

(2005) 04 MAD CK 0004

Madras High Court

Case No: W.A. No. 1420 of 2003

M/s. United Telecoms Ltd.

APPELLANT

Vs

Bharat Sanchar Nigam Ltd.,
Chennai Telephones, 7,
Kushkumar Road,
Nungambakkam, Chennai-34
and The Divisional Engineer,
(Transmission Planning I), BSNL,
Chennai Telephones, 7,
Kushkumar Road, 11 Floor,
Nungambakkam, Chennai-34

RESPONDENT

Date of Decision: April 8, 2005

Hon'ble Judges: Markandey Katju, C.J; F.M. Ibrahim Kalifulla, J

Bench: Division Bench

Advocate: K. Subramanian, for Mr. M. Mohammed Shafi, for the Appellant; V.T. Gopalan, Addl. Solicitor General assisted by Mr. S. Udayakumar, SCGSC, for the Respondent

Judgement

Markandey Katju, C.J.

This writ appeal has been filed against the impugned judgment of the learned single Judge dated 13.2.2003. We

have heard the learned senior counsel for the parties and perused the records. The claim of the writ petitioner was for a refund of the bid security

given as a bank guarantee, which has been encashed by the second respondent.

2. Mr. V.T.Gopalan, learned Additional Solicitor General appearing for Bharat Sanchar Nigam Limited has invited our attention to the arbitration

clause signed by the parties, which states:-

In the event of any question, dispute or difference arising under this agreement or in connection therewith except as to matter the decision of which

is specifically provided under this agreement, the same shall be referred to sole arbitration of the Chief General Manager, Chennai Telephones,

Chennai-10 or in case his designation is changed or his office is abolished then in such case to the sole arbitration of the officer for the time being

entrusted whether in addition to the functions of the Chief General Manager, Chennai Telephones or by whatever designation such officers may be

called (hereinafter referred to as the said officer) and if the Chief General Manager or the said officer is unable or unwilling to act as such the sole

arbitration or some other person appointed by the Chief General Manager or the said officer.

In our opinion the appellant can invoke this arbitration clause and if he does so, the arbitrator will decide the controversy preferably within three

months of the presentation of the application before the arbitrator. In view of this alternative remedy, the writ appeal is disposed off without going

into the merits of the case. No costs.