

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

(Civil Appellate Jurisdiction)

Writ Petition No. of 2018

In the matter of Article 226 of
Constitution of India

And

In the matter of withdrawal
status of Circle Secretary and
District Secretary of Petitioner
Association vide letters dated
08-10-2018 and 17-10-2018

Sanchar Nigam Executives' Association)
(SNEA) Maharashtra Circle,)
registered under the provisions of)
Societies Act 1860 and recognized)
Association of Executives working in)
Bharat Sanchar Nigam Ltd.)

through its President, Shri Bharat)	
Sonawane)	
)	
)	
2. Shri Mahadev Sadashiv Adasul)	
Circle Secretary)	
Sanchar Nigam Executive Association)	
Maharashtra Circle)	
Circle Office, Juhu Road, Santacruz)	
(West), Mumbai 400 054.)	
)	
)	
3. Shri Anilkumar Dubey)	
District Secretary,)	
Sanchar Nigam Executive Association)	
Mumbai Circle/District)	
Circle Office, Juhu Road, Santacruz)	...Petitioners
(West), Mumbai 400 054.)	

Versus

1. The Chairman & Managing Director,)
Bharat Sanchar Nigam Ltd.)
Bharat Sanchar Bhavan)
H.C. Mathur Lane)
Janpath, New Delhi – 110 001)
)
)
2. The Chief General Manager)
Maharashtra Circle,)
Bharat Sanchar Nigam Ltd.)
BSNL Complex Administrative Building)
A Wing, Juhu Road)
Santracruz (West), Mumbai 400054)
)
)
)

3.The Deputy General Manager)	
Maharashtra Circle)	
Office of the Chief General Manager,)	
3 rd Floor, ‘A’ Wing)	
Administrative Section)	
BSNL Complex, Juhu Road)	
Santracruz (West), Mumbai 400054)	
)	
4. Shri Piyush Khare)	
Chief General Manager-Telecom)	
Maharashtra Circle)	
BSNL Complex, Juhu Road,)	
Santracruz (West), Mumbai 400054)	...Respondents
)	

To

THE HON’BLE CHIEF JUSTICE
AND OTHER HON’BLE PUISNE
JUDGES OF THE HON’BLE
HIGH COURT OF BOMBAY

THE HUMBLE PETITON ON
BEHALF OF THE PETITIONER
ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. The Petitioner is a recognized Association of Executives working in BSNL Maharashtra Circle. Petitioner No. 2 is the Circle Secretary of the Petitioner No. 1 Association in respect of the entire Maharashtra and Goa States. Petitioner No. 3 is the District Secretary of Circle Office of Petitioner No. 1 at Mumbai. Respondent No. 1 is the Government of India Enterprise fully owned, controlled and managed by the Government of India. Respondent No. 1 was formed for the purpose of corporatizing telecom related services in the country

which were earlier provided by the Department of Telecommunications, Government of India. The Petitioner No. 1 was incorporated on 01.10.2000. Respondent No. 1 is sued through its Chairman and Managing Director who exercises overall control in respect of the BSNL in the entire country. The operations and activities of the BSNL have been subdivided corresponding to various states across the country. Accordingly, Maharashtra Circle represents the states of Maharashtra and Goa. Respondent No. 2 is the Chief General Manager of the Maharashtra Circle of BSNL. Respondent No. 3 is the Deputy General Manager (Admn) who looks after matters relating to administration in respect of the entire Maharashtra Circle.

2. By way of this present petition, the Petitioners are challenging the action of Respondents in withdrawing the status of Petitioner Nos 2 and 3 as Circle Secretary and District Secretary of Mumbai Circle vide letters dated 08.10.2018 and 17.10.2018 respectively. Copies of said letters dated 08.10.2018 and 17.10.2018 are annexed hereto and marked as **Exhibit-A** and **Exhibit-B** respectively. Brief facts leading for filing of the petition are as under:

3. Till 30.09.2000 the telecom related services in the country were being provided by the Government of India through Department of Telecommunications. On 01.10.2000 BSNL was incorporated and all the telecom related activities, except for cities of Delhi and Mumbai, were transferred to BSNL. Progressively various officers and employees of DOT were absorbed in BSNL retrospectively w.e.f. 01.10.2000. Some of the Group A officers of DoT had reservations with regard to their absorption in BSNL and therefore barring them

almost the entire staff of DoT came to be transferred either in BSNL or in MTNL.

4. In respect of BSNL staff, there are two categories of personnel viz., Executives and Non-Executives. The personnel working on and above the post of Junior Telecom Officers and equivalent are treated as Executives whereas the personnel working on the posts of lower than the post of JTO & equivalent are described as Non-Executives. After absorption of staff of DoT in BSNL several associations/Unions of Executives and Non-Executives came to be formed across the country. Petitioner No. 1 came to be formed in the year 2004 in respect of Executives working in the entire country. Petitioner No. 1 Association came to be registered under the provisions of the Societies Act, 1860 at New Delhi. The SNEA is headed by President and assisted by General Secretary. In respect of each Circle, a Circle Secretary is elected who heads the activities of the Association in a particular circle. In respect of every Telecom District, a District Secretary is elected. A copy of the Constitution of Sanchar Nigam Executive Association is annexed hereto and marked as **Exhibit C**.

