(2017) 08 SC CK 0080

SUPREME COURT OF INDIA

Case No: C.A. No 10732-10733 of 2017 (Arising Out of Special Leave Petition (Civil) Nos 4574-4575 of 2015)

Union of India		APPELLANT
	Vs	
Board of Control For Cricket In India & Ors.		RESPONDENT

Date of Decision: Aug. 22, 2017

Acts Referred:

- Cable Television Networks (Regulation) Act, 1995, Section 8 - Compulsory transmission of Doordarshan channels
- Prasar Bharati (Broadcasting Corporation of India) Act, 1990, Section 3 - Establishment and composition of Corporation
- Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007, Section 3, Section 3

Citation: (2017) 9 Scale 400 : (2017) 7 SCR 483 : (2018) 11 SCC 700

Hon'ble Judges: Ranjan Gogoi, J; Navin Sinha, J

Bench: Division Bench

Advocate: RAJEEV SHARMA

Final Decision: Disposed Of

Judgement

1. Leave granted in all the Special Leave Petitions.

2. The precise origin of the game of cricket, though largely unknown, has been traced, at least, to late 15th Century England. With the expansion of British Empire the game of cricket travelled to different parts of the globe including India. Today, if there has to be a national game in India, cricket would certainly be a front-runner. The packed stands in all cricketing venues is certainly not the full picture. Live telecast of all major cricketing

events, domestic and international, is beamed to millions of homes in the country. Telecasting/Broadcasting rights are leased out by the organizing body i.e. Board of Control for Cricket in India (hereinafter referred as the "BCCI") through competitive bidding. These signals (live feeds) are transmitted to millions of Indian homes by the Doordarshan; cable operators and Direct-to-Home (DTH) operators. The rights of these entities in respect of the live telecast of major cricketing events in the country and the consequential revenue implications are the core issues arising in these groups of appeals which have been filed in the following circumstances.

3. BCCI is the "approved" national level body holding virtually monopoly rights to organize cricketing events in the country. Grant of telecasting rights of these events is, therefore, a major source of revenue for the BCCI. There is currently in force a Media Rights Agreement by and between Star India Private Ltd. and BCCI effective from April 2012 till March 2018 under which Star India Private Limited [respondent No.4 in the Appeals arising out of Special Leave Petition (Civil) Nos.4574-4575 of 2015] has been granted exclusive rights to telecast cricketing events that take place in the country during the currency of the period of the agreement.

4. Star India Private Limited, in turn, has engaged ESPN Software Pvt. Ltd. [respondent No.3 in the Appeals arising out of Special Leave Petition (Civil) Nos.4574-4575 of 2015] for distribution, inter alia, of the telecast of all cricketing events covered by the Media Rights Agreement.

5. Under Section 3 of the Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 [hereinafter referred to as "the Sports Act, 2007"], the respondent Nos. 3 and 4 are obliged to share the live broadcasting signals of sporting events of national importance with the Prasar Bharati (which owns the erstwhile Doordarshan"s channels/networks) for retransmission of the same through its terrestrial and Direct-to-Home networks. The Respondents have no objection sharing the live feed to the above extent. In fact they have not challenged the vires/validity of Section 3 of the Sports Act, 2007. What is being objected to and, therefore, challenged in the writ proceedings leading to the present appeals is the retelecast of the signals shared by the Respondents 3 and 4 with Prasar Bharati under Section 3 of the Sports Act, 2007 by Cable Operators to millions of other viewers, who may not necessarily be linked to the Prasar Bharati"s terrestrial and DTH networks but are subscribers of such cable operators or other DTH service providers. Such retelecast of the signals received by the Prasar Bharati under Section 3 of the Sports Act, 2007 by the Cable Operators flow from the operation of Section 8 of the Cable Television Networks (Regulation) Act, 1995 (hereinafter referred to as "the Cable Act, 1995") which provision has been perceived to require Cable Operators to mandatorily carry in their cable service such Doordarshan channels that may be notified by the Central Government under the said Section 8 of the Cable Act. As DD 1(National) is one of the channels mandatorily required to be carried by the Cable Operators (due to its maximum reach) and the live telecast of cricketing events which the content rights owners/holder is obliged to share with Prasar Bharati under Section 3 of

the Sports Act, 2007 is retransmitted through the said Doordarshan channel i.e. DD 1(National) the cricketing events are telecast to millions of viewers by Cable Operators who otherwise charge the subscribers. By virtue of the aforesaid arrangement Cable Operators do not have to subscribe to the specific sports channels of the respondents as they are getting the live feed of cricketing events free of cost. The legality and correctness of the aforesaid arrangement is the central issue in the present group of appeals.

