

## **Give bank guarantees, undertaking in PoI case: SC to telcos**

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NEW DELHI: Paving way for cellular operators to secure new points of interconnection (PoIs) from BSNL at Rs 39,000 per port, the Supreme Court today directed them to give bank guarantees and undertakings to pay the differential amount to the telecom PSU if the court decides in favour of higher charges.

Currently, operators had been paying BSNL Rs 55,000 per port, since 2001. However, in 2007 telecom regulator Trai lowered the charges to Rs 39,000 but it was set aside by telecom tribunal TDSAT. Operators have moved the Supreme Court against the TDSAT order.

A bench headed by the Chief Justice S H Kapadia directed the members of the GSM lobby group COAI and the CDMA lobby group AUSPI to give undertakings along with bank guarantees of a nationalised bank.

"In respect of each additional port, the operators of each service association who are before us, would give a bank guarantee of the difference between the 2001 rates and 2007 rates," said the bench which also consisted Justices K S Radhakrishnan and Swatanter Kumar.

The bench further said, "however, it is made clear that registry would not take bank guarantee, if an undertaking is not filed by the operators that in the event BSNL succeeds in the petition, they would pay the differential amount."

The apex court's direction came over a plea by Cellular Operators Association of India (COAI) and Association of Unified Telecom Service Providers of India (AUSPI), seeking directions to BSNL to give new PoIs to them at Rs 39,000 per port, fixed by the telecom regulator Trai.

Yesterday, the apex court told the operators that it would pass directions on their plea only if they furnish the undertakings and bank guarantees.

"You would have to give bank guarantee and an undertaking by any managing director or any higher authority ... you can not escape from it," the bench had said.

Port charges are paid by private telecom operators to BSNL to get interconnected to the PSU's network.

The Telecom Disputes Settlement and Appellate Tribunal (TDSAT) had on May 22, 2010 set aside Trai's notification fixing the rate at Rs 39,000, against Rs 55,000 charged by BSNL, which were in force since 2001. The tribunal had also directed Trai to start afresh the process of fixing the port charges.

Earlier, in this matter, the apex court has already directed telecom operators to give surety that they would pay BSNL's claim of Rs 366 crore if they lose the appeal in port charges case.

BSNL had claimed Rs 366 crores dues for the period between February, 2007 and May, 2010.

The apex court is hearing cross appeals filed by COAI and rival CDMA operators association

Association of Unified Telecom Service Providers of India (AUSPI), BSNL and Trai against each other challenging the orders of TDSAT.