5. It is further submitted that, BSNL notified BSNL (Recognition of Executives Association) Rules 2014 a copy whereof is annexed hereto and marked as **Exhibit D**. Rule 3 of the said Rules provides for recognition of the Associations based on verification and voting. Rule 10 provides for certain facilities to the recognized representative association which *inter alia* includes immunity from transfers to the office bearers of the Association.

6. It is further submitted that in accordance with the BSNL (REA) Rules, 2014 verification process was conducted on 09.12.2016 in which Sanchar Nigam Executives Association secured about 45.32% (highest) votes in the entire country and came to be recognized as a Majority Representative Association of executives in the BSNL. A copy of the letter dated 13-12-2016 is annexed hereto and marked as **Exhibit E**.

7. It is further submitted that even prior to the verification process conducted in accordance with the BSNL (REA) Rules 2014, several association of executives were functional across the country. Several such associations used to represent their own members. As per the constitution of the SNEA, the election of office bearers of the association are required to be held at Circle level as well as district level at the interval of two years. Accordingly, election in respect of the Circle Office of the Association of Maharashtra were held on 24.01.2015. Similarly, elections at District levels in respect of Mumbai District/Circle were held on 15.09.2015. In the District level election in the Mumbai Circle Office, Petitioner No. 3 came to be elected as District Secretary of Mumbai Circle on 15.09.2015. The Petitioner No. 2 had contested election of the post of Deputy General Secretary at all India level of the Association and was elected on the said post on 07.09.2015. Tenure of election of Petitioner No. 2 on the post of Deputy General Secretary was for a period of two years.

8. After completion of the verification process and after end of the tenure of the previous Circle Committee, fresh elections were conducted at the Circle level on 20.09.2017 in which Petitioner No. 2 came to be elected as Circle Secretary of Maharashtra Circle. In this manner, Petitioner Nos 2 and 3

have been functioning as Circle Secretary of Maharashtra Circle and District Secretary of Mumbai District of SNEA.

9. It is further submitted that when the election for the post of Circle Secretary of Maharashtra Circle were scheduled to be held on 20.09.2017, Petitioner No. 2 contested the said election for the post of Circle Secretary. The Petitioner No. 2 came to be elected on the post of Circle Secretary of Maharashtra Circle on 20.09.2017. As per the provisions of Clause 3(c) of the Constitution of SNEA, a member is prohibited from simultaneously holding two or more elected officer bearers' posts in the Association for more than three months. It is further provided that if such member elected on two or more office bearers' posts in the Association fails to tender his resignation for one of the posts within three months, he would forfeit the right to hold all the posts.

10. On being elected as Circle Secretary of Maharashtra Circle, Petitioner No. 2 happened to be hold the post of Deputy General Secretary, CHQ as well as Circle Secretary of Maharashtra Circle. It therefore became incumbent for Petitioner No. 2 to tender resignation of one of the two posts within a period of three months from 20.09.2017. Accordingly Petitioner No. 2 tendered resignation vide letter dated 17.12.2017 resigning from the post of Deputy General Secretary, CHQ of the Association. The said resignation letter dated 17.12.2017 was tendered by Petitioner No. 2 to the President of the Association, a copy whereof is annexed hereto and marked as **Exhibit F**. Therefore in accordance with the provisions of Clause 3 (c) of the Constitution of the Association, Petitioner No. 2 became entitled to hold the post of Circle Secretary after tendering resignation of the post of Deputy General Secretary. Even otherwise, as on date tendering

the resignation on 17.12.2017, the tenure of Petitioner No. 2 on the post of Deputy General Secretary of the Association had already ended on 07.09.2017 as the Petitioner was elected to the said post on 07.09.2015. Thus in either case the Petitioner No. 2 seized to hold the post of Deputy General Secretary either w.e.f. 07.09.2017 or in any case w.e.f. 17.12.2017.

11. It is further submitted that so far as Petitioner No. 3 is concerned, he was elected as District Secretary of Mumbai District on 15.09.2015 and he was to hold the said post for normal tenure for a period of two years upto 15.09.2017. Till December 2016, subscription of each number of Rs. 70/- per month used to be collected by the Treasurer of the District Committee of the Association. Such amount of Rs. 70/- used to be bifurcated and remitted as Rs. 40/- for Central Headquarters, Rs. 15/- for Circle Committee and Rs. 15/- for the District Committee. However, w.e.f. 01.01.2017, BSNL provided facility of direct deduction of membership subscription and credit of the same in the Central Office of each Association. Accordingly w.e.f. 01.01.2017 membership subscription was deducted directly from salaries of members and credited in the account of Central Head Quarters of SNEA. On account of sudden change in the method of collection of membership of subscription, it took a long time for central headquarters to devise on the mechanism for transfer of shares of Circle bodies and District bodies.

12. On account of these circumstances the share of subscription of Circle bodies and District bodies across the country were not received until October 2018. On account of non-availability of funds with District bodies, elections of most of the District bodies across the country got delayed. Accordingly, the elections of Mumbai District body of the

Association could not be held, even though the tenure of the previous committee was to come to an end on 15.09.2017. However, in absence of holding of elections, the previous selected body naturally continued and this has been duly approved and acknowledged by the Respondents.