6. Not willing to accept the aforesaid perception of Section 3 of the Sports Act and the consequential position, the BCCI and its original assignee one Nimbus Communications Limited had moved the High Court of Delhi by way of Writ Petition (No.7655 of 2007) seeking directions to the Prasar Bharati Broadcasting Corporation and the Union of India to encrypt Doordarshan''s Satellite Transportation Feed of live broadcasting signals of cricket matches organized by the BCCI to the Doordarshan Kendras and transmission towers throughout India for subsequent broadcasts on Doordarshan''s terrestrial and DTH networks. An appropriate declaratory relief to the effect that no television network, DTH network, Multisystem network or local cable operator can broadcast such events without a licence from the content rights owners/holder was also sought. The said writ petition (No.7655 of 2007) was dismissed by the learned single judge of the High Court primarily on the ground that the matter relates to policy and, therefore, is beyond judicial reach and scrutiny. Aggrieved LPA No.1327 of 2007 was filed before the High Court.

7. Writ Petition (No.8458 of 2007) was also filed initially by BCCI and its erstwhile assignee Nimbus for striking down Section 3 of the Sports Act, 2007 insofar as it relates to cricket test matches and also striking down the notification dated 13th September, 2000 issued by the Central Government notifying DD1 (National) channel and DD (News) channel as mandatory channels to be carried compulsorily by the Cable Operators. In the same writ petition (No.8458 of 2007) the notifications dated 3rd July, 2007 and 19th October, 2007 notifying the sporting events mentioned therein in respect of cricket to be of national importance were also challenged. Also challenged is the order of the Government of India dated 29.05.2007 by which Clause 7.9 was added to the Licence Agreement of DTH Services. Clause 7.9 is in the following terms:

> "The licencee shall carry or include in his DTH services the TV Channels which have been notified for mandatory and compulsory carriage as per the provisions of Section 8 of the Cable Television Networks (Regulation) Act, 1995 as amended, failing which the licensor shall be at liberty to take action as per clause 20.1 of this Agreement."

8. Subsequently, ESPN Software India Pvt. Ltd. and Star India Pvt. Ltd. had been impleaded as petitioner Nos. 3 and 4 in the aforesaid writ petitions in view of Media Rights Agreement effective from April 2012 upto March 2018, as referred to above.

9. The aforesaid appeal (LPA No.1327 of 2007) and Writ Petition (No.8458 of 2007) were allowed by the Division Bench by holding that on an interpretation of the provisions of Section 3 of the Sports Act, 2007 and Section 8 of the Cable Act, 1995 the signals received by Prasar Bharati from the respondents should not be placed in the designated Doordarshan channels which are to be compulsorily carried by the Cable Operators under Section 8 of the Cable Act, 1995. Aggrieved the present appeals have been filed by the Union of India, Prasar Bharati, Home Cable Network Private Limited and Sopan Foundation.

10. We have heard Shri Mukul Rohatgi, learned Attorney General (as he then was) appearing for the Union of India and Prasar Bharati, S/Shri Harish Salve, P. Chidambaram, Sanjay Hegde, A.M. Singhvi, Sudhir Chandra, Gopal Jain, learned Senior Counsels appearing for Star India Private Limited, Dr. Rajeev Dhavan, learned Senior Counsel appearing for Home Cable Network Pvt. Ltd. and Sopan Foundation and Shri Amit Sibal, learned Senior Counsel appearing for the BCCI.

