

**Cellular Operators Association of India and Others v. TRAI and ors. (Call drop case)**

In a recent Judgment of *Cellular Operators Association of India and Others v. TRAI and others* delivered by J. Kurian Joseph and J. R.F. Nariman, the Supreme Court has declared the Telecom Consumer Protection (Ninth Amendment) Regulations, 2015 notified on 16.10.2015 by TRAI as *ultra vires* and violative of Article 14 and 19(1) (g) of the Constitution. The Hon'ble Division Bench set aside the impugned High Court order which accepted the amendment mandating every cellular mobile telephone service provider liable to credit the calling consumer with one rupee for each call drop within its network, with a maximum of three call drops per day and to send credited amount details to the calling consumer within four hours of the occurrence through SMS or USSD message, in case of post paid consumers such details to be provided in next bill.

The Hon'ble Bench categorized the arguments into four logical compartments and while dealing with the first question of whether the Ninth Amendment to the Telecom Consumer Protection Regulation 2015 is *ultra vires* Section 36 r/w Section 11 of TRAI Act 1997, the court held that the regulation was not in consonance with the purposes of the Act, as it ought to be consistent with the Act both in letter and spirit. While dealing with the second issue of whether the Regulation is manifestly arbitrary and unreasonable violating Article 14 and 19(1)(g), the court relied on the technical paper issued by the concerned Authorities few days after the impugned regulations stating that 36.9% of the call drops take place because of the fault at consumers end, establishing that authorities have overlooked their own technical paper and is manifestly arbitrary and unreasonable. Dealing with third issue that dealt with whether TRAI had power to interfere with their license conditions which is a contract between licensor and licensee, the court held that a contract between the service providers and consumers, has been amended to the former's disadvantage by levying penalty for call drops despite there being no fault traceable to the service provider. Lastly, on the issue whether authorities were transparent in their dealings as provided under section 11(4), the court held that the authorities were not being transparent. Thus court deciding all the above issues in favour of the Cellular Operators allowed the appeal and set asides the High Court's Judgment.