

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No. 29541 of 2015

Date :29 -10-2015

Between :

V.Tulasi Rao S/o Venkateswarlu
R/o Ward No.2 Cristianpeta, Ramakrishnapuram
Bapatla, Guntur district and another

Petitioners

And

The State of A P
Rep by its Prl Secretary, Municipal Admn & Urban Devp Dept
Secretariat building, Hyderabad and others

Respondents

The Court made the following:

HONOURABLE SRI JUSTICE P. NAVEEN RAO

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ORAL ORDER:

Petitioners claim to be residents of Christainpeta, Ramakrishnapuram, Bapatla, Guntur district. Petitioners are aggrieved by installation of Telecommunication Infrastructure Tower (TIT) by third respondent in the premises of fourth respondent. This writ petition is filed challenging the 'No objection certificate' issued on 6.8.2015.

2. Learned counsel for petitioners contends that grant of license for installation of TIT is governed by orders of the Government in G O Ms NO. 146 dated 19.6.2015 and according to said government order, there is no provision of granting provisional no objection certificate. Learned counsel further contends that one of the requirements of government order is that if there is a railway line passing through within a short distance of 30 meters, then no objection certificate has to be obtained from the Railways, but so far such no objection certificate is obtained. Learned counsel further contends that TIT emits radiation affecting the health of the locality people.

3. As seen from the government order, no doubt the government order did not envisage grant of provisional no objection certificate, but the provisional no objection certificate is only intend to ensure fulfillment of required conditions by the licensee to whom no objection certificate is granted, so that on proper scrutiny final clearance can be granted. Therefore, it cannot be said that grant of provisional no objection certificate is contrary to G.O.Ms No. 146 dated 19.6.2015. As per the conditions imposed in the provisional no objection certificate, licensee has to fulfill the norms required and has to satisfy the competent authority to get the regular license and then only he can commence operations of the cell tower. Therefore, it is intended to infuse more safeguards into the system of granting license of TIT. I therefore, see no illegality in granting such no objection certificate.

4. With regard to condition of obtaining no objection certificate from the Railway administration, if the proposed cell tower is nearer to railway property, obtaining permission from the railway authority is a matter between concerned railway administration, municipality and licensee but third party cannot complain against not obtaining no objection certificate or challenge no objection certificate granted in favour of licensee, in a writ petition filed in individual capacity as a person aggrieved. The petitioners do not answer the

description of person aggrieved in their individual capacity against not obtaining no objection certificate from Railways.

5. With reference to grievance of emission of radiation from TIT is concerned, G.O.Ms.No. 146 dated 19.6.2015 provides redressal mechanism in the form of a complaint to Telecom Enforcement Resources and Maintenance Cell (TERM Cell) Department of Telecommunications, Government of India. If the petitioners allege any such emission of radiation, it is for the petitioners to file a complaint before the TERM Cell, Department of Telecommunication as envisaged in para 5 of G O Ms No. 146 dated 19.6.2015. Thus, no relief as sought for can be granted.

6. The writ petition is accordingly disposed of. No costs. Having regard to the same, miscellaneous petitions, if any pending, are closed.

P NAVEEN RAO,J

DATE: 29.10.2015.
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HONOURABLE SRI JUSTICE P. NAVEEN RAO

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