11. At the outset, it would be appropriate to refer to and wherever necessary to extract the relevant statutory provisions under the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (hereafter referred to as "the Prasar Bharati Act, 1990"), Sports Act, 2007 and Cable Act, 1995 and also to notice the object behind the enactments in question.

12. Under Section 3 of the Prasar Bharati Act, 1990, Prasar Bharati has been established as a Corporation to discharge the functions of erstwhile Akashvani and Doordarshan. Under Section 12 of the Prasar Bharati Act the primary duty of the Corporation is to organize and conduct public broadcasting services to inform, educate and entertain the public and to ensure a balanced development of broadcasting on radio and television. Section 12(2)(e) of the Prasar Bharati Act, 1990 clearly stipulates that Prasar Bharati shall, inter alia, be guided by the objective of "providing adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship." It, therefore, appears that one of the main objectives behind the incorporation of Prasar Bharati is to provide an adequate coverage to sports and games for the purpose(s) already noticed.

13. Specific notice would be required to be taken, in the light of the contentions advanced, which will be noticed later, of the provisions contained in Section 12(3)(c) of the Prasar Bharati Act, 1990 which enables the Prasar Bharati "to negotiate for purchase of, or otherwise acquire, programmes and rights or privileges in respect of sports and other events, films, serials, occasions, meetings, functions or incidents of public interest for broadcasting and to establish procedures for the allocation of such programmes, rights or privileges to the services."

14. We may now turn to the provisions of the Cable Act, 1995. The object of the Cable Act, 1995 as indicated in the preamble is to regulate the operation of cable television networks in the country and for matters connected therewith or incidental thereto.

15. Section 3 of the Cable Act, 1995 stipulates the necessity of registration as a cable operator in order to operate a cable television network. Section 2(aiii) defines "cable operator" in the following terms.

> "2(aiii) "cable operator" means any person who provides cable service through a cable television network or otherwise controls or is responsible for the management and operation of a cable television network and fulfils the prescribed eligibility criteria and conditions;"

16. Section 8 of the Cable Act, 1995 as amended by Act No.21 of 2011 with retrospective effect from 25th October, 2011 is in the following terms:

> "8. Compulsory transmission of Certain channels.-(1) The Central Government may, by notification in the Official Gazette, specify the names of Doordarshan channels or the channels operated by or on behalf of Parliament, to be mandatorily carried by the cable operators in their cable service and the manner of reception and re-transmission of such channels:
>
> Provided that in areas where digital addressable system has not been introduced in accordance with the provisions of sub-section (1) of section 4A, the notification as regards the prime band is concerned shall be limited to the carriage of two Doordarshan terrestrial channels and one regional language channel of the State in which the network of the cable operator is located.
>
> (2) The channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.
>
> (3) Notwithstanding the provisions of sub-section (1), any notification issued by the Central Government or the Prasar Bharti (Broadcasting Corporation of India) in pursuance of the provisions of sub-section (1), prior to the 25th day of October, 2011 shall continue to remain in force till such notifications are rescinded or amended, as the case may be.

Prior to its amendment, Section 8 was in the following terms:

"8. Compulsory transmission of Doordarshan channels.-(1) Every cable operator shall re-transmit,--

(i) channels operated by or on behalf of Parliament in the manner and name as may be specified by the Central Government by notification in the Official Gazette;

(ii) at least two Doordarshan terrestrial channels and one regional language channel of a State in the prime band, in satellite mode on frequencies other than those carrying terrestrial frequencies.

(2) The channels referred to in sub-section (1) shall be re-transmitted without any deletion or alteration of any programme transmitted on such channels.

(3) The Prasar Bharati (Broadcasting Corporation of India) established under sub-section (1) of section 3 of the Prasar Bharati (Broadcasting Corporation of India) Act, 1990 (25 of 1990) may, by notification in the Official Gazette, specify the number and name of every Doordarshan channel to be re-transmitted by cable operators in their cable service and the manner of reception and re-transmission of such channels"

Section 8 of the Cable Act, 1995 permits the Central Government to specify the names of Doordarshan channels or the channels operated by or on behalf of the Parliament which are required to be mandatorily carried by the Cable Operators. As already noticed, by notification dated 13th September, 2000, DD1 (National) channel and DD (News) channel and one regional channel have been notified as mandatorily required to be carried by the Cable Operators. There are certain subsequent notifications issued by the Ministry of Information and Broadcasting, Government of India under Section 8(1) of the Cable Act, 1995, the subsisting one being dated 5th September, 2013. No specific notice of the aforesaid notification would be required to be taken as in substance and in law the position is no different.

