



PAKISTAN TELECOMMUNICATION AUTHORITY
HEADQUARTERS, F-5/1 ISLAMABAD
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Decision of the Pakistan Telecommunication Authority under Section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 in Appeal filed by Techno Track Technology (Pvt.) Limited

No: 14-1618/L&A/PTA/20/ **17**

Appeal No:	9/2020
Venue of Hearing:	PTA HQs, Islamabad
Date of Hearing:	14 th October, 2021

Authority present in hearing

Maj. Gen. Amir Azeem Bajwa (R):	Chairman
Dr. Khawar Siddique Khokhar:	Member (Compliance & Enforcement)
Muhammad Naveed:	Member (Finance)

Issue

“Termination of license No. Dir(L)/CVAS-1013/PTA/2019 dated 20th March, 2019”

1. Relevant facts of the case are that the Appellant was awarded non-exclusive license No. Dir(L)/CVAS-1013/PTA/2019 dated 20th March, 2019 by the Pakistan Telecommunication Authority (the “Authority”) to establish, maintain and operate Data Class Value Added Services in Punjab subject terms and conditions contained in the license including rules and regulations made there under and Amendments/modifications made thereto.
2. Through the instant appeal Techno Track Technology (Pvt.) Limited (the “appellant”) under Section 7(2) of the Pakistan Telecommunication (Re-organization) Act, 1996 (the “Act”) has assailed termination letter dated 30th July, 2020 (the “Impugned letter”) issued by the Officer of the Authority vide Letter No. PTA/Wireline/CVAS/1452/2020 whereby, intimation with regard to termination of license was intimated.
3. In accordance with license condition No. 10.1 the licensee was under an obligation to commence licensed services within one (1) year from the date of grant of license i.e. 20th March, 2020, failing which, the license shall stand terminated automatically. Furthermore, pursuant to license condition No. 11.1 of the license, the license shall remain in force until it is terminated by one of the following events i.e. failing to comply with timelines and adhering regulations for commencement of licensed services within One (1) year of grant of license, the license shall stand terminated automatically without any notice.
4. Upon failure of the licensee to commence of the licensed services within the stipulated time as provided in the license, the licensee was intimated vide PTA’s letter No. PTA/Wireline/ CVAS/1306/2019 dated

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18th November, 2019 to apply for commencement inspection or for extension in the required date of commencement of service in the manner as provided in regulation 17(A)(iii) of Class Licensing and Registration Regulations, 2007 failing which the license shall be terminated without any further notice. However, the licensee did not pay any heed to the aforesaid directions. Consequently, since the licensee failed to commence licensed services as required, therefore License No. DIR(L)/CVAS-1013/PTA/2019 dated 20th March, 2019 issued to Techno Track Technology (Pvt.) Limited was terminated w.e.f. 20th March, 2020 and duly intimated to the licensee vide impugned letter.

5. Being aggrieved by the impugned letter, the appellant preferred an appeal under Section 7 (2) of the Act before the Authority on the following grounds:

- a. *“ That procedure in Rule 9 (6) of the Pakistan Telecommunication Rules, 2000 has not been followed prior to issuance of termination Order. In this regard, the licensee enunciated that as per the said rule, a notice of not less than 30 days is required to be served upon the aggrieved person for such termination.*
- b. *That Section 23 of the Act contemplates the mandatory requirement of service of notice before imposing any penalty or enforcement order*
- c. *That while passing the impugned letter dated 30.07.2020, the Authority did not seek any report as to the functionality and operation of its services. The licensee was in service and had issued 35 connections which were duly in service when the impugned order was passed.*
- d. *That while passing the impugned letter dated 30.07.2020, the Authority did not consider the prevailing pandemic situation and proceeded with such a harsh order. The licensee averred that the impugned order is otherwise non-speaking Order and is liable to be set aside”*

6. In order to proceed further, the said appeal was fixed for hearing before the Authority on 14th October, 2021. On behalf of the appellant the hearing was attended by Mr. Muhammad Hameed Aslam (CEO). During the hearing, the licensee reiterated the grounds as stated in the appeal. In addition, the licensee stated that a visit to PTA, Zonal Office, Multan for the purpose of obtaining commencement certificate was also made, but no record in this regard was provided during the hearing.

7. Matter heard and record perused. As far contention of the appellant with regard to procedure under Rule 9 (6) of the Pakistan Telecommunication Rules, 2000 is concerned it is pertinent to mention here that eight (8) months prior to issuance of the impugned letter, the licensee vide PTA's letter No. PTA/Wireline/CVAS/1306/2019 dated 18th November, 2019 was intimated of the requirement to apply for a commencement certificate and commence licensed services. However, the licensee did not respond to the said intimation and did not apply for commencement certificate or contact PTA office in this regard.

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8. Relating to submission of the licensee that Section 23 of the Act contemplates a mandatory requirement of service of notice before imposing any penalty or enforcement order, it is relevant to mention here that the impugned letter was issued in accordance with the agreed terms and conditions of the license i.e. 10.1 and 11.1 (c) *ibid* which obliges the licensee to commence any licensed services within one year from the date of grant of license i.e. 20th March, 2020, failing which, the license shall stand terminated automatically. The plea of the licensee at the hearing that it had visited PTA, Zonal Office, Multan for the purpose of obtaining certificate cannot be relied upon without provision of any supporting/documentary evidence in support thereof.

9. As far as the issue of 35 connections being functional at the time of termination of license is concerned, it is relevant to point out here that issuance of connections without obtaining commencement is contrary to regulatory laws and tantamount to serious violation which must be discontinued immediately.

10. Based on the above, it is concluded that the licensee has failed to place on record any valid and convincing reasons and justifications in support of assertions made with regard to impugned letter, therefore, the Authority could not find any reason to interfere in the impugned letter. Accordingly, the appeal is hereby dismissed.

Maj. Gen. Amir Azeem Bajwa (R)

Chairman

Muhammad Naveed

Member (Finance)

Dr. Khawar Siddique Khokhar

Member (Compliance & Enforcement)

Signed on 31st day of January, 2022 and comprises of (03) pages only.