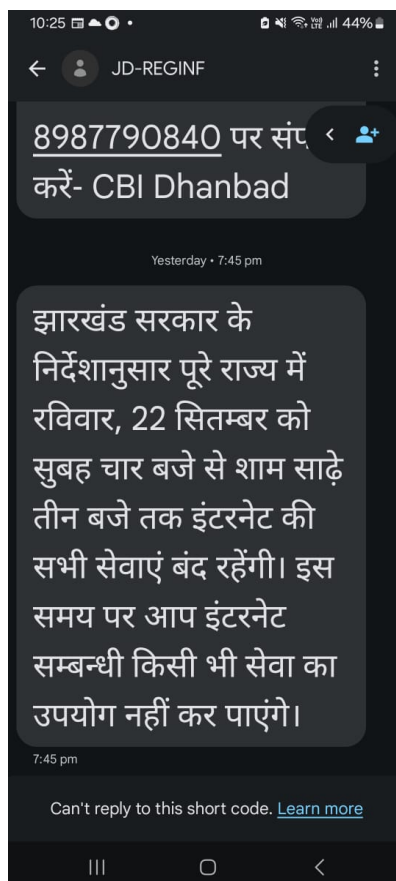




also produces a screenshot of such message which he has received in his mobile yesterday, i.e., on 21.09.2024 at 07.45 p.m. By referring to the said message he submits that his service provider JIO has informed him that entire internet services in Jharkhand on 22<sup>nd</sup> September will be shut down from 04.00 AM in the morning till 03.30 PM on the direction of the State Government. The said screenshot is made a part of this order, which is inserted below:-



5. To verify the aforesaid position, we had requested presence of a responsible officer of BSNL Ranchi and other internet service provider like Bharti Airtel and JIO. Mr. Sanjiv Verma, General Manager, BSNL, Ranchi Business Area, Ranchi appeared in Court and submitted that BSNL got a message from Mrs. Vandana Dadel, Principal Secretary, Department of Home, Prison and Disaster Management, Government of Jharkhand, whereby they were directed to block the entire internet service including the fixed line, FTTH, Fibre and Leased line from 08.00 AM to 01.30 PM. Including the mobile internet and mobile data service for today, i.e., 22<sup>nd</sup> September, 2024.

6. Learned Additional Advocate General submits that some intelligence input was received at night, so the Government decided to shut down the entire facility.

7. From the aforesaid submission and the situation, we are now sure that at the instance of the State Government, entire internet facility has been shut down. This action has been taken only after we had refused to pass any interim order of stay on 21.09.2024 in favour of the petitioner, on the ground that internet facility in totality was not disabled rather it was only a partial disablement for a very limited period and that too only for mobile internet.

8. The second last paragraph of the order dated 21.09.2024 clearly suggests that the interim order was refused since the other internet facilities, i.e., broadband connectivity based on fixed telephone lines etc. were operational without any interruption and internet facility in totality was not disabled and there were no material to suggest that this partial disablement has affected any essential services. The said second last paragraph of the order dated 21.09.2024 is quoted below: -

**13. In this case, since internet facility in totality has not been disabled and it is only a partial disablement for a very limited period and that too only for mobile internet and there are no material to suggest that this partial disablement has affected any essential services, we are not inclined to stay the Order No. P.S.C./Inter.Cell-02/2022 105 dated 20<sup>th</sup> September, 2024 issued by the Principal Secretary, Department of Home, Prison & Disaster Management, Government of Jharkhand.**

9. Now after the order dated 21.09.2024 passed by this Court, the State have suspended the entire internet facilities also. This subsequent action of the State amounts to overreaching the judicial order passed by this Court on 21.09.2024, more so when the writ petition is still pending. This is a fraud played on this Court and is a deceitful action. The interim order passed by this Court reveals that the balance of convenience between the parties was taken into consideration, i.e., balance of convenience between the public at large and the concern of the State to conduct proper examination, but the balance itself has been disturbed by the fresh action of the State.