17. The next set of statutory provisions which would be required to be noticed, at this stage, are those to be found in the Sports Act, 2007. The preamble to the Sports Act, 2007 makes it clear that it has been enacted "to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters connected therewith or incidental thereto. Section 3 of the Sports Act, 2007, on the scope and width of which provision the core arguments have been advanced so as to enable the Court to determine the true scope and purport thereof in the light of the provisions of Section 8(1) of the Cable Act, 1995 and the notifications issued thereunder is in the following terms:

"3. Mandatory sharing of certain sports broadcasting signals.-(1) No content rights owner or holder and no television or radio broadcasting service provider shall carry a live television broadcast on any cable or Direct-to-Home network or radio commentary broadcast in India of sporting events of national importance, *unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home networks in such manner and on such terms and conditions as may be specified.*

(2) The terms and conditions under sub-section (1) shall also provide that the advertisement revenue sharing between the content rights owner or holder and the Prasar Bharati shall be in the ratio of not less than 75:25 in case of television coverage and 50:50 in case of radio coverage.

(3) The Central Government may specify a percentage of the revenue received by the Prasar Bharati under sub-section (2), which shall be utilised by the Prasar Bharati for broadcasting other sporting events."

(Emphasis supplied)

18. At this stage, we may also take note of the following definitions contained in Section 2 of the Sports Act, 2007:

"Section 2-Definitions

1) In this Act, unless the context otherwise requires,--

(a).....

xxx

(c) "broadcasting service" means assembling, programming and placing communication content in electronic form on the electromagnetic waves on specified frequencies and transmitting it continuously through broadcasting network or networks so as to enable all or any of the multiple users to access it by connecting their receiver devices to their respective broadcasting networks and includes the content broadcasting services and the broadcasting network services;

(d) "broadcasting networks service" means a service, which provides a network of infrastructure of cables or transmitting devices for carrying broadcasting content in electronic form on specified frequencies by means of guided or unguided

electromagnetic waves to multiple users, and includes the management and operation of any of the following:

(i) Teleport/Hub/Earth Station,

(ii) Direct-to-Home (DTH) Broadcasting Network,

(iii) Multi-system Cable Television Network,

(iv) Local Cable Television Network, (v) Satellite Radio Broadcasting Network,

(vi) any other network service as may be prescribed by the Central Government;

xxx

(f) "cable television network" means any system consisting of closed transmission paths and associated signal generation, control and distribution equipment, designed to receive and re-transmit television channels or programmes for reception by multiple subscribers;

xxx

(j) "Direct-to-Home (DTH) broadcasting service" means a service for multi-channel distribution of programmes direct to a subscriber''s premises without passing through an intermediary such as a cable operator by uplinking to a satellite system;

xxx

(s) "sporting events of national importance" means such national or international sporting events, held in India or abroad, as may be notified by the Central Government in the Official Gazette to be of national importance;

xxx

(t) "terrestrial television service" means a television broadcasting service provided over the air by using a land-based transmitter and directly received through receiver sets by the public;"

19. From the above, it can be noticed that under Section 3 of the Sports Act, 2007, no content rights owner or holder and no television or radio broadcasting service provider can carry a live television broadcast on any cable or DTH network or radio commentary broadcast in India, of sporting events of national importance unless it simultaneously shares the live broadcasting signal, without its advertisements, with the Prasar Bharati *to enable them to re-transmit the same on its terrestrial networks and Direct-to-Home*

networks in such manner and on such terms and conditions as may be specified.

