

**BHARAT SANCHAR NIGAM LTD.**

No. BSNL/7-1/SR/2020

**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

Dated, the 10<sup>th</sup> Feb., 2021.

To

Shri K. Sebastin,  
General Secretary,  
SNEA.

**Subject:** Appeal for withdrawing the indefinite Hunger Fast at BSNL CO and Circle HQs from 15.02.2021-reg.

**Ref.:** 1. Your letter No. SNEA/CHQ/CMD/2018-21/114 dated 05.11.2020 regarding agitation Programme  
2. This office letter of even no. dated 31.12.2020.


Sir,

I am directed to refer to this office earlier appeal issued vide this office letter of even no. dated 31.12.2020 (copy enclosed) explaining various prohibitory provisions and also present condition of the company.

It is reiterated that presently BSNL is already facing acute cash flow constraints and is passing through toughest ever competition from other operators. The agitational activities at this juncture would aggravate this situation. As such, it is need of the hour to focus on the improvement of financial condition of the company.

Any form of strike affects the company two ways; (i) such activities cast bad image of the company in the eyes of customers, (ii) causes loss of manhour, affect adversely the productivity and the general discipline. This also affects adversely the sincere efforts being made by the Govt., Management and employees for the revival of BSNL.

In view of the above, it is appealed to withdraw the proposed indefinite Hunger Fast from 15.02.2021 and make all out efforts for the improvement of the Company.

  
10.02.2021  
(Pardeep Kumar)  
Asstt. General Manager (SR)

Copy for information to:

1. PPS to CMD, BSNL CO.
2. PPS to Director (HR) BSNL CO.
3. The All CGMs. BSNL Circles for necessary action.
4. PGM (Pers)/Sr. GM (Admn) BSNL CO for n/a please.
5. CLC (Central), New Delhi with a copy of notice.
6. RLC (Central), New Delhi with a copy of notice.



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No. BSNL/7-1/SR/2020

Dated, the 31<sup>st</sup> Dec., 2020.

To

Shri K. Sebastin,  
General Secretary,  
SNEA.

**Subject:** Appeal for withdrawing the Hunger Fast at BSNL CO and Circle HQs from 04.01.2021 to 08.01.2021-reg.

**Ref.:** Your letter No. SNEA/CHQ/CMD/2018-21/114 dated 05.11.2020 regarding agitation Programme

Sir,

I am directed to refer to your notice dated 05.11.2020 for the Hunger Fast at BSNL CO and Circle HQs from 04.01.2021 to 08.01.2021 on various demands and to state that the issues mentioned therein are getting proper attention in the concerned cells of BSNL. You have been updated about their progress also.

It is stated that time and again provisions prohibiting strike in BSNL under BSNL CDA Rules, BSNL Recognition Rules of Associations, Industrial Dispute Act 1947, BSNL Conduct, Disciplinary and Appeal Rules, guidelines of GOI, DOP&T instructions and also interim injunction order dated 6.5.2017 passed by Hon'ble Patiala House Court, New Delhi, have been apprised to you. However, these provisions are reiterated as detailed below:

2. Hunger Fast (strike) amounts to strike:

Hunger Fast (strike) amounts to strike in terms of the following provisions of Department of Telecom, Govt of India letter dated 07.10.1987

- a) All the activities during working hours (beyond the lunch hours) resulting in cessation/retardation of work like Dharna, Sit down, Work according to Rule, Non-Cooperation, Mass Casual Leave, Hunger strike, Pen down strike, Go slow amount to strike .
- b) while the employees may abstain from taking food but without absenting from duty or without ceasing work. They do not have the right either to obstruct the normal work of the department or derelict from duty for the purpose of resorting to hunger strike.

In view of the above the proposed hunger fast at Corporate Office and Circle HQs will amount to strike in terms of the definition of "STRIKE" given in Section 2(q) of the ID Act 1947.



3. **The notice for Strike does not meet the prescribed statutory mandatory requirement-**

- a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking as per Section 22 (1) (a) of ID ACT, 1947.
- b) strike notice is not in form L as per Rule 71 of ID Central Rules 1957.
- c) Copy of notice is not given to RLC (Central).