13. It is further submitted that contrary to the provisions of BSNL (REA) Rules 2014, the Respondents erroneously sought to effect transfer of Petitioner No. 3 from Mumbai to Kalyan as well as that of the Treasurer of the Mumbai District Body Shri. S.R. Potul from Mumbai to Kalyan by Order dated 31.03.2018. Initially S.R. Potul Treasurer represented against his transfer requesting immunity as being office bearer of the Association. The office of Respondent No. 2 addressed letter dated 24.04.2018 requesting for endorsement by the concerned Circle Secretary of the Association along with date of election and period of body in respect of various officers including S.R. Potul. A copy of letter dated 24.04.2018 is annexed hereto and marked as **Exhibit G**. SNEA submitted letter dated 08.05.2018 endorsing that Shri. S. R. Potul is the District Treasurer of the Association and that he was elected on 15.09.2018. It was specifically stated in the said letter that even though the normal tenure of the District Body is for two years from the date of election, the same was extended till the next election. A copy of the said letter dated 08.05.2018 is annexed hereto and marked as **Exhibit H**. The said letter dated 08.05.2018 was issued by SNEA on the basis of clarifications issued by BSNL Corporate Office vide letter dated 16.04.2018 to the effect that since recognition period of the majority / support Association is three years, immunity from transfer to the office bearer should be for the entire period his / her association has the status of recognized / support association subject to the condition of the executive continuing to hold the post of officer bearer. A copy

of letter dated 16.04.2018 is annexed hereto and marked as **Exhibit I**. Accepting the endorsement made by SNEA vide letter dated 24.04.2018 Shri. S. R. Potul was granted retention up to 12.12.2019 i.e. till expiry of period of SNEA vide order dated 08.05.2018, a copy whereof is annexed hereto and marked as **Exhibit J**.

14. So far as Petitioner No. 3 is concerned, he also applied for immunity vide letter dated 22.06.2018. Accordingly Circle Secretary, SNEA, MH Circle gave letter dated 22.06.2018 endorsing that Petitioner No. 3 is the District Secretary elected on 15.09.2015 and that his tenure is extended till next election. A copy of letter dated 22.06.2018 is annexed hereto and marked as **Exhibit K**. On similar lines as that of Shri. S. R. Potul, the office of Respondent No. 2 issued order dated 25.06.2018 accepting the endorsement of the association to the effect that Petitioner No. 3 continued to be its office bearer and granted him retention up to 12.12.2019 i.e. up to the expiry of period of recognition of SNEA. A copy of the Order dated 25.06.2018 is annexed hereto and marked as **Exhibit L**.

15. It is submitted that the Respondents thus accepted the principle and the factual position that the office bearers Mumbai District Body of SNEA continued to hold officers beyond 15.09.2017 till holding of fresh elections and accordingly granted retention to Petitioner No. 3 and to Shri. S. R. Potul.

16. It is further submitted that four majority and support associations Executives as well as Non Executives i.e. SNEA, BSNLEU, NFTE, AIBSNLEA submitted joint representation dated 28.09.2018 to the General Manager (HR & Admn), Maharashtra Circle protesting against lavish expenditure for

celebration of BSNL Foundation day on 01.10.2018 in view of poor financial condition of BSNL, as well as against mixing function relating Telecom Women Welfare Organisation (TWWO) with the BSNL Foundation Day. A copy of the said joint representation dated 28.09.2018 is annexed hereto and marked as **Exhibit M**. The joint Representation was made in the light of the specific letter dated 20.09.2011 issued by BSNL Corporate Office directing all the CGMs to discontinue the award functions in view of financial crunch of BSNL. A copy of letter dated 20.09.2011 is annexed hereto and marked as **Exhibit N**.

17. It is further submitted that the Chairperson of Telecom Women Welfare Organisation (TWWO), MH Circle, Mrs. Ritu Priya Khare happens to be the wife of Mr. Piyush Khare (Respondent No. 4) who is posted as Chief General Manager of Maharashtra Circle. On account of the joint representation dated 28.09.2018, BSNL Management was forced to curtail expenditure on BSNL Foundation Day as well as to separate award function of TWWO. Submission of such Joint representation was taken by Respondent No. 4 as challenge to his authority. Particularly separation and cancellation of TWWO function of his wife became the major reason for taking vindictive actions against the office bearers of some of the associations.

18. Accordingly letter dated 29.09.2018 came to be issued to Petitioner No. 3 calling for his explanation alleging that non holding of elections beyond permissible period of two years was against the constitution of the association. A copy of the said letter dated 29.09.2018 is annexed hereto and marked as **Exhibit O**. In quick succession, another Letter dated 01.10.2018 came to be issued to Petitioner No. 3 referring to

the joint representation and alleging that during the course of meeting held on 29.10.2018 to discuss the demands made in the joint representation, Petitioner No. 3 raised his voice and did not agree to the suggestions made by the General Manager (H.R. Admn) and behaved adamantly and arrogantly. The Petitioner No. 3 was called upon to submit reply within five days failing which action was contemplated as per BSNL CDA Rules. A copy of said letter dated 01.10.2018 is annexed hereto and marked as **Exhibit P**.

19. On 03.10.2018, one more letter was issued to Petitioner No. 3 once again referring to meeting held on 29.09.2018 and especially dealing with the protest of combining the function of Telecom Women Welfare Organization. It was alleged in the said letter that submission of joint Representation amounted to outraging dignity of women for which appropriate disciplinary and other actions were warranted against the Petitioner No. 3 as well as against the association. The Petitioner No. 3 was asked to make representation within three days failing which disciplinary action was threatened against him. A copy of letter dated 03.10.2018 is annexed hereto and marked as **Exhibit Q**. The wordings and language of the said letter dated 03-10-2018 creates an impression that the same is actually drafted by the wife of Respondent No. 4.