20. On the other hand, Section 8(1) of the Cable Act, 1995 carries a legislative mandate that every cable television operator is required to carry, on its network, such Doordarshan channels or channels operated by or on behalf of the Parliament, as may be notified by the Central Government in the Official Gazette. What is the true legal effect emerging from a conjoint operation of the two provisions, noticed above, is the moot question.

21. A narration, though very briefly, of the arguments advanced may now be made. As the High Court, in the order under challenge, has recorded the submissions advanced on behalf of the rival parties in extenso and as the arguments advanced before us are essentially in reiteration a brief recapitulation of what was argued before us will suffice.

22. Shri Mukul Rohatgi, learned Attorney General (as he then was) who has argued the case of the appellant (Union of India) in the main [Civil Appeals arising out of Special Leave Petition (Civil) Nos.4574-4575 of 2015] has submitted that the object behind the creation of the Prasar Bharati by enactment of the Prasar Bharati Act, 1990, as evident from the provisions thereof, is to organize and conduct public broadcasting services to inform, educate and entertain the public including, inter alia, to provide adequate coverage to sports and games so as to encourage healthy competition and the spirit of sportsmanship. The object of the Prasar Bharati Act, 1990, it is argued, is to reach the maximum number of citizens and provide access to news and information to citizens living in the remote villages and hamlets of the country. Similarly, the object behind the enactment of the Sports Act, 2007 is to provide access of sporting events of national importance to largest number of listeners and viewers on free to air basis. It is in the above light that the provisions of Section 3 of the Sports Act, 2007 and Section 8 of the Cable Act, 1995 have to be construed. Shri Rohatgi, has submitted that the aforesaid provisions should not be read and understood to be confined to re-transmission of the live signals compulsorily shared with Prasad Bharati by the content owners only on the terrestrial and DTH networks of Prasar Bharati. Any such view, according to Shri Rohatgi, would be counter-productive and go against the mandate of Section 3 of the Sports Act, 2007. It is also pointed out the provisions of sub-section (2) of Section 3 of the Sports Act, 2007 to contend that the possible loss of revenue arising to the content rights owners/holder due to the mandatory requirement of sharing live feeds with the Prasar Bharati has been adequately taken care of by the scheme of arrangement of revenue contained in sub-section (2) of Section 3 of the Sports Act, 2007. It is urged that it is in the light of the above that the provisions of Section 8 of the Cable Act, 1995 have to be construed. It is further contended that though the Cable Act, 1995 is anterior to the enactment of the Sports Act, 2007, Section 8 of the Cable Act, 1995 should not be understood to have been whittled down by the enactment of Section 3 of the Sports Act, 2007 in the absence of any conspicious indication of such legislative intent in Section 3 of the Sports Act, 2007. In fact, according to Shri Rohatgi, the mandatory duty cast on the Cable Operators by Section 8 of the Cable Act, 1995 is another step in the direction of providing access to the masses which clearly suggests that the provisions of the two

enactments operate harmoniously in their respective fields without impacting each other.

23. Dr. Rajeev Dhavan, learned Senior Counsel appearing for the Home Cable Network Private Limited and Sopan Foundation had also argued the case of the appellant in extenso and, particularly, on the question of infringement of the provisions of Article 19(1)(a) of the Constitution of India, an aspect to which we will advert to a little later.

