

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF
ANDHRA PRADESH**

**TUESDAY, THE FIFTEENTH DAY OF SEPTEMBER TWO
THOUSAND AND FIFTEEN**

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Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

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WRIT PETITION No.12464 of 2015

Between:

P. Radha Krishna Murthy,
S/o. Late Chinaveera Raghavayya,
Aged about 59 years, residing at
Door No.31-9-39, Venkateswara Metta,
28th Ward, Visakhapatnam-4 & 2 others

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary to
Government, Municipal Administration and
Urban Development Department,
Secretariat Buildings,
Hyderabad & 6 others

.. Respondents

The Court made the following:

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12464 of 2015

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ORDER:

The petitioners challenge the installation of Telecommunication Infrastructure Tower (for short, 'TIT') by the 6th respondent in the premises of the 7th respondent.

2. Heard learned counsel for the petitioners, learned Government Pleader for Municipal Administration and Urban Development Department for respondents 1 and 2, Sri S. Lakshmi Narayana Reddy, learned Standing Counsel for respondents 3 to 5 and Sri P. Hema Chandra, learned Standing Counsel for the 6th respondent.

3. Learned counsel for the petitioner raised two grounds against installation of TIT. According to Clause E(vii) (c) of G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, no TIT can be installed within 100 meters of school premises or temple. The second contention is that the installation is in violation of Clause F(i)(a) of the said G.O., in as much as the minimum setbacks are not maintained.

4. Learned counsel for the petitioners further contends that as per the terminology used in G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015, it is clear that it does not supersede the earlier G.O. and continues to operate. Therefore,

the earlier conditions are still applicable.

5. The orders issued in G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, are superseded by the revised orders issued in G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015, wherein the condition of maintenance of the 100 meters distance between the TIT and the school or hospital or temple is now deleted. Insofar as the second contention is concerned, Clause F(i)(a) of G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, is also not attracted in as much as the subject TIT is not ground based, but it is roof top based.

6. I am afraid contention that G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, is still in operation is not valid going by the reading of orders in G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015. The subject itself says that the revised orders are issued. The G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015, refers to the earlier orders of Government in G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, and clearly says in para 5 that the revised comprehensive guidelines are issued for clearance for installation of 4G Communication and new TIT.

7. In view of the orders issued in G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015, wherein the earlier conditions

now stand removed, it cannot be said that the installation of TIT by the 6th respondent is erroneous. As rightly contended by the learned Standing Counsel for the 6th respondent, even assuming that in terms of G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013, the installation of TIT by the 6th respondent was in violation of the condition in Clause E(vii)(c), since such clause is no more available, no direction can be issued asking the 6th respondent to remove the structure already installed or not to undertake installation.

8. Accordingly, the Writ Petition is dismissed. However, liberty is granted to the petitioners, if so advised, to challenge the G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2015. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 15th September, 2015

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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Date: 15th September, 2015

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