

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

WRIT PETITION No.26363 of 2017

ORDER:

Heard Sri Ganta Rama Rao, learned Senior Counsel, appearing on behalf of the learned counsel for the petitioner, and Sri N.Praveen Kumar, learned Standing Counsel for the respondent.

Petitioner herein is a company incorporated under the Companies Act and is engaged in the business of providing Passive Telecom site Infrastructure Service termed as 'Infrastructure Service' to Cellular mobile telephone operators in India. According to the petitioner it is a company registered in the department of Telecom, Ministry of Communications, Government of India as Infrastructure Provider Category-I. On an application made by the petitioner the respondent-municipality, vide proceedings ROC.No.G1/889/2017 dated 20.07.2017, granted permission for the petitioner herein for erection of Ground Based Tower in terms of G.O.Ms.No.96 MA & UD (M1) dated 05.08.2015. Subsequently, on the ground that the people of the locality raised objection for the said installation of the tower, the Commissioner of the respondent-municipality passed an order vide proceedings Roc.No.G1/889/2017 dated 01.08.2017, cancelling the permission granted earlier in favour of the petitioner herein. According to the learned Senior Counsel appearing for the petitioner, the impugned action on the part of the respondent-municipality is highly illegal, arbitrary, unreasonable and a patent violation of principles of natural justice. It is further stated that the respondent-municipal

authorities resorted to the impugned action without being preceded by any notice or opportunity of being heard to the petitioner herein and the said action is a patent violation of principles of natural justice. It is also submitted by the learned Senior Counsel that the impugned action is also contrary to the provisions of Section 344 (6) of the Municipalities Act, 1965.

A perusal of the order under challenge, in clear and vivid terms, discloses that no such show cause notice was issued by the respondent herein and, in the considered opinion of this Court, the said ground is sufficient for setting aside the order under challenge.

For the aforesaid reasons, the Writ Petition is allowed, setting aside the order passed by the respondent-municipality vide Roc.No.G1/889/2017 dated 01.08.2017. However, this order will not preclude the respondent-municipality from proceeding in accordance with law, after giving notice and opportunity to the petitioner herein.

Consequently, the miscellaneous petitions, if any, pending shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

08th August, 2017
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