24. On behalf of the respondents, separate arguments have been made by S/Shri Harish Salve, P. Chidambaram, Dr. A.M. Singhvi, Sudhir Chandra, Gopal Jain, learned Senior Counsels appearing for the Star India Private Limited and Shri Amit Sibal, learned Senior Counsel appearing for the BCCI. It is contended that the rights of the respondent Nos. 3 and 4 (ESPN Software Pvt. Ltd. and Star India Pvt. Ltd.) under the Media Rights Agreement will be seriously infringed in the present case if the view taken by the High Court is to be left undisturbed. Though such rights may seemingly come under Section 37 (Chapter VII) of the Copyright Act, 1957, it is argued that the telecast of the cricket matches is like production of a cinematograph film within the meaning of Section 2(f) of the Copyright Act. BCCI as the organizer is the author of the Copyright who has assigned the same to Star India Pvt. Ltd. There is a statutory curtailment of the said right under Section 3 of the Sports Act, 2007, the extent of which must be understood to be confined to the explicit contours of the said provision which cannot be readily and easily extended. Any unwarranted extension would amount to an invasion of the copyright/broadcasting right of the respondents Nos. 3 and 4. The legislation is expropriatory in character. It must, therefore, be strictly construed. Reference to elaborate case law on the issue has been made in the very exhaustive arguments advanced. It is accordingly pointed out that the curtailment of the copyright/broadcasting right of the content rights owner/holder is circumscribed and is to the extent of a ''must share'' obligation, which by the express language of Section 3 of the Sports Act, 2007 is to enable the live feed to be retransmitted by Prasar Bharati through the terrestrial and DTH networks of Doordarshan. It is urged that Section 8(1) of the Cable Act, 1995 engrafts a ''must carry'' obligation and such ''must carry'' obligation cannot extend the scope of the ''must share'' mandate contained in Section 3 of the Sports Act, 2007. Emphasis is laid on the words *''its terrestrial networks and Direct-to-Home networks''* appearing in Section 3 of the Sports Act, 2007 to contend that the ''must share'' mandate must be understood to be to enable the Prasar Bharati to re-transmit the same on its terrestrial and DTH networks only. On behalf of Star India Pvt. Ltd. it is specifically contended that a huge amount of revenue of over 3000 crore has been paid by Star India Pvt. Ltd. towards broadcasting/telecasting rights which must be allowed to have full effect and any restriction in the exercise of such right, if at all, can operate only to the extent explicitly provided for in Section 3 of the Sports Act.

25. On behalf of BCCI, Shri Amit Sibal, learned Senior Counsel has specifically argued that any extended meaning to Section 3 of the Sports Act, 2007 beyond what flows from its plain language would have the effect of infringing the rights of the BCCI under Article 19(1)(a) of the Constitution. Several precedents have been cited to contend that the right

under Article 19(1)(a) of the Constitution would extend to receipt of information also. While the sweep of Article 19(1)(a) is certainly expansive to include receipt of information also, it is in the context of above argument of Shri Sibal that we may now recapitulate the short contention put forward with great force by Dr. Rajeev Dhavan, learned Senior Counsel. The same is to the effect that in the present case it is not the contention of BCCI that the provisions of Article 19(1)(g) of the Constitution have been violated. Insofar as the provisions of Article 19(1)(a) of the Constitution is concerned, Dr. Dhavan has contended that, at best, the present is a case where the slice of the cake becomes a little smaller; but that by no means would attract Article 19(1)(a) of the Constitution, it is argued. We agree with Dr.Dhavan.

26. Proceeding further, we deem it necessary to clarify that for the present case it is not necessary and, therefore, we do not intend to go into the question raised by the parties with regard to the nature of the rights conferred by Section 37 of the Copyright Act, 1957 namely, whether the live telecast of a cricket match amounts to production of cinematograph film conferring on the author and its assignee the same inviolable rights that the provisions of the Copyright Act confer on a copyright holder. Rather, we are of the view that in the facts of the present case and to answer the issue arising therein it will suffice to acknowledge the existence of a right in the content rights owner/holder in the live feed of a cricket match or other sporting events of national importance. The real issue is one of the expanse of the said right and the degree of curtailment thereof by virtue of the provisions of Section 3 of the Sports Act, 2007 read with Section 8 of the Cable Act, 1995 to which aspect of the case we will now turn.

27. The Cable Act was enacted in the year 1995 to regulate the operation of cable television network which had come into India around that time. Cable television was a new experience for the Indian viewers who, overnight, had access to a large number of foreign channels carrying different kinds and forms of entertainment and information. While it is correct that some of the channels available on cable television network were Indianized in content, there was a apprehension, and perhaps justified, that the new trend and upsurge may make Doordarshan and its regional channels extinct resulting in dissemination of awareness on national issues. This is evident from the report of the Standing Committee to whom the Cable T.V. Network (Regulation) Bill 1993 was referred to. This is why Section 8 of the Cable Act, 1995 was enacted, namely, to obligate Cable TV operators to carry news and information concerning the developments of the country, Government Policies and other such related matters even to all such households who may have availed of cable services. In fact, transmission of Doordarshan channels by Cable Operators is always a complimentary part of any bouquet of services that a Cable Operator may make available to a consumer.