10. When we sat yesterday, i.e., Saturday (21.09.2024), and refused to grant interim order considering the overall situation, if at all there was any emergent situation, the parties including the State should have approached this Court for modification of the order. This direction by the State authority to shut down the entire service after the order dated 21.09.2024, in fact, nullifies and modifies the judicial order passed by this Court. This prima facie amounts to criminal contempt also.

11. Considering the aforesaid position, through the learned Additional Advocate General we requested Mrs. Vandana Dadel, Principal Secretary,

Department of Home, Prison and Disaster Management, Government of Jharkhand to appear before us with the entire file, to see what was the emergency to suspend entire internet facility, superseding the earlier notification.

12. In the meantime, we immediately direct all the service provider to restore internet services through Broadband, FTTH, Leaseline in tune with the earlier notification of the State Government contained in Order No. P.S.C./Inter.Cell-02/2022 105 dated 20<sup>th</sup> September, 2024 issued by the Principal Secretary, Department of Home, Prison & Disaster Management, Government of Jharkhand and our order dated 21<sup>st</sup> September, 2024.

13. The General Manager, BSNL, Ranchi Business Area, Ranchi who is present in Court, assures that he will do the needful. Registrar General of this Court will also inform all the other Service Providers, i.e., Bharti Airtel, Reliance Jio Infocom Ltd. and VodafoneIdea to comply the directions.

14. Learned Additional Advocate General prays for 45 minutes time to produce the file.

#### **LATER ON**

15. Mrs. Vandana Dadel, Principal Secretary, Department of Home, Prison and Disaster Management, Government of Jharkhand is present in this Court along with entire file bearing No. P.S.C./Inter.Cell/02-2022.

16. The said file is taken in custody of the Court containing page 1 to page 34 in Noting Section and 89 sheets in the correspondence side. The file is handed over to the Registrar General for keeping it in the safe custody. Let the photocopy of the entire file be handed over to the Principal Secretary, Department of Home, Prison and Disaster management, Government of Jharkhand.

17. We have perused the Noting Portion of the file produced by the State. The noting dated 22.09.2024 reads as follows: -

***Hon'ble CM***

***Intelligence report was received regarding attempt towards disruption of exams using the internet Including Wi-Fi broadband.***

***Emergent meeting was held with CM and special Branch head.***

***Deliberation was done regarding smooth conduct of examination.***

***In view of larger public interest and adequate safety of students at large and with objective of ensuring fair examination, a decision was taken to prohibit all type (including the broadband connectivity based on fixed telephone lines, fibre and leased lines) of internet services on 22/9/24 from 8:00 AM till 1:3 PM.***

*Since CS is out of town, hence the file is put up directly.  
Confirmation of the decision may kindly be given.*

*Sd/-*

*22.9.24*

*Vandana Dadel*

**18.** From the aforesaid noting, we do not find any material to suggest that what was the intelligence input to disrupt entire internet facility including shut down of Broadband, FTTH, and Leased line. Prima facie, we do not find any application of mind in the said noting. Merely putting the words and phrases, “public interest”, “adequate safety of students at large”, “ensuring fair examination” without any factual backing to arrive at the said conclusion is not sufficient to shut down the entire internet services, that too throughout the entire State, as it is now well established that shutting down of internet facility amounts to infringement of fundamental rights enshrined under Article 19 of the Constitution of India. Further, from the said noting we do not find any reference of our order dated 21.09.2024 passed in this case nor any timing of the meeting has been mentioned.

**19.** Mrs. Vandana Dadel submitted that during the intervening night of 21<sup>st</sup> September 2024 and 22<sup>nd</sup> September 2024 at about 00.00 Hours, some intelligent inputs were received and on that basis, a high level decision was taken to suspend the entire internet services and facilities throughout the State of Jharkhand. An email was sent about 01.30 AM on 22<sup>nd</sup> September, 2024 (today) to all the Service Providers to suspend the entire internet service from 08.00 AM till 01.30 P.M. on 22<sup>nd</sup> September, 2024.

