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भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

No. 482-14/BT/2012/Kerala

Dated: 08.02.2013

To,

All the CGMs
BSNL Telecom Circles

Subject: - Transfer of land from DoT to BSNL – Regarding.


DoT has allowed for the mutation of some of the properties in the name of BSNL. The directions of DoT to get the land mutated in the name of BSNL have already been conveyed to the respective circles with the request to take necessary action. In this regard, kindly find enclosed herewith the copy of legal opinion given by BSNL legal counsel at Trivandrum, Kerala regarding transfer of assets from DoT to BSNL wherein it has been opined by the counsel that since the necessity of transfer of assets in the name of BSNL is the outcome of a policy decision taken by the Central Government and vesting of the property in the BSNL is consequent to the decisions so taken by the Central Government, separate deed for transfer is not at all necessary.

It has further been opined by the legal counsel that under such circumstances, the course of action to be followed by BSNL is to approach the State Government with an appropriate petition seeking an order from the Government to effect appropriate changes in the revenue records in respect of all the properties which originally stood in the name of Department of Telecommunications to be altered / changed in to the name of BSNL. The procedure to be adopted by BSNL as described in the legal opinion is self explanatory.

It is, therefore, kindly requested to take simultaneous action to explore the possibility of adopting the same procedure in your state to mutate / transfer the lands in the name of BSNL. If the same procedure sails through in your state then this will not only save a considerable amount of resources of BSNL in mutating the assets in the name of BSNL but also all the properties (allowed by DoT) will be mutated in the name of BSNL in one go. However, to avoid delay, any ongoing process of mutation shall not be halted on this ground till a concrete headway is made as envisaged in the enclosed legal opinion.

The action taken and the progress made in this regard may please be intimated to this office for perusal of competent authority. This may be treated as **Urgent** please.

Enclosure: As Above.


Addl GM (BW-II)
BSNL C. O.

Copy to:-

1. PS to Director (Enterprises) BSNL Board for kind information please.
2. DDG (FEB), DoT for kind information please.
3. File No. 482-14/2002-BG-BT/(Vol IV)

Regd & Corporate Office- Bharat Sanchar Bhawan, H. C. Mathur Lane Jan Path New Delhi-110 001

To:
The Assistant General Manager (Legal),
BSNL,
Kerala Circle,
Trivandrum.

Date : 11/11/2013

Sub: Legal Opinion on Transfer of Land from GOI to BSNL.
Ref: No: BLDG/28-320/2012 dated at TVPM, 7/1/2012.

The entire telephone and telegraph administration was fully owned and controlled by the Ministry of Communication Government of India. The Central Government has decided to transfer/bifurcate its rights and liabilities of telephone communication and telegraphic operations and accordingly a company was formed under the name and style BSNL- Bharat Sanchar Nigam Limited. After the formation of the Company the Ministry of Communication/Department of Telecommunication passed a resolution on 23/1/2000 on the basis of a Memorandum of Understanding by which the business for providing telecom services in the country, maintaining the telecom network, running the factories by the Department of Telecom Services and Department of Telecom Operations which was earlier provided by Department of Telecommunication has been transferred to the newly formed Company namely BSNL w.e.f. 1st October 2000. The landed properties, building etc which were under the direct control and management of Department of Telecommunication Government of India became vested in the BSNL except certain properties specifically retained. In the revenue records the properties are recorded as one standing in the name of the Department of Telecommunications, Government of India. By virtue of the formation of the Company, the revenue records have to be appropriately changed recording BSNL as its owner.

In the State of Kerala the provisions are contained in the Transfer of Registry Rules 1966. As per the Transfer of Registry Rules transfer of registry is effected:

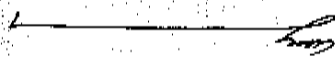
- (1) On the basis of voluntary transfer of title by sale, partition, gift agreement;
- (2) Transfer by decree of civil courts and revenue sales;
- (3) Transfers due on succession.

So far as the case on hand is concerned it will not come in any of the three categories. Transfer due to succession ^{Date} is limited to succession on account of the death of the original title holder in whose name the properties originally stood.

The formation of the Company namely BSNL and vesting of the property in the BSNL is on account of the decision taken by the Central Government and the consequent resolution passed on the basis of a Memorandum of Understanding entered between the President of India acting through the Secretary to the Government of India, Ministry of Telecommunication and Bharat Sanchar Nigam Limited a company formed on the basis of government decision. In such circumstances the course of action to be followed by the BSNL is to approach the Government of Kerala with an appropriate petition seeking an order from the Government with an appropriate petition seeking an order from the Government to effect appropriate changes in the revenue records in respect of all the properties which originally stood in the name of Department of Telecommunications to be altered/changed into the name of BSNL by producing:

- (1) Central Government decision to form the Company;
- (2) A copy of the Memorandum of Understanding;
- (3) The resolution passed by the Department of Telecommunication on the basis of the Memorandum of Understanding.

BSNL has to prepare a schedule of properties situated in each revenue district and seek a general order to the District Collectors to effect appropriate changes in the revenue records to the effect that the properties presently standing and described in the schedule in the name of Department of Telecommunication transferred to Bharat Sanchar Nigam Limited. Since the necessity is the outcome of a policy decision taken by the Central Government and the vesting of property in the BSNL is consequent to the decisions so taken by the Central Government separate deed for transfer is not at all necessary. Hence it is advised to take appropriate steps as herein above mentioned. The petition has to be addressed to the Secretary, Revenue, Government of Kerala, Government Secretariat, Trivandrum.


R. Kunjukrishnan Potti
Advocate