28. On the other hand, the Sports Act, 2007 which is a later enactment had altogether a different object for its enactment, namely, to provide access to the largest number of listeners and viewers, on a free to air basis, of sporting events of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for

maters connected therewith or incidental thereto. Section 3 of the Sports Act, 2007 is a significant provision to further the objective behind the enactment of the Sports Act, 2007. Though much argument has been advanced as to whether Section 3 of the Sports Act, 2007 is expropriatory in nature, we have no hesitation in holding the said provision of the Act to be of such a nature inasmuch as it curtails or abridges the rights of a content rights owner or holder and television or radio broadcasting service provider, as may be. Sharing of revenue between the content rights owner or holder and the Prasar Bharati envisaged by Section 3(2) of the Sports Act, 2007 would hardly redeem the situation to take the Sports Act, 2007 out of the category of expropriatory legislation. Section 3 of the Sports Act, 2007, therefore, has to be interpreted very strictly. Not only we do not find in the provisions of Section 3 of the Sports Act, 2007 any recognition of the requirement stipulated in Section 8 of the Cable Act, 1995, the plain language of the said provision i.e. Section 3 of the Sports Act, 2007 makes it clear that the obligation to share cast on the content rights owner or holder, etc. with Prasar Bharati is to enable the Prasar Bharati to transmit the same on "its terrestrial and DTH networks". If the legislative intent was to allow Section 3 of the Sports Act, 2007 not to operate on its own language but to be controlled by Section 8 of the Cable Act, 1995, there would have been some manifestation of such intent either in Section 3 of the Sports Act, 2007 or in Section 8 of the Cable Act, 1995 (by an appropriate amendment thereto). In the absence of any such legislative intent it will only be correct to hold that Section 3 of the Sports Act, 2007 operates on its own without being controlled by any of the conditions or stipulations contained in Section 8 of the Cable Act, 1995. Any other view may have the effect of introducing a fragility in Section 8 of the Cable Act, a consequence that must surely be avoided.

29. Section 8 of the Cable Act imposes an obligation on the Cable Operators to carry/transmit such Doordarshan channels or the channels operated by or on behalf of Parliament, as may be, notified in the Official Gazette. The legislature has not specified any particular channel which must be mandatorily carried by Cable Operators. The task has been left to the Central Government. It will, therefore, be not wrong to understand the obligation cast on Cable Operators to transmit the DD1 (National) channel and the transmission of Live feed of major sports events of national importance on the said channel by the Doordarshan as a matter of mere coincidence instead of a legislative mandate. Hypothetically, it is always open to the Central Government to denotify DD1 (National) from the notified channels in the notification under Section 8 of the Cable Act. Surely, the effect and operation of Section 3 of the Sports Act cannot be left to be decided on the basis of the discretion of the Central Government to include and subsequently exclude or not to include at all the DD1 (National) channel in a notification to be published under Section 8 of the Cable Act, 1995. Insofar as DTH network of private operators is concerned, the same does not even come under the operation of a Cable Operator.

30. Needless to say our conclusions above do not, in any manner, impact or effect the rights of the appellant under Section 12(3)(c) of the Prasar Bharati Act which rights

always remain available for exercise, if so desired.

31. On the basis of the above discussions, we, therefore, come to the conclusion that under Section 3 of the Sports Act, 2007 the live feed received by Prasar Bharati from content rights owners or holders is only for the purpose of re-transmission of the said signals on its own terrestrial and DTH networks and not to Cable Operators so as to enable the Cable TV operators to reach such consumers who have already subscribed to a cable network.

32. For the aforesaid reasons, all the appeals will have to fail. They are accordingly dismissed. The judgment and order dated 4th February, 2015 passed by the High Court is affirmed.