

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 24TH DAY OF JUNE 2015/3RD ASHADHA, 1937

W.P.(C).No. 23130 of 2013 (M)

PETITIONER:

**P.K.SIVANUNNI
AMBAZHASSERRIL, MOLLAVATTOM,
KOTTAYAM.**

BY ADV. SRI.SURIN GEORGE IPE

RESPONDENT(S):

- 1. BHARAT SANCHAR NIGAM LTD,
REPRESENTED BY ITS GENERAL MANAGER,
BSNL BHAVAN, THIRUNAKKARA, KOTTAYAM - 686 001.**
- 2. THE ADDITIONAL DISTRICT MAGISTRATE,
COLLECTORATE POST, KOTTAYAM - 686 001**
- 3. KOTTAYAM MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, KOTTAYAM - 686 001.**
- 4. RAMACHANDRAN NAIR, POTHALI KAROTTU,
NEAR GOVERNMENT GUEST HOUSE,
NATTAKOM, KOTTAYAM - 686 004**

**R1 BY ADV. SRI. MATHEWS K.PHILIP,SC, BSNL
R2 BY GOVERNMENT PLEADER SRI. A. MOHAMMED SAVAD
R3 BY ADVS. SRI. SIBY MATHEW
SRI. PHILIP J. VETTICKATTU**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24-06-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P-1: TRUE COPY OF THE GUIDELINES ISSUED BY THE DEPARTMENT OF TELECOMMUNICATION, GOVERNMENT OF INDIA.**
- EXT.P-2: TRUE COPY OF THE STOP MEMO ISSUED BY THE CHAIRMAN OF THE KOTTAYAM MUNICIPALITY DATED 19.12.2011.**
- EXT.P-3: TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 20.3.2013.**
- EXT.P-4: TRUE COPY OF THE ROAD REGISTER ISSUED BY THE SECRETARY OF THE 3RD RESPONDENT MUNICIPALITY.**

RESPONDENT(S)' EXHIBITS

- EXT. R1(a): TRUE COPY OF THE ORDER DATED 30.10.10 OF THE GOVERNMENT OF KERALA.**
- EXT. R1(b): TRUE COPY OF THE LETTER DATED 20.03.2013 ISSUED BY THE EXECUTIVE ENGINEER CIVIL DIVISION BSNL.**
- EXT. R1(c): TRUE COPY OF THE JUDGMENT IN W.P.(C) 183/2011.**
- EXT. R1(d): TRUE COPY OF THE JUDGMENT IN W.P.(C) 14420/13.**
- EXT. R1(e): TRUE COPY OF THE JUDGMENT IN W.P.(C) 10942/13.**
- EXT. R1(f): TRUE COPY OF THE GUIDELINES ISSUED BY THE DEPARTMENT OF TELECOMMUNICATION.**

//TRUE COPY//

PA TO JUDGE

A.M.SHAFFIQUE, J.

W.P.(C)No.23130 of 2013

Dated this the 24th day of June, 2015

JUDGMENT

The writ petition is filed to quash Ext.P3 and for seeking a direction to the first respondent not to install base station/of Mobile Tower in the premises of the 4th respondent which according to the petitioner is the violation of Ext.P1 guidelines. Ext.P3 is an order issued by the Additional District Magistrate, Kottayam permitting the Bharat Sanchar Nigam Limited (BSNL) put up a Mobile Telecommunication Tower in Sy.No.276/10 of Nattakom Village in Kottayam Taluk.

2. Counter affidavit has been filed in the case by the first respondent supporting the stand taken by the Additional District Magistrate.

3. In fact, the issue relating to setting up of Mobile Telecommunication Tower has been settled by judgment of this Court in W.P.(C)No.3297/2014 wherein a batch of writ

petitions were considered by this Court and it was directed that any person aggrieved by the action of the competent authority in setting up of the Mobile Tower has to approach the District Telecom Committee of the concerned area. Paragraph 22 of the said judgment is relevant which reads as under;

“22. However, it is clear from the Government Orders issued by the Central Government as well as State Government, that they are concerned with the apprehension expressed by the public at large as well as the difficulties faced by telecommunication providers and it is in the said background that the Government has issued order dated 02.08.2014 to constitute DTC. The duties and functions of DTC as extracted above clearly indicates that the public who apprehends difficulties faced on account of the installation of mobile towers as well as the apprehension expressed by the Telecom Service Providers could approach the said authority for redressing their grievances. In other words, DTC has been constituted for the purpose of redressing all grievances of the stake holders including public at large. When an issue is identified by a service provider or an agency engaged by them for setting up a MT Tower, or if there is objection from the people in the locality, the DTC can either *suo motu* or on an application by any person involved, ie. either the public who objects to the putting up of mobile

tower or any official of the Government, service provider or infrastructure provider, adjudicate all such aspects and redress the grievance. The functions of the DTC is so wide that it may also consider any apprehension expressed by the petitioners by way of objection from the local residents in the locality. If it is found by the DTC that the grievance raised by the public are not genuine, it is always open for the DTC to direct the police to render necessary assistance for putting up MT Tower or energizing the same.”

4. Taking note of the aforesaid judgment of the Division Bench, I am of the view that if the petitioner has any grievance regarding the setting up of the Mobile Telecommunication Tower by the petitioner, it is always open for the petitioner to approach the competent authority namely the District Telecom Committee who shall look into the matter and take appropriate decision in the matter.

With the above observation, this writ petition is disposed of.

Sd/-
A.M.SHAFFIQUE
JUDGE

rkj

//TRUE COPY//

P.A. TO JUDGE