

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2016

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The Honourable Mr. Justice **N.KIRUBAKARAN**

W.P.No.4958 of 2014

Sri Thirupurasundari Nagar
Owners Welfare Association,
rep. by its Secretary
E.Lilly Mary.

.. Petitioner

Vs.

1.The Union of India,
Ministry of Communication and
Information Technology,
No.107, 1st Floor,
Sanchar Bhawan, New Delhi.

2.State of Tamil Nadu,
rep. by its Secretary to Government,
St. George Fort, Chennai-9.

3.The District Collector,
Tiruvallur District, Tiruvallur.

4.The Chairman,
CMDA, Egmore, Chennai.

5.The Commissioner,
Corporation of Chennai,
Rippon Building, Chennai.

6.The Managing Director,
Reliance Jio Infocomm Ltd.,
3rd Floor, Makar Chamber,
IV, 222, Nariman Point,
Mumbai-21.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents 1 to 5 to recall the erection of 4G exchange and its tower at No.17/30, Thiripurasundari Nagar, Zone I, Thiruvotriyur, Chennai-19 by the 6th respondent herein.

For Petitioner	..	Mr.G.Poonkundran
For Respondents	..	Mr.R.Veludas, CGC for R1 Mr.V.Jayaprakash Narayanan, Spl. Govt. Pleader for R2 and R3 Mr.K.Raja Srinivas for R4 Mr.P.V.Selvakumar for R5 Mr.R.Bharanidharan for R6

ORDER

The petitioner, who is the Secretary of the Welfare Association of the residential area, has come before this Court, seeking a writ of mandamus directing respondents 1 to 5 to recall the erection of 4G exchange and its tower at No.17/30, Thiripurasundari Nagar, Zone I, Thiruvotriyur, Chennai-19 by the 6th respondent herein.

2.Mr.G.Poonkundran, learned counsel for the petitioner vehemently argues that the erection of underground exchange and wall mounted cell phone tower in a thickly populated area would affect the area mates, especially, when the area is surrounded by

schools and hospitals. He has further submitted that there is no proper planning permission for the building in which the underground cell phone exchange is being operated by the sixth respondent. Without following the rules and procedure, the cell phone exchange is being run by the sixth respondent and therefore, the petitioner seeks for allowing of the writ petition.

3.However, Mr.R.Bharanidharan, learned counsel for the sixth respondent would submit that everything has been done according to law. He would further submit that the apprehension of the petitioner is without any basis and he relied upon the First Bench judgment of this Court in W.P.No.24976 of 2008 etc., batch dated 05.03.2015 to contend that there is no health hazard.

4.Heard the learned counsel for both sides and perused the records.

5.It is an admitted fact that the sixth respondent is operating the underground cell phone exchange in the premises mentioned in the writ petition. Though it is contended that health hazard would be caused because the area is predominantly residential area, there is no scientific data available as on date to prove the fact that the cell

phone signals would cause health hazard. Since as on date, there is no proof of scientific data, the apprehension of the petitioner is unwarranted, if at all, it could be on surmises and conjunctures, based on some imaginary reasons. In *W.P.No.24976 of 2008 etc., batch (K.R.Ramaswamy @ Traffic Ramaswamy Vs. The Secretary, Department of Telecommunications, Government of India, New Delhi and Others)*, the First Bench of this Court, in para 10 of the judgment, held as under :

"10.We are, thus, of the view that in a judicial proceeding these aspects cannot be analysed. There being no materials atleast as on date, which can finally suggest any health hazards from these towers and the solution thereof, the Court would not venture into uncharted territory of technical expertise to determine the area where it should be installed. The Court, at best can place this matter before the appropriate Committee to look into this matter which the Kerala High Court already did and we have the benefit of the conclusion arrived at in those proceedings, as noticed above."

6.In view of the reasoning that there is no scientific proof

regarding the claim of the petitioner, the writ petition cannot be entertained. Accordingly, the writ petition stands dismissed. No costs.

23.06.2016

Index:Yes/No
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N.KIRUBAKARAN, J.

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