20. It is further submitted that the reasonable request made by Petitioner No.3 to grant extension for filing replies to the three letters was rejected on 06.10.2018. The Petitioner No. 3 has submitted three separate replies dated 06.10.2018, 08.10.2018 and 09.10.2018 copies whereof is annexed hereto and marked as **Exhibit R** colly.

21. It is further submitted that Petitioner No. 3 in the meantime issued Notification dated 06.10.2018 for holding elections of Office bearers on 24.10.2018, copy whereof is annexed hereto and marked as **Exhibit S**. Thus the Respondents got wind of the fact that the Respondent No. 3 might get reelected as District Secretary and would continue with his immunity from transfer. To preempt this, a decision was apparently taken to throw the Petitioner No. 3 away from Mumbai.

22. Therefore on 08.10.2018, Respondent No. 3 issued letter directing that all the facilities availed office bearers of SNEA Circle Office Mumbai should be withdrawn / seized from 15.09.2017. The said letter dated 08.10.2018 is challenged in the present Petition and a copy whereof is already annexed at Exhibit-A.

23. Simultaneous with withdrawal of status as office bearer of Association, office of Respondent No. 3 issued order dated 08.10.2018 withdrawing the retention / immunity from transfer to Petitioner No. 3 and transferring Respondent No. 3 to Bhandara. Thus not only the retention earlier granted to Petitioner No. 3 in respect of his transfer to Kalyan was withdrawn, he has been transferred to an altogether different place at Bhandara. It was further directed that no leave shall be granted by his present Controlling Officer without approval of G.M. (HR/A). It is further directed that Petitioner No. 3 was relieved and struck off from the strength of DGM (CM) with immediate effect and that no further relieving order was required. A copy of Transfer Order dated 08.10.2018 is annexed hereto and marked as **Exhibit T**.

24. On the same day, Respondent No. 2 hurriedly issued Memorandum of Charge-sheet dated 08.10.2018 to Petitioner no. 3 under BSNL CDA Rules 2006, a copy whereof is annexed hereto and marked as **Exhibit U**.

25. It is further submitted that Respondent No. 2 became so much vindictive against Petitioner No.3 that simultaneously with issuance of Charge Sheet and Transfer Order of Petitioner No. 3, he is decided to take action against the Circle Secretary of SNEA i.e. Petitioner No. 2 also. On 08.10.2018, Respondent No. 3 issued letter to Petitioner No. 2 seeking his clarification as to why disciplinary action should not be taken against Petitioner No. 2 as Petitioner No. 2 has been holding two posts of Deputy General Secretary, CHQ and Circle Secretary, Maharashtra Circle simultaneously for more than three months. A copy of the said letter dated 08.10.2018 is annexed hereto and marked as **Exhibit V**.

26. The Petitioner No. 2 also submitted reply to letter dated 08.10.2018 on 11.10.2018 pointing out that he had already tendered resignation of the post of Deputy General Secretary/CHQ in December 2017. A copy of letter dated 11.10.2018 of Petitioner No. 2 is annexed hereto and marked as **Exhibit-W**.

27. The Respondents became so much vindictive that they filed eight separate Caveats against Petitioner Nos 2 and 3 in this Hon'ble Court as well as before Central Administration Tribunal with a view to prevent passing of ex-parte orders in favour of Petitioner Nos 2 and 3. Respondent No. 3 thereafter issued letter dated 17.10.2018 to Petitioner No. 3 directing that the right of Respondent No.3 to hold the post of the Circle Secretary, Maharashtra Circle stands forfeited w.e.f. 19.12.2017

and prohibiting the Petitioner No. 2 making any correspondence or holding any meetings. All facilities availed by Petitioner No. 2 in capacity as Circle Secretary also stood withdrawn / seized from 19.12.2017. Petitioners are challenging the said letter dated 17.10.2018, a copy whereof is already annexed at Exhibit-B.

28. It is further submitted that Office of Respondent No. 2 immediately issued Office Order dated 22.10.2018 seeking transfer of Petitioner No. 2 from Mumbai to Buldhana, a copy whereof is annexed hereto and marked as **Exhibit X**. The Petitioner No. 2 was immediately relieved and struck off from the strength with direction that no relieving order was necessary. The Petitioners have made representations dated 30.10.2018 and 05.11.2018, copies whereof are annexed hereto and marked as **Exhibit Y colly**. However, till date Respondents have refused to withdraw the orders dated 17.10.2018 in respect of Petitioner No. 2 and 08.10.2018 in respect of Petitioner No. 3 by which the rights and privileges have been withdrawn. The Petitioners are therefore constrained to approach this Hon'ble Court challenging the said letters dated 08.10.2018 in respect of Petitioner No. 3 and 17.10.2018 in respect of Petitioner No. 2. Even though the orders transferring Petitioner No. 2 and 3 out of Mumbai as well as Memorandum of Charge Sheet issued to Petitioner No. 3 are outcome of the vindictive action as well as consequent to letters dated 08.10.2018 and 17.10.2018, since grievances with regard to Transfer Orders and Memorandum of Charge Sheet are service matters, the present petition is restricted only to the challenge to letters dated 08.10.2018 and 17.10.2018, reserving the rights and remedies of the Petitioners in respect of their grievances relating to transfers and Charge Sheet before appropriate forum separately.

