



BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA
ENTERPRISE)
SR Cell, Corporate Office
8th Floor, Bharat Sanchar Bhawan,
Harish Chander Mathur Lane,
Janpath, New Delhi-110 001

No. BSNL/7-1/SR/2018 (pt)

Dated, 25 October, 2018.

To

Shri P Abhimanyu
GS BSNLEU

Shri Chandeshwar Singh,
General Secretary
NFTE

Shri V Subburaman,
General Secretary,
TEPU

Shri K. Sebastin,
Sanchar Nigam
Executive's
Association

Shri Shiv Kumar,
President
AIBSNLEA

Shri N Kabeer Das,
General Secretary
BSNLOA

Shri Suresh Kumar,
General Secretary
BSNLMS

Shri Ravi Sheel Verma,
General Secretary,
AIGETOA

Shri S D Sharma,
General, Secretary
ATM BSNL

Sub: Notice for Agitational Programme by All Unions & Associations of BSNL.

Ref.: Notice No. UA/2017/5 dated 16.10.2018.

Sir,

I am directed to refer to your aforesaid Notice dated 16.10.2018, wherein following agitational programme has been called for :

- a. To hold press conferences at circle and district levels on 29.10.2018
- b. Dharna at all levels on 30.10.2018
- c. Rallies at circle and district levels on 14.11.2018
- d. To organize strike if the issues are not resolved by 30th November, 2018. Date of strike will be decided in due course.

2. Your attention is brought to various advisories /appeals issued by this office from time to time informing you and all concerned the provisions under BSNL CDA Rules, BSNL (REA) Rules, 2014 & Industrial Dispute Act, 1947, prohibiting any agitation/strike programme by the Unions & Associations. However to recapitulate, a few are again mentioned as under :

- a. Firstly, Sub- rule 14 (1) of BSNL (REA) Rules, 2014 provides

"The Association eschews completely the agitational approach, such as resorting to strikes or practices or conduct, which is likely to result in or results in cessation

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or substantial retardation of work, and also to coercion or physical duress. Further, the Association will not join hands with the non-executives' unions for furtherance of their issues and/or participate in any joint trade union action".

It may be noted that executives are prohibited from resorting to strike in view of the provision contained in Sub- rule 14 (1) of BSNL (REA) Rules, 2017 stated above.

b. The executives perform managerial/ administrative functions and hence they **are not workman under section 2(s) of ID Act, 1947** and therefore, any strike by them shall be in violation of ID Act.

c. It may kindly be noted that the collective body with the name and style 'All Unions & Associations of BSNL' is neither a body recognized by the Management nor the Management is aware of its credentials, registration as Trade Union etc. All concerned are aware that for any Union or Association or their Forum (Federation) to hold discussion on the demands of employees, registration of such body with the appropriate authority is necessary. Any unrecognized/ unregistered body (grouping of two or more Union) is therefore incompetent to raise any demand for and on behalf of the employees so as to fall within the scope and ambit of the Industrial Dispute Act, 1947.

It may be appreciated that any formal discussion/meeting with un-recognized Union / Association or group of Unions/ Associations will defeat the purpose of Membership Verification for recognition of representative Union /Association. It is, therefore, noted that Management will hold formal discussion/meeting only with recognized Non-executive Union or recognized Executive Association separately on the demands. As such, Management will not hold any formal discussion/meeting with un-recognized/ un-registered Union / Association or group of Unions/ Associations. It is reiterated that the Association will not join hands with the non-executives' unions for furtherance of their issues and/or participate in any joint trade union action.

3. As all concerned are aware that Management has time and again been issuing appeals/ advisories to the Associations/ Unions not to resort to any agitational programme in view of pending conciliatory proceedings before the RLC. It may also be noted that during pendency of the conciliatory proceeding no person employed in a Public Utility Service {Telecommunication is a Public Utility Service as per para 2(n) (iii) } shall go on strike and any strike in contravention of section 22 of ID Act may be treated illegal under section 24 of the Act. Thus, present call of various agitational programme is illegal. Further, the matter of such willful contravention of the provision of ID Act shall be reported to RLC (Central) New Delhi.