4. **"Illegal" under Provisions under ID ACT, 1947:** BSNL provides the Telecom Services and as per provisions under section 2(n) (iii) of ID ACT, 1947 "Telecommunication" is a public utility service. Further,

- (a) Section 22 (1) (a): No person employed in a public utility service shall go on strike in breach of contract without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking
- (b) Section 22 (1) (d) : No person employed in a public utility service shall go on strike in breach of contract during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- (c) Section 24. illegal strikes and lock-outs.- (1) A strike or a lock-out shall be illegal if- (i) it is commenced or declared in contravention of Section 22.

Thus during pendency of the conciliation proceedings before the RLC no person employed in 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 the ID Act and may be treated as illegal under section 24 of the Act

You are aware that the Conciliatory proceeding are going on with Regional Labour Commission Central Delhi. Therefore, present call of strike is in contravention of section 22(1) (d) and Section 24 and is "illegal".

- (d) Executives' Associations having members which are officers/ managers and not workmen hence they are not "workmen" as per definition of section 2(s) of ID act, 1947 and therefore any strike by them shall be in violation of ID Act. The signatory of the present strike notice is from Executive Association and therefore is "illegal".

5. **Prohibition under the Recognition Rules of BSNL** - It is categorically stated that Members of Associations are executives, not workmen and hold Managerial posts. Thus they are part of Management, hence they cannot resort to any form of strike. Apart from it, the BSNL Recognition of Executive's Association (REA) Rules 2014 dealing with Executive's Association states that "the Association shall abide by and comply with all provisions of its constitution/bye laws". Sub- rule 14 (1) of BSNL REA Rules provides "**The Association eschews completely the agitation approach, such as resorting to strikes or practices or conduct, which is likely to result in or results in cessation or substantial retardation of work, and also to coercion or physical duress.**

6. **Prohibition under BSNL Conduct, Disciplinary and Appeal Rules** - Also time and again the provisions under Rule 5 (23) & 8 of BSNL CDA Rules prohibiting strike have been brought to the notice of all the employees. In terms of the above provisions any employee, participating in strike will be liable to disciplinary action. The details are explained as follows:-

**"a. Rule 5 (23)–**

Following acts of omission and commission shall be treated as misconduct:

"Participation and/or inciting others to participate in strikes, gherao, go slow and similar other agitational activities, or abetting, inciting, instigating or acting in furtherance thereof."

**b. Rule 8. DEMONSTRATIONS AND STRIKES :**

No employee shall-

(2) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other employee of the Company."

7. The provisions of the DOP&T OM no. 45018/2017-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/II(s) 2008-Estt(B) dated 12.09.2008 on the subject for strict compliance".

8. **Injunction against Strike by Hon"ble Patiala House Court, New Delhi** - It has also been brought to the notice of all concerned vide this office's letter No. BSNL/ 9-3/SR/2017 dated 08.05.2017 about the following interim order dated 06.05.2017 passed by Hon"ble Patiala House Court, New Delhi.

"... all the defendants are hereby restrained from further intensifying the ongoing strike so as to impede the functioning of BSNL. All the defendants, their members, sympathizers and other associates are hereby directed to physically remove themselves from the premises / boundary wall of the properties owned by BSNL in Delhi and other places. The defendants and their affiliate, associates, employees are enjoined from obstructing the ingress and egress of BSNL officials, general public in any manner and they shall not directly or indirectly to take any step so that smooth functioning of BSNL services are effected in any manner.


It is informed that the frequent violation of this interim injunction amounts to contempt of court and it may be apprised to the Hon'ble Court.



9. It is to be appreciated that with whatever good intentions the Hunger Strike is held, peace cannot be guaranteed during such congregation/assembly. There are always possibilities that such activities may turn into indiscipline and cause disturbance in services and office decorum. The instances of untoward incident, on earlier occasions, have been reported from a few circles apart from general distraction from the work and office decorum.

10. Apart from it, presently BSNL is facing acute cash flow constraints. The strike affects the company two ways; (i) any type of such activities may cast bad image of the company in the eyes of customers, (ii) causes loss of manhour, affect adversely the productivity and the general discipline. This also defeats the sincere efforts which are being made by the Govt, Management and employees for the revival of BSNL. The loss once caused proves to be irreparable.

11. Keeping in view all facts given above and sincere efforts being made by the Management to resolve the demands, it is earnestly requested to withdraw the proposed Hunger Fast and focus on work for the growth of the company.

  
3.12.2020  
(Pardeep Kumar)  
Asstt. General Manager (SR)

Copy for information to:

1. PPS to CMD, BSNL CO.
2. PPS to Director (HR) BSNL CO.
3. The All CGMs. BSNL Circles for necessary action.
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