29. Being aggrieved by the impugned letters dated 08.10.2018 and 17.10.2018, the Petitioners beg to prefer to the present Petition under Article 226 of Constitution of India on following amongst many other grounds which are taken without prejudice to one another :

(a) The Impugned letters dated 08.10.2018 and 17.10.2018 are outcome of extreme malice and bias against Petitioner No. 1 Association as well as against Petitioner Nos 2 and 3 and the same are liable to be quashed and set aside.

(b) The events stated hereinabove clearly indicate that the impugned letters dated 08.10.2018 and 17.10.2018 have been issued because the Petitioner Association protested against incurring of huge expenditure on BSNL Foundation Day function and particularly against holding of function of Telecom Women Welfare Organization.

(c) As pointed out hereinabove, wife of Respondent No. 4 occupies the position as Chairperson of Telecom Women Welfare Organization (MH Circle), which is an informal organization of female family members as well as women employees of DOT/BSNL/MTNL. The said Chairperson of the TWWO is not employed in DOT, BSNL or MTNL. It is because of joint representation made four associations / Unions, to which Petitioner No.3 is a signatory, that the award distribution function of TWWO could not be held on BSNL Foundation Day and had to be cancelled, which infuriated the said Chairperson of TWWO. Letter dated 03.10.2018 came to be issued to Petitioner No. 3 at the behest of said

Chairperson of TWWO. The contents of the said letter dated 03.10.2018 clearly expose anger of the Chairperson of TWWO who has gone to the extent of branding of act of submission of joint representation as 'outraging dignity of women'. The said letter dated 03.10.2018 clearly demonstrates anger of the Chairperson of TWWO towards Petitioner No. 3 and towards Petitioner Association. The malice and bias which forms basis of the impugned action is thus clearly apparent.

(d) The Joint Representation dated 28.09.2018 was submitted by two Unions of non-Executive employees namely BSNLEU and NFTE also. However since the same are Trade Unions, the Respondents decided to spare their office bearers who has also signed the representation dated 28.09.2018. Respondents however picked up office bearers of two Executives' Associations viz. SNEA and AIBSNLEA for harassing them. Similar letter dated 03.10.2018 with allegation of outraging modesty of women was also issued to Shri. Hrishikesh Walavalkar, District Secretary of AIBSNLEA, a copy whereof is annexed hereto and marked as **Exhibit-Z**. Apparently, decision was taken to throw both Petitioner No. 3 as well as Shri. Hrishikesh Walavalkar at far of places for opposing function of wife of Respondent No. 4. Accordingly file was being prepared for transfer of Shri. Hrishikesh Walavalkar for his transfer to Gadchiroli. Shri Walawalkar was made to tender apology and undertaking not to participate any Association activities, after which action against him was dropped. The Petitioner No. 3 was also called upon to tender apology and not to participate any association activities. Surrendering under the pressure of Respondent No.4.

Petitioner No. 3 tendered written apology on 11.10.2018, a copy whereof is annexed hereto and marked as **Exhibit AA**. The Circle Executive Committee Meeting of the Association was scheduled to be held on 13th / 14th October, 2018 at Jalgaon and merely because Petitioner No. 3 attended the said meeting, the Respondent No.4 decided to teach a lesson to the Respondent No. 3 and did not withdraw the actions already initiated against him by walking back on his assurances.

- (e) The Respondents are unnecessarily interfering with the affairs of the Association by deliberately misinterpreting the clauses of its constitution. The Constitution of the Association has been adopted by the members of Association for their internal purposes. The Respondents have absolutely nothing to do with the manner in which the internal elections of the Associations are held. The role of the Respondents come only when verification is conducted in accordance with the BSNL (REA) Rules 2014. As per the verification done under the said Rules, the Petitioners' Association has been elected as recognized majority association with maximum members. The validity of recognition of Petitioners Association is for a period up to 12.12.2019. During the period of recognition of 3 years, it is for the Petitioner Association to manage its own internal affairs and the Respondents cannot interfere in the same. However the impugned action of the Respondents, taken purely out of malice and bias, shows unwarranted interference into the internal affairs of the association which is required to be seriously deprecated and the consequential impugned letters dated 08.10.2018 and 17.10.2018 are required to be quashed and set aside.

(f) The impugned letters dated 08.10.2018 and 17.10.2018 forfeiting the Petitioner No. 2 to hold the post of Circle Secretary of Maharashtra Circle is absolutely arbitrary, illegal and void. Petitioner No. 2 did not hold 2 posts of Deputy General Secretary, CHQ and Circle Secretary of Maharashtra Circle simultaneously for a period of more than 3 months. The Petitioner No. 2 tendered resignation of the post of Deputy General Secretary, CHQ on 17.12.2017 i.e. within a period of 3 months of his election as Circle Secretary of Maharashtra Circle on 20.09.2017. However this fact is sought to be disputed in the impugned letter dated 17.12.2018 stating that no intimation was received either from General Secretary or from Petitioner No. 2 regarding resignation of Petitioner No. 2 from the post of Deputy General Secretary, CHQ. In this regard, it is submitted that tendering of resignation by Petitioner No. 2 is the internal matter of Petitioners Association and there is no necessity of Petitioner No. 2 giving separate intimation to the Respondents in respect of his resignation. As per Clause 5 (a) (vii) Constitution of SNEA, the President is empowered to accept resignation of any office bearer on the advice of Central Working Committee. However on account of expiry of tenure of elected body on 06.09.2017, no CWC meeting could be held after tendering of resignation by Petitioner No. 2. On account of this fact, apparently no decision was taken on the resignation Petitioner No. 2. In any case, tenure of Petitioner No. 2 in respect of post Deputy General Secretary came to an end on 06.09.2017 and therefore it was not necessary for him to tender resignation of the said post on 17.12.2017.

