

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

TUESDAY, THE 25TH DAY OF AUGUST 2015/3RD BHADRA, 1937

WP(C).No. 26178 of 2015 (V)

PETITIONER :

**ATC TELECOM TOWER CORPORATION PRIVATE LTD.
REPRESENTED BY THEIR SENIOR MANAGER (LEGAL)
MR. BABU PATTATHANAM, 36/2624, FIRST FLOOR,
CHERAMANGALATH HUSE, SHENOY ROAD, KALLOR, KOCHI-682017.**

**BY ADVS.SRI.PHILIP T.VARGHESE
SRI.THOMAS T.VARGHESE
SMT.ACHU SUBHA ABRAHAM
SMT.SUNANDA SUKUMARAN
SMT.K.R.MONISHA**

RESPONDENT :

**THE DISTRICT TELECOM COMMITTEE (DTC), THRISSUR,
REPRESENTED BY ITS CHAIRMAN THE DISTRICT COLLECTOR,
THRISSUR COLLECTORATE, THRISSUR - 680003.**

BY GOVERNMENT PLEADER SMT. P.M. SANEER

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 25-08-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE BUILDING PERMIT NO. 106/2011 DT 16/3.2015 ISSUED BY VELUKKARA GRAMA PANCHAYAT.**
- P2: COPY OF WRITTEN SUBMISSION DT 25/2/2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**
- P3: COPY OF REPRESENTATION DT 16/3/2015 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**
- P4: COPY OF GO NO. 31/2015/ITD DT 5/11/2014 ISSUED BY GOVERNMENT OF KERALA.**
- P5: COPY OF JUDGEMENT DT 12/5/2015 IN WPC NO. 14129/2015**
- P6: COPY OF THE MINUTES OF MEETING DT 1/7/2015 OF THE RESPONDENT.**
- P7: COPY OF ORDER NO. C2-74018/14 DT 21/7/2005 ISSUED BY THE RESPONDENT**

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.K.JAYASANKARAN NAMBIAR, J.

.....
W.P.(C).No.26178 of 2015

.....
Dated this the 25th day of August, 2015

J U D G M E N T

The petitioner is a licensed telecom Infrastructure Service Provider. It is the case in the writ petition that, while they have put up telecommunication towers strictly in accordance with the standards prescribed by the Government and competent authorities. There are certain persons in the locality who are obstructing the construction of the mobile telecommunication tower which is being put up pursuant to Ext.P1 building permit obtained by the petitioner. The petitioner places reliance on the decision of this Court in **Indus Towers v. Sub Inspector of Police [2014 (4) KHC 81]**, to contend that the respondent Committee have the power to grant police protection to telecom operators in connection with the construction activities of mobile telecommunication towers if it is found to be pursued in accordance with law. In the instant case, while the petitioner had approached the said committee for the grant of police protection, by Ext.P7 order that is impugned in the writ petition, the respondent Committee has denied police protection only on the ground that, there is a civil suit pending against the construction that is put up by the petitioner.

2. I have heard the learned counsel for the petitioner and the learned Government Pleader for the respondent.

3. On a consideration of the facts and circumstances of the case and the submissions made across the bar, I find that, in the civil suit referred to in Ext.P7 namely O.S.No.1309 of 2015, there is no injunction against the petitioner continuing with the construction activities. The respondent Committee in Ext.P7 order, has relied on the pendency of the civil suit to deny the petitioner the benefit of police protection in connection with the construction of the telecommunication tower. In my view, in the absence of any order interdicting the grant of police protection, it is for the respondent Committee to assess the situation and grant police protection if it is found necessary to enable the petitioner to complete the construction activities. Thus, for the purposes of enabling the respondent Committee to look into the aspect afresh, I quash Ext.P7 order, to the extent it denies the petitioner the benefit of police protection, and direct the respondent Committee to look into the matter afresh and ascertain whether the petitioner requires any police protection, and if so found, to grant the petitioner effective police protection so as to complete the construction activities. The respondent Committee shall also take note of the undertaking already given by the petitioner that

it will carry on the construction activity strictly in compliance with the directions in the civil suit and in accordance with the legal provisions. The respondent Committee shall pass fresh orders in the matter within a week from the date of receipt of a copy of this judgment.

The writ petition is disposed as above.

A.K.JAYASANKARAN NAMBIAR
JUDGE

mns