

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

WRIT PETITION No.16499 of 2015

Between:

Karri Satyavathi,
W/o. Srinivas, Hindu, Aged about 55 years,
Occ: Housewife, R/o. D.No.70-2-169/1A, E.S.I. Dispensary,
Near Vinayaka Temple Street,
Ramanayyapeta, Kakinada,
East Godavari District & 17 others

.. Petitioners

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Municipal Administration and
Urban Development Department,
Secretariat Building, Hyderabad & 2 others

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 17.08.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

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| 1 | Whether Reporters of Local newspapers may be allowed to see the Judgments? | No |
| 2 | Whether the copies of judgment may be marked to Law Reports/Journals | No |
| 3 | Whether His Lordship wish to see the fair copy of the Judgment? | No |

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HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.16499 of 2015

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ORDER:

Heard the learned counsel for the petitioners, the learned Assistant Government Pleader for Municipal Administration for the 1st respondent, Sri Ancha Pandu Ranga Rao, learned Standing Counsel for the 2nd respondent and Sri P. Hemachandra, learned counsel for the 3rd respondent. With the consent of the learned counsel, the writ petition is disposed of at the admission stage.

2. The petitioners claim to be the residents of Kakinada Town. The grievance of the petitioners is that Telecommunication Infrastructure Tower (for short, "TIT") is proposed to be established in 30th Ward, besides E.S.I. Dispensary, Ramanayyapeta, Kakinada, East Godavari District. The petitioners initially complained against such installation by referring to the orders of the Government in G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated 01.08.2013. The writ petition is also instituted alleging that the said orders are violated in granting permission for establishment of TIT.

3. When the writ petition was taken up for consideration, having realized that G.O.Ms.No.380, Municipal Administration & Urban Development Department, dated

01.08.2013, is no more in force, the Government issued revised orders in G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2014, and adjournment was sought and, accordingly, the W.P.M.P.No.2600 of 2015 is filed praying to amend the prayer sought in the writ petition. The said W.P.M.P. is not opposed and the same is ordered.

4. According to the learned counsel for the petitioner, the granting of TIT is violating paras E(iii), (viii), (x) and F(a) and, therefore, the tower ought not to have been permitted to be installed at the same place.

5. As seen from the relevant provisions of G.O.Ms.No.146, Municipal Administration & Urban Development (M2) Department, dated 19.06.2014, the allegation relates to erection of TIT in less than 3 meters of passing electrical lines, base station Antennas should be avoided in narrow lanes of less than 5 meters, the base station antennas should be mounted at least above 5 meters from the ground level and the minimum setback for the ground based tower should be 3 meters all around. According to the learned counsel for the petitioners, all these conditions are violated in the present installation of TIT. These are the matters which require consideration by the 2nd respondent Municipal Corporation on physical inspection of the site. Therefore, no direction as sought for by the petitioners can be granted unless the petitioners ventilate the issue before the 2nd respondent Municipal Corporation and only if the 2nd respondent Municipal Corporation do not respond to the grievance of the petitioners, the writ petition can be instituted

alleging such deliberate inaction on the part of the 2nd respondent Municipal Corporation.

6. Having regard to the same, the Writ Petition is disposed of granting liberty to the petitioners to submit a detailed representation pointing out the nature of violations in granting permission to the 3rd respondent for erection of TIT in Ward No.30 of Ramanayyapeta, Kakinada Town, East Godavari District. As and when such a representation is submitted, the Commissioner, Kakinada Municipal Corporation, Kakinada, East Godavari District (2nd respondent) shall cause physical inspection of the site in the presence of a representative of the petitioners as well as the 3rd respondent and on verification of the same, the Commissioner shall consider the representation and pass appropriate orders. Such a decision shall be taken within a period of two (2) weeks from the date of receipt of the representation from the petitioners. The petitioners as well as the 3rd respondent shall be put on notice of the date and time of conducting of inspection. 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: 17th August, 2015

Note: Issue C.C. in two (2) days.

(B/o.)

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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