4. Also participation in any kind of strike or inciting others for any kind of agitation by them and is prohibited under BSNL Conduct Discipline & Appeal (CDA) Rules 2006, would be treated as misconduct in accordance with Rule 5(23) and Rule-8 of and on account of such activities such employees are liable to disciplinary action.

Further, BSNL vide letter dated 04.01.2017 (based on instructions circulated by DOT vide letter dated 07.10.1987) reiterated the provisions relating to strike. In the said

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letter it is clarified that '**strike**' means refusal of work or stoppage or slowing down of work by a group of employees acting in combination, and that 'Dharna', 'Work According to rule', 'No- Cooperation' etc amount to strike. It is submitted that Management has never disallowed any peaceful demonstration beyond office hours (including Lunch Hour demonstration) and outside BSNL premises/compound. Needless to say that any demonstration/dharna or strike in any form within the office compound/BSNL premises during the working hour of the company causes disruption in normal functioning, retardation of work which amount to Strike.

5. DOP&T in its OM no. 45018I2017-Vig. Dated 15.03.2017 states that—

"----. It follows that the right to form an Association does not include any guaranteed right to strike. There is no statutory provision empowering the employees to go on strike. The Supreme court has also ruled in several judgments that going on strike is a grave misconduct under the Conduct rules and that misconduct by Govt. employees is required to be dealt with in accordance with the law. Any employee going on strike in any form would face the consequences which besides deductions of wages may also include appropriate disciplinary action. Attention of all employees of this department is also drawn to this department OM no. 33012/I/(s) 2008-Estt(B) dated 12.09.2008 on the subject for strict compliance".

6. Further, Rule 5 (22) & 8 of BSNL CDA Rules also prohibit strike. In terms of the above provisions any employee, participating in strike will be liable to disciplinary action.

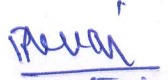
7.. Your kind attention is also invited to the interim injunction order dated 06.05.2017 in Civil Suit No. 538/2017 passed by Hon'ble Patiala Court at New Delhi " restraining them from further intensifying the ongoing strike so as to impede the functioning of the BSNL...." (conveyed vide this office letter dated 08.05.2017). It is surprising to see that inspite of above mentioned Hon'ble Court interim injunction and numerous advisories issued frequently on the matter, All Unions & Associations of BSNL have served a fresh notice calling for various agitational programme from 30.10.2018 onwards.

8. As far as issues raised by Unions/ Associations are concerned, these has been getting constant attention in the concerned cells of BSNL and during various meetings their status have been updated with leaders of Unions/ Associations.

9. Further, all concerned are aware that due to the valued contribution made by all the employees, the turnaround initiatives taken by the Management have shown positive results. It is a fact that company is rendering services in a fiercely competitive market dominated by Private Sector service providers. Inspite of such competition, BSNL has to generate revenue for growth of the company and maintain goodwill of the customers. At this juncture it is reminded that a slightest slip in the company's forward march due to any agitational programme will not augur well as the agitational programme not only impairs the productivity, but also adversely affects the company's image in the eyes of the customers. The Management, therefore, calls upon all concerned to eschew all agitational programme and join hands with the Management in its efforts to restore the pristine glory and continue the forward march.



In view of the facts stated above an appeal is made that any agitational programme from 30.10.2018 onwards, is not appropriate and may be withdrawn.



((B. L. Kirar)
Asstt. Genl. Manager (SR)
Tel No. -01123766063

Copy for information to :

1. PPS to CMD BSNL.
2. PPS to ALL Directors BSNL Board.
3. All CGMs, BSNL Telecom Circles for kind information and necessary action as per the instructions and guidelines issued from time to time.
4. CLC, New Delhi, for information and taking suitable action.
5. PGM (Admn) BSNL CO for kind information and necessary action.
6. GM (Pers)/ Sr G M (Estt), BSNL C.O.
7. DDG(SR), DOT, Sanchar Bhawan, New Delhi (alongwith a copy of notice) for kind information.
8. RLC (Central), New Delhi.