



SANCHAR NIGAM EXECUTIVES' ASSOCIATION KERALA CIRCLE

(Recognised Majority Association of Executives in BSNL)
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No.SNEA/Kerala/2018-19/38

dated 31/7/2019

To

The Hon. Chief Minister
Government of Kerala,
Thiruvananthapuram

Most Respected Sir,

Sub: Payment of Property Tax to Local bodies by BSNL towards its buildings and mobile telecommunication towers in Panchayaths - hardship faced by BSNL Officers due to revenue recovery proceedings, attachments, civil/criminal prosecution initiated by various local bodies in the State, reg:

Ref: Kerala State Government' LSG order dated 6-3-2019

Your kind attention is invited to the above grave situation where BSNL Officers are often subjected to revenue recovery proceedings, attachments, criminal/ civil prosecutions etc for non-payment of Property Tax by some local bodies in the State.

As per the Kerala Panchayath Raj Act 1994, Kerala Government had notified the rate of taxes applicable to buildings and mobile towers in respect of Municipalities and Panchayaths vide gazette notification dated 14-1-2011. As per the above notification, the local bodies (Panchayaths & Municipalities) had started issuing demand notes for payment of Property Tax w.e.f 2013 belatedly during 2017-18 as pointed out in Kerala government order dated 6-3-2019. Kerala Municipality Act Section 593 prescribes a limitation of three years in proceedings in respect of any tax or other sum due to a Municipality under this Act. Accordingly, the date of effect of property tax revision has been revised to 1-4-2016 as per the order dated 6-3-2019 by

the State Government. It was also decided to exempt from penal interests and allow installments in payment of the property tax.

Similarly, the Kerala Panchayath Raj Act 1994 section 243 prescribe the limitation as follows:

243. Limitation for recovery of dues. - (1) No distraint shall be made, no suit shall be instituted and no prosecution shall be commenced in respect of any tax or other sum due to a Panchayath under this Act or any rule or bye-law, or order made under it after the expiration of a period of three years from the date on which the distraint might first have been made, a suit might first have been instituted or the prosecution might first have been commenced, as the case may be, in respect or such tax or sum:

The revised orders amending the date of effect from 1-4-2016 in respect of the Panchayath are yet to be issued by the Government, though the subject matter under consideration squarely applies in the case of Panchayaths also.

The local bodies continue to raise demands from the year 2013 and BSNL is not approving the payments as it is time barred and as upheld by the Hon'ble High Court of Kerala as per the judgment dated 5th June 2018 in RP No. 411 of 2018 in WA 2620/2017. In Para 11 as follows,

"hence the respondent corporation cannot proceed to recover any dues subsisting 3 years prior to the demand impugned in the Writ Petition. We also reserve the right of the writ petitioner to move the Appellate Authority the time for which will commence from the date of receipt of the certified copy of this judgement. The limitation then being the period as stipulated in Kerala Municipal Act".

BSNL had filed representation to the Secretaries in Grama Panchayaths for revision of the demand and also filed appeal to the Standing committee as provided under the Act for limiting the demand within limitation period and also in accordance with the rates approved by the government against actual area occupied by the mobile tower/ building. But ignoring these facts, the local bodies are proceeding with revenue recovery, attachment of property, criminal/civil proceedings etc against the officers by name putting undue hardship to the Officers.

At this point, we would like to appraise your Good Office, that the Sanchar Nigam Executives' Association (SNEA) is the recognised majority association of executives in BSNL and as such, the members of this association are very much affected due to this hardship

resulting in releasing on bails, attending courts in addition to legal expenses both for BSNL as well as local bodies, which is nothing but wastage of energy, time and public money for both BSNL and Local bodies. As a responsible association to safe guard the interest of public at large and its members in particular, may I, on behalf of BSNL executives humbly request your personnel attention to give directions to the concerned for issuing revised notification for raising demands, amending the date of effect to 1-4-2019 for Panchayaths also, as done in the case of Municipalities vide the LSG order dated 6-3-2019.

May I also humbly request you to issue necessary instructions to the concerned to withdraw all proceedings, revenue recovery, attachments, civil case, criminal cases etc initiated against BSNL/ BSNL officers for non-payment of property tax which are being demanded at present not as per law.

With Kind Regards

Sincerely Yours



**T Santhosh Kumar
Circle Secretary
SNEA, Kerala Circle**

Enclosures: (Samples)

1. Copy of demand from. Manakkad Panchayaths demanding the tax w.e.f 2013
2. Representation submitted to Upputhara Grama Panchayaths Secretary
3. Appeal presented to standing committee Upputhara Grama Panchayath.
4. Revenue recovery notice from Upputhara Panchayath
5. Notice for attachment from Dy. Thahsildar Udumbanchola Taluk by Nedumkanadom Panchayath
6. Summons received in Civil case os 101/19 Hon. Munsif Court Devikulam filed by Vattavada Panchayath
7. Summons received in Criminal case in CMP307/19 from Hon.JFMC Kattappana filed by Upputhara Panchayath

Copy of LSG order dated 6-3-2019.