01.2024 Note : L.R. Copy to be marked.

B/o.Yvkr