**20.** Officials of Service Provider JIO along with their counsel is also present in Court. They admit that the message has been sent by their company to the subscribers intimating about suspension of the entire internet service on 22<sup>nd</sup> September, 2024.

**21.** We find that there is divergence in submission made by Mrs. Vandana Dadel and the representatives of the Service Provider and the SMS sent by the Service Provider. From the inserted message, hereinbefore, we find that the same was received by the subscriber at 07.45 PM. Further, from the message it is clear that as per the direction of the Government, on 22<sup>nd</sup> September, 2024 entire internet facility will be shut down through the State of Jharkhand. This Court fails to understand that if the State Government had taken a decision past midnight today, then how the Service Provider, yesterday at 07.45 PM informed that the Government had directed to shut

down the entire internet on 22<sup>nd</sup> September, 2024. We are not in a position to reconcile these statements.

**22.** Considering the conflicting submissions made by the parties, we intend to implead all the service providers as party respondent, namely:-

***(i) Bharat Sanchar Nigam Limited through its Chairman-cum-Managing Director, BSNL Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi 110001.***

***(ii) Bharti Airtel through its Chief Executive Officer, having Office at Airtel Center, Plot No.16, Udyog Vihar, Phase IV, PO PS Udyog Vihar, District Gurugram 122015, State Haryana.***

***(iii) Reliance Jio Infocom Ltd., through its Chief Executive Officer, having Office at Reliance Corporate Park in Ghansoli, Navi Mumbai.***

***(iv) Vodafone-Idea through its East Cluster Head, Eastern Region Nodal, Regulatory & Corporate Affairs, Sector 5, Salt Lake Serjen Tech Park, Kolkata, West Bengal.***

**23.** Registry of this Court is directed to incorporate the aforesaid respondents in the cause title. Since Bharat Sanchar Nigam Limited, Bharati Airtel and Reliance Jio Infocom Ltd. are already represented by Mr. Prabhat Kumar and Mr. Bharat Kumar, respectively, it is not necessary to issue notice to them. Let the name of respective counsel appear in the cause list. A copy of the entire petition and annexures and the orders passed in this case be handed over to them by the Registry.

**24.** Office is directed to issue notice to respondent Vodafone-Idea on their address.

**25.** The Officer of BSNL and their counsel submits that the internet service of BSNL has been restored in consonance with the order passed yesterday by this Court and the Notification dated 20<sup>th</sup> September, 2024 of the State Government. Counsel for Reliance JIO Infocom, who is present, assisted by the officers, namely, Prabhat Kumar Jha, Nodal Officer, Reliance Jio and Amit Kumar Jain, Legal Officer, Reliance Jio Infocom Ltd. undertakes and assures that the internet facility will be restored in tune with our earlier order and notification of the State Government dated 20<sup>th</sup> September, 2024 within 30 minutes. Counsel for the Airtel submits that he will immediately instruct his clients to restore the internet facilities in tune of our earlier order and notification of the State Government.

**26.** All the newly added respondents are directed to file Counter Affidavit. The newly added respondents are also directed to bring on record all the communications and directions received by them from the State of Jharkhand in respect of suspension of internet facility, be it mobile network or landline network for 21<sup>st</sup> September, 2024 and 22<sup>nd</sup> September, 2024. Be it noted that the State had already been directed to file counter affidavit vide our order dated 21<sup>st</sup> September, 2024.

**27.** **List this case on 14<sup>th</sup> November, 2024.** All the parties have requested this Court to keep the matter as “**Part Head**”. Accordingly, let this matter be treated as “**part heard**”.

**28.** It is made clear that till pendency of this writ petition, without the leave of this Court, no internet facility, in whatever form, will be suspended henceforth within the State of Jharkhand on the ground of conducting any examination.

**(Ananda Sen, J.)**

**(Anubha Rawat Choudhary, J.)**

Anu/Kumar-Cp-02