(g) The Respondents are taking 2 contradictory stands as are convenient to them in respect of Petitioner No. 2 and Petitioner No. 3. In respect of Petitioner No. 2, Respondents accept the position that despite end of the tenure of Central Head Quarters on 06.09.2017, Petitioner No. 2 continued to hold the post of Deputy General Secretary till order dated 17.10.2018 was passed. However in respect of Petitioner No. 3, they conveniently adopted contradictory stand that his tenure came to an end on 14.09.2017, as the constitution period of the District Body was only for 2 years.

(h) Even if it is assumed for the sake of arguments that Petitioner No. 2 did hold 2 posts simultaneously, the Respondents could have forfeited the right of Petitioner No. 2 in respect of position as Deputy General Secretary. However knowing it very well that (i) the tenure of Petitioner No. 2 has already come to an end on 06.09.2017; (ii) that he had tendered resignation of the said post on 17.12.2017 and (iii) the elections for the post of Deputy General Secretary was scheduled to be held in December 2018, for which Petitioner No. 2 was not contesting; Respondents deliberately forfeited the right of the Petitioner to hold the post of Circle Secretary, Maharashtra Circle to ensure that the Petitioner No. 2 does not retain either of the post. This again shows complete malice in the mind of the Respondents.

(i) Respondents are systematically attempting to weaken the Petitioners' Association by taking vindictive action against his office bearers by throwing them away at far off places. The manner in which the entire action is taken

shows that decisions were taken to throw the Petitioner Nos. 2 and 3 at far off places and with a view to achieve the said ulterior objective, their status as office bearers of the association was first withdrawn. Thus the impugned letters dated 8.10.2018 and 17.10.2018 are issued for the purpose of effecting transfers of Petitioners Nos. 2 and 3 at far off places. The objective behind issuing the said letters is not at all bonafide and is actuated by malice.

(j) The malafides of the Respondents are further apparent from the fact that the place of transfer of Petitioner No. 3 is deliberately changed. By order dated 31.03.2018, Petitioner No. 3 was transferred from Mumbai to Kalyan. The said transfer was kept in abeyance and Petitioner No. 3 was granted retention by order dated 25th June 2018 up to December 2019. However, while taking decision to withdraw the said retention, the Petitioner No. 3 is not transferred to Kalyan but is deliberately transferred to Bhandara. This clearly exhibits malice.

(k) Having accepted the fact that Petitioner No. 3 continues to be District Secretary even after completion of tenure of 2 years by passing order dated 25.06.2018, respondents are estopped from taking a contrary decision that he no longer continued as District Secretary beyond 14.09.2017.

(l) Even in respect of Petitioner No. 2, the respondents were well aware of the fact that the Petitioner was Deputy General Secretary, CHQ and was elected as such on 06.09.2017 with his tenure ending on 07.09.2017. The

respondents were also well aware of the fact the Petitioner No. 2 was elected as Circle Secretary on 20.09.2017. However, for the first time more than one year respondents never raised an objection about election of Petitioner No. 2 and he continued as Circle Secretary. However only when the Petitioner No. 2 supported the cause of Petitioner No. 3 and with a view to punish the entire association, the respondents raked up this issue in October 2018. The timing thus shows clear malice in the minds of the respondents.

(m) As pointed out hereinabove, Shri S. R. Potul, District Treasurer of Circle Office, Mumbai was granted immunity by order dated 08-05-2018. Shri S. R. Potul was elected District Treasurer along with Petitioner No. 3 on 15.09.2015 and his tenure was also come to an end on 15.09.2017. However immunity granted to Shri S.R. Potul is not forfeited and he is continued to be recognised as District Treasurer. This shows not only discrimination but also vindictive action against Petitioner No. 3 only because he signed joint representation. In addition to Shri S. R. Potul, there are 8 – 10 other office bearers whose tenure has also ended in September 2017 but their rights are not forfeited and their retention is continued.

(n) As pointed out hereinabove, there was delay in holding election of Mumbai Circle / District on account of change of methodology of collection of monthly membership. The election of the District Committee was also announced on 06.10.2018. Such elections were held on 19.11.2018 in which Petitioner No. 3 came to be elected as District Secretary once again. A copy of letter dated 21.11.2018 communicating names of elected

representatives is annexed hereto and marked as **Exhibit-BB**. Respondents were aware of the fact that elections were announced and were scheduled to be held on 19.11.2018. Therefore the respondents hurriedly took action against Petitioner No. 3 before he could be reelected. Petitioner No. 3 is otherwise eligible for immunity and protection from transfer as per clarification to query No. 3 in the letter dated 16.04.2018.

