

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.12094 of 2015

Date: 21.09.2015

Between:

N.Madan Mohan s/o. N.Venkatramulu, Aged 36 years,
Occu: Business, r/o.New APHB Colony, MIG Phase-I & II,
Gadwal Municipal Limits, Gadwal Town, Mahabubnagar
District, Telangana District and others.

.... Petitioners

AND

The Municipality of Gadwal, rep.by its Municipal
Commissioner, Gadwal, Mahabubnagar District and
others.

.... Respondents

The Court made the following:

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ORDER:

Petitioners in the writ petitions are residents of MIG Housing Colony MIG Phase-I & II within the Gadwal Municipal limits in Mahabubnagar district. The 5th respondent obtained permission to install Telecommunication Infrastructure Tower (for short, TIT) on the building of the 4th respondent after obtaining due No Objection Certificate (NOC) from the 4th respondent. It appears subsequently the owner of the building revoked granting of NOC in favour of the 5th respondent. By relying on the revocation of the NOC by the 4th respondent, petitioners complained that no cell tower can be installed on the premises of the 4th respondent and alleging inaction on the part of the respondent authorities in not disposing of the representations/complaints of the petitioners, this writ petition is filed.

2. The grant of permission to establish TIT was governed by the Government orders vide G.O.Ms.No.380 Municipal Administration & Urban Development Department dated 01.08.2013. An amendment was carried out to G.O.Ms.No.380 by way of G.O.Ms.No.5 Municipal Administration & Urban Development (M1) Department dated 27.09.2014. This amendment envisages permitting establishment of mobile towers basing on NOC from the building owners in lieu of sanction plan/occupancy certificate.

3. Learned counsel for petitioners contends that the neighbours are complaining of establishment of TIT in the midst of a newly constructed colony as establishment of TIT in thickly populated residential colony would cause health hazard to the residents of the colony. Learned counsel further contends that the 5th respondent cannot establish TIT on the building of the 4th respondent since 4th respondent has revoked the earlier NOC granted by him and on that ground also, the tower installed ought to have been removed.

Learned counsel for petitioners placed reliance on G.O.Ms.No.380 read with G.O.Ms.No.5. These GOs are revised and revised orders are issued by the Government in G.O.Ms.No.96 Municipal Administration & Urban Development (M1) Department, dated 05.08.2015. The procedure is further simplified in this G.O., and, therefore, this order would alone apply with regard to the granting of permissions. If there is any grievance to the residents of the locality, where TIT is installed regarding emission of radiation from TIT, they have to apply to the TERM cell of Department of Telecommunication and Department of Telecommunication alone has to consider such grievance and deal with the matter. As contended by the learned counsel for petitioners, so far the TIT is not operationalized and, therefore, at this stage, TIT emitting radiation is premature. However, as and when petitioners apprehend of any emission of radiation, it is always open to them to complain to the TERM cell of Department of Telecommunication, Government of India, in accordance with para-6 of the G.O.Ms.No.96 dated 05.08.2015.

4. Whether the NOC validly invoked by the owner of the premises after the permission is granted and once NOC is revoked, whether the 5th respondent is entitled to carry on operations from the premises of the building, where the tower is installed, is a matter between the 4th and 5th respondents and neighbours cannot agitate on installation of TIT relying on the said revocation. Leaving it open to the petitioners to avail remedy of representations/complaints to TERM cell of Department of Telecommunication, Government of India, this writ petition is dismissed.

Miscellaneous petitions if any pending in the writ petition shall stand closed.
There shall be no order as to costs.

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