

TDSAT sets aside CAF fine on RCom, asks DoT to examine form

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NEW DELHI: Telecom tribunal TDSAT has set aside over Rs 1 crore penalty on Reliance Communications imposed by vigilance arm of the Department of Telecom for non-submission of the consumer application form (CAF).

However, the tribunal said the Telecom Enforcement, Resource and Monitoring (TERM) Cell will examine the form required for subscriber verification if RCom deposits 15 per cent of penalty demand and submits the document to the department within a fortnight.

The Telecom Disputes Settlement and Appellate Tribunal observed that RCom neither intimated the TERM Cell about the reason for non-submission of CAF within the timeframe as laid down by the department nor sought any extension.

The tribunal, therefore, decided that RCom should face the penalty for the procedural lapse of the audit process.

"We accordingly set aside the impugned demand of penalty and direct that if the petitioner deposits 15 per cent of the impugned penalty amount and submits the CAF in question within a fortnight from today, the TERM cell authorities will duly examine the CAF and take a decision in accordance with law," the TDSAT Bench chaired by Justice Aftab Alam said in an order dated October 28.

The tribunal also said the TERM cell should consider extending time for submission of CAF if the telecom operator informs it about the reason for its inability to submit the same and shows "substantial reason" for delay before the submission due date.

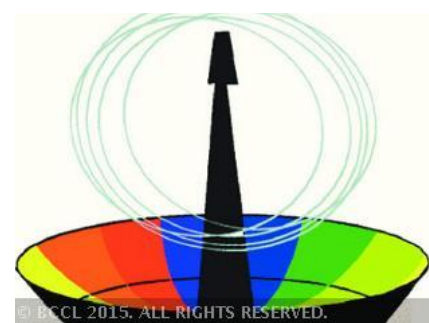
The Bench ruled that non-submission of CAF by the due date amounts to its non-availability which, in turn, is not in conformity with relevant guidelines.

"This approach may be unexceptionable if the object of the CAF audit is to earn revenue, but it cannot be justified if the object is to ascertain the identity of the subscriber from the point of view of national security, which is the sole objective of the CAF audit," the tribunal added.

The order asked DoT to devise a scheme making a distinction between any procedural lapse by the service provider in the monthly audit process and the substantive non-compliance with the guidelines to fill in CAF and other necessary documents.


"Further, in case the service provider does not submit the CAF without any good reason, the authorities should not close the case by simply imposing penalty for the non-submitted CAF. The service provider should be compelled to produce CAF or give reason for non-production," the order made it clear.

The tribunal said that in any case, all efforts should be made to ascertain the identity of the subscriber, either by means of the database maintained by the telecom operator or, if necessary, even by contacting the service provider personally.



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