30. The Petitioners have made out a prima-facie case for admission and for grant of interim orders therein. It is necessary in the interest of justice that during pendency of present Petition, the impugned letters dated 08.10.2018 and 17.10.2018 are stayed. Apart from the fact that the said 2 letters have led to transfers the Petitioner Nos. 2 and 3, the respondents are not permitting the Petitioner Nos. 2 and 3 to act as office bearers of the association on the basis of the said 2 letters. The entire objective of issuing impugned letters dated 08.10.2018 and 17.10.2018 in respect of Petitioner Nos. 3 was to ensure that he did not contest election in Mumbai District and he does not get elected as District Secretary. However as per the constitution of association, Petitioner No. 3 has been reelected as District Secretary in the election held on 19.11.2018. However the respondents are deliberately interpreting that Petitioner No. 3 was transferred out of Mumbai on 08.10.2018 and therefore would not recognized Petitioner No. 3 as District Secretary in pursuance of election held on 19.11.2018. It is therefore necessary in the interest of justice to stay the letter dated 08.10.2018 in respect of Petitioner No. 3. So far as Petitioner No. 2 is concerned, he is a Circle Secretary of the entire Maharashtra Circle. Petitioner No. 3 has been elected by the members for a period of 2 years from 20.09.2017. The said elected representative cannot be derecognized by the

respondents by their unilateral act. On account of the impugned letters dated 08.10.2018 and 17.10.2018 Petitioner Nos. 2 and 3 are unable to represent the members in any manner. It is therefore necessary in the interest of justice to stay the impugned letters dated 08-10-2017 and 17.10.2018 during pendency of the present Petition.

31. Proper court fees are paid herewith.

32. The entire cause of action for filing the present petition has arisen within the extra-ordinary territorial jurisdiction of this Hon'ble Court and hence this Hon'ble Court has necessary jurisdiction to entertain the present petition.

33. The Petitioners have not filed any other Petition or Application either in this Hon'ble Court or in the Hon'ble Supreme Court of India regarding the present cause of action.

34. The Petitioners have no other alternate and equally efficacious remedy for redressal of their grievances.

35. The Petitioners are not guilty of delay or laches.

36. The Petitioners have received notices of caveats from the Respondents and they undertake to serve the Respondents with notices of the Petition.

37. The relief claimed in the present Petition is complete.

38. The Petitioners crave the leave of this Hon'ble Court to add to or amend the present petition if and when necessary.

39. The Petitioners therefore pray that:

- a. This Hon'ble Court may graciously be pleased to call for the records of the case from Respondents and after examining the same, issue a writ of Certiorari or a writ in nature of Certiorari or any other appropriate writ, order or direction quashing and setting the impugned letter dated 08.10.2018 in respect of Petitioner No. 3 and impugned letter dated 17.10.2018 in respect of Petitioner No. 2 with all consequential benefits.
- b. This Hon'ble Court may further be pleased to hold and declare that Petitioner No. 2 is entitled to hold the post of Circle Secretary, Maharashtra Circle of the Petitioner No. 1 Association in pursuance of election to the said post held on 20.09.2017 till completion of his tenure.
- c. This Hon'ble Court may further be pleased to hold and declare that Petitioner No. 3 is continued to hold the post of District Secretary of Mumbai Circle Office up to 18.11.2018 and that his reelection to the post of District Secretary Mumbai Circle Office in the election held on 19.11.2018 is legal and valid.
- d. Pending the hearing and final disposal of the Petition, impugned letters dated 08.10.2018 and 17.10.2018 be stayed.
- e. Costs of the Petition be provided for.

f. Any other and further relief as this Hon'ble Court
deems fit in the circumstances of the case be granted.

AND FOR THESE ACTS OF KINDNESS THE PETITIONER
SHALL AS IN DUTY BOUND EVER PRAY.

Mumbai

Dated

SANDEEP V.MARNE
Advocate for Petitioners

Petitioners

1 Sanchar Nigam Executives' Association
(SNEA) Maharashtra Circle,
President
[Shri Bharat Sonawane]
Petitioner No.1

2. [Shri Mahadev Sadashiv Adsul]
Petitioner No2

3.[Shri Anil Kumar Dubey]
Petitioner No.3

VERIFICATION

I, Mahadev Sadashiv Adasul, Age 51 years, the Petitioner No .2 herein do hereby state on solemn affirmation that the contents of Para 1 to 11 are true to my own knowledge and that the contents of para 12 to 18 are based on advice which I believe to be correct. I further say that the Exhibits annexed to the Petition are true copies of original documents.

Solemnly affirmed at Mumbai)
on this day of , 2018)

(Mahadev Sadashiv Adasul)
Petitioner No.2

Sandeep V. Marne
Advocate for Petitioner

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
(Civil Appellate Jurisdiction)

Writ Petition No. of 2018

Sanchar Nigam Executives' Association ... Petitioners

Versus

The Chairman & Managing Director, ... Respondents
Bharat Sanchar Nigam Ltd.

