IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

WP(C).No. 8236 of 2013 (D)

PETITIONER(S):
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1. **INDUS TOWERS LIMITED,**
   VANKARATH TOWERS, 8TH FLOOR, N.H. BYE PASS
   PALARIVATTOM, KOCHI -24,
   REPRESENTED BY ITS DULY AUTHORISED REPRESENTATIVE
   PREMAKRISHNAN NAIR M.N, HEAD LEGAL.

2. **BHARATHI INFRATEL LIMITED,**
   REPRESENTED BY PREMAKRISHNAN NAIR,
   HEAD LEGAL INDUS TOWERS LIMITED, VANKARATH TOWER,
   8TH FLOOR, N.H. BYE PASS, PALARIVATTOM
   KOCHI- 682 024.

   BY ADV. SRI.P.SATHISAN

RESPONDENT(S):
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1. **THE SUPERINTENDENT OF POLICE**
   ALUVA (RURAL).

2. **THE STATION HOUSE OFFICER.**
   MUVATTUPUZHA POLICE STATION.

3. **MUVATTUPUZHA MUNICIPALITY,**
   REP. BY ITS SECRETARY, MUVATTUPUZHA.

4. **ANTI MOBILE TELE COMMUNICATIONS TOWERS ACTION**
   GROUP, PULINCHUVADU, REPRESENTED BY T.P.ALI,
   PUTHIYEDATHU HOUSE, MUDAVOOR P.O., PULINCHUVADU,
   MUVATTUPUZHA.

5. **P.A. NAVAS**
   KURIKUZHIYIL HOUSE, MUDAVOOR P.O., PULINCHUVADU,
   MUVATTUPUZHA.

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6. SHAMEER P.A,
THECHILAMARI HOUSE, MUDAVOOR P.O., PULINCHUVADU
MUVATTUPUZHA.

7. P.K. BABURAJ,
PALLIPURATHIL PUTHENPURA HOUSE, MUDAVOOR P.O.
PULINCHUVADU, MUVATTUPUZHA.

8. DEPUTY SUPERINTENDENT OF POLICE,
MUVATTUPUZHA.

9. DEPUTY DIRECTOR GENERAL,
TELECOM ENFORCEMENT AND RESOURCES MONITORING CELL,
GANDHI NAGAR, COCHIN.

10. SECRETARY,
DEPARTMENT OF HOME AFFAIRS, SECRETARIAT,
THIRUVANANTHAPURAM.

11. VILLAGE OFFICER,
VILLAGE OFFIC, VELLOORKUNNAM, MUVATTUPUZHA.

* ADDL.R12 & 13 IMPLEADED

12. REVENUE DIVISIONAL OFFICER,
MUVATTUPUZHA, ERNAKULAM DISTRICT.

13. SUNILA SHAJU, W/O.SHAJU VARGHESE,
VADAYATHU VEEDU, HONAI NAGAR,
PULINCHODU, MOOVATTUPUZHA.

ARE IMPLEADED AS ADDL.R12 & 13 AS PER ORDER DATED 5/6/14 IN IA.7813/13.

R1,2,8,10-12 BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R3 BY ADV. SRI.V.M.KURIAN
R4,6 BY ADV. SRI.ALEXANDER JOSEPH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C).No. 8236 of 2013 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE REGISTRATION CERTIFICATE FOR INFRASTRUCTURE PROVIDER CATEGORY -I (IP-1)

EXHIBIT-P2- TRUE COPY OF THE RELEVANT NOTIFICATION CONFERRING THE STATUS OF TELEGRAPH AUTHORITY ON THE PETITIONERS

EXHIBIT-P3- TRUE COPY OF THE USE CERTIFICATE ISSUED BY 3RD RESPONDENT DATED 01/08/2011.

EXHIBIT-P4- TRUE COPY OF THE ORDER ISSUED BY THE GOVERNMENT OF KERALA DATED 16/09/2008

EXHIBIT-P5- TRUE COPY OF THE GUIDELINESS ISSUED BY GOVERNMENT OF IDNIA DATED 10/12/2010 REGARDING RADIATION NORMS ON EMF EXPOSURE OF BTS

EXHIBIT-P6- TRUE COPY OF THE GUIDELINES ISSUED BY THE GOVERNMENT OF INDIA DATED 11/10/2010 REGARDING RADIATION NORMS AND IMPOSITION OF PENALTY IN CASE OF VIOLATION OF TERMS AND CONDITIONS OF LICENCE

EXHIBIT-P7- TRUE COPY OF THE CIRCULAR ISSUED BY THE DEPARTMENT OF TELECOM TO REDUCE THE POWER OF DENSITY OF ADMISSION FROM THE TOWER TO 1/10TH WITH EFFECT FROM 01/09/2012.

EXHIBIT-P8- TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE 2ND RESPONDENT DATED 20/03/2013

EXHIBIT-P9- TRUE COPY OF THE STOP MEMO ISSUED BY THE 11TH RESPONDENT DATED 21/03/2013.

EXHIBIT P10- TRUE COPY OF THE CERTIFICATE ISSUED BY THE QUALIFIED STRUCTURAL ENGINEER DATED 4/4/13.

RESPONDENT(S)' EXHIBITS

EXHIBIT R4(A): TRUE PHOTOGRAPHS OF THE TOWER AND EARTH CUTTING

EXHIBIT R4(B): TRUE COPY OF THE NOTICE DATED 24/3/13 OF THE VILLAGE OFFICER VELLOORKUNNAM.

/ TRUE COPY /

P.S. TO JUDGE

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ASHOK BHUSHAN, C.J.
&
A.M. SHAFFIQUE, J.
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W.P. (C) No. 8236 of 2013
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Dated this, the 4th day of November, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court seeking for police protection for the operation and maintenance of a Telecommunication Tower set up by them. An interim order had been passed by this Court on 22/3/2013 directing the police to give protection for the operation of the existing tele-communication tower. However, it was made clear that petitioners will not install any antenna in the meantime.

2. Learned counsel for the respondents would submit that proceedings were taken by the Revenue Divisional Officer on account of the allegations raised regarding removal of earth from the said locality. However, final orders were not passed on account of the pendency of the writ petition and the interim order passed.

3. Learned counsel for the petitioners submits that as

matters stand now, there is no obstruction being caused. However, if there is any further obstruction in either maintenance of the tower or making additional installations, they shall move the District Telecom Committee as per the directions issued by the Government.

4. Learned counsel for the private respondents submits that Revenue Divisional Officer may also be permitted to proceed with the matter in accordance with law.

5. We have already held in ***Indus Towers Ltd v. Sub Inspector of Police*** (2014 (4) KLT 306) that it is open for the parties to approach the District Telecom Committee, if there is any grievance regarding construction or setting up of telecommunication towers.

6. Under such circumstances, if there is any further threat, it shall be open for the petitioners to approach the District Telecom Committee. We also leave open the contentions urged by the 4th respondent as far as filling up of the land is concerned. They are entitled to proceed further and take up the matter

before the Revenue Divisional Officer.

Writ petition is disposed of with the above observations.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
4/11/2015

//True Copy//

PS to Judge