I N D E X

Sr. No.	Exhibit No.	Particulars of documents	Page Nos.
1		Synopsis	A - D
2		Writ Petition	1 - 27
3	Exhibit- A	Copy of letter dated 08.10.2018.	28
4.	Exhibit -B	Copy of letter dated 17.10.2018.	29-30
5.	Exhibit -C	A copy of the Constitution of Sanchar Nigam Executive Association	31-79
6.	Exhibit -D	A copy of BSNL (Recognition of Executives Association) Rules 2014.	80-88
7	Exhibit -E	A copy of the letter dated 13.12.2016.	89-92
8	Exhibit -F	A copy of resignation letter dated 17.12.2017.	93
9	Exhibit -G	A copy of letter dated 24.04.2018	94
10	Exhibit -H	A copy of letter dated 08.05.2018	95
11	Exhibit -I	A copy of letter dated 16.04.2018	96

12	Exhibit-J	A copy of order dated 08.05.2018.	97-98
13	Exhibit-K	A copy of letter dated 22.06.2018.	99
14	Exhibit-L	A copy of the Order dated 25.06.2018.	100
15	Exhibit-M	A copy of joint representation dated 28.09.2018	101-102
16	Exhibit-N	A copy of letter dated 20.09.2011.	103
17	Exhibit-O	A copy of letter dated 29.09.2018.	104
18	Exhibit-P	A copy of letter dated 01.10.2018.	105-106
19	Exhibit-Q	A copy of letter dated 03.10.2018.	107-109
20	Exhibit-R	Copies of replies dated 06.10.2018, 08.10.2018 and 09.10.2018.	110-131
21	Exhibit-S	A copy of Notification dated 06.10.2018	132
22	Exhibit-T	A copy of Transfer Order dated 08.10.2018.	133
23	Exhibit-U	A copy of Memorandum of Charge-sheet dated 08.10.2018.	134-140
24	Exhibit-V	A copy of letter dated 08.10.2018.	141
25	Exhibit-W	A copy of letter dated 11.10.2018.	142-143
26	Exhibit-X	A copy of Office Order dated 22.10.2018.	144
27	Exhibit-Y	Copies of representations dated	145-164

		2830.10.2018 and 05.11.2018.	
28	Exhibit-Z	A29 copy of letter dated 03.10.2018.	165-167
29	Exhibit-AA	A copy of written apology dated 11.10.2018	168
30	Exhibit-BB	A copy of letter dated 21.11.2018.	169-170
31		Vakalatnama	171-173

Mumbai

Dated

Sandeep V. Marne
Advocate for Petitioners

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

(Civil Appellate Jurisdiction)

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Sanchar Nigam Executives’ Association ... Petitioners

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The Chairman & Managing Director, ... Respondents
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SYNOPSIS

IMPORTANT DATES AND EVENTS:

Sr. No.	Date	Events
1		Petitioners Association represents Executive Working in BSNL and has been elected as recognized representative association under the provisions of BSNL (Executive Assistant) Rules 2014.
2	07.09.2015	Petitioner No. 2 has elected as Dy General Secretary at All India Level of the Association for a tenure of 2 years.
3	15.09.2015	Petitioner No. 3 was elected as District Secretary of Mumbai District for a tenure of 2 years.
4	15.09.2017	On account of change in method of collection of membership subscriptions, funds were not available with district bodies, on account of which elections could not be held in respect of District Bodies and the previous office bearers continued to function with due approval of the Respondents.

5	20.09.2017	Petitioner No. 2 came to be elected as Circle Secretary of Maharashtra Circle.
6	17.12.2017	Petitioner No. 2 tendered resignation of the post of Dy. General Secretary at All India Level and accordingly continue to hold the post of Circle Secretary of Maharashtra Circle.
7	31.03.2018	Petitioner No. 3 and one Shri S.R. Potul were sought to be transferred to Kalyan ignoring that they enjoyed immunity from transfer as office bearers of association. Subsequently, however acknowledged the fact that both continue to function as office bearers of the association and granted them retention at Mumbai till the tenure of recognition of association i.e. till December 2019.
8	28.09.2018	Joint representation was submitted by 4 units of association complaining about lavish expenditure for celebration of BSNL formation day as well as against mixing function related to Telecom Women Welfare Organization (TWWO) on the same day. The said letter was signed by Petitioner No. 3. On account of such joint representation, the expenditure was to be curtailed and the function of TWWO was required to be cancelled.
9	29.09.18 01.10.18 03.10.18	3 successive letters were issued to Petitioner No. 3 threatening initiation of disciplinary proceedings. This was done

		at the behest of Mrs. Ritu Priya Khare, Chair Person of TWWO and wife of Respondent No. 4. Petitioner No. 3 submitted his replies to all the 3 letters.
10	08.10.18	Memorandum of Charge-sheet was issued to Petitioner No. 3. By separate letter facilities of all the office bearers of Mumbai District Association including that of Petitioner No. 3 were withdrawn. Order was issued transferring Petitioner No. 3 to Bhandara.
11	17.10.18	Action was also taken against Petitioner No. 2 by forfeiting his status of the Circle Secretary of the Association on the issuance of ground that he held 2 posts simultaneously for more than 3 months.
12	22.10.18	Order was issued transferring the Petitioner No. 2 from Mumbai to Buldhana.

2. POINTS TO BE URGED :

The impugned action of withdrawing status of Petitioner Nos. 2 and 3 as Office Bearers of the Association and consequential transferring them out of Mumbai as well as issuing Charge-sheet to Petitioner No. 3 are malafide. Merely because the Association protested against the function organized by wife of Respondent No. 4, vindictive action is taken against them. Withdrawal of status as office bearers is done for the purpose of throwing Petitioner Nos. 2 and 3 out of Mumbai. Hence, this Petition.

3. ACTS, RULES, ETC. INVOLVED

BSNL (Executive Assistant) Rules 2014.

4. AUTHORITIES TO BE CITED

Mumbai

Dated

Sandeep V. Marne
Advocate for Petitioner