

HON'BLE SRI JUSTICE S.V. BHATT

W.P. No.16333 OF 2011

ORDER:

Heard Mr.Shaik Khalid for petitioner, the standing counsel for 1<sup>st</sup> respondent and Ms.Kavitha Yadav for 2<sup>nd</sup> respondent.

The petitioner prays for Mandamus declaring the action of respondent No.1 in interfering with the erection of cell tower by petitioner company at H.No.16-1-24/244/1, Saidabad, near Water Tank, Hyderabad without following procedure prescribed by law, as illegal, arbitrary and unconstitutional.

On 16.06.2011, this Court granted interim direction as prayed for.

The 2<sup>nd</sup> respondent filed petitions to implead and also to vacate the order dated 16.06.2011.

The issue for consideration by 1<sup>st</sup> respondent is whether the installation and/or continuation of cell tower at H.No.16-1-24/244/1 is legal, valid and whether the 1<sup>st</sup> respondent can take note of representation filed by 2<sup>nd</sup> respondent association and pass comprehensive orders on establishment and continuation of cell tower at H.No.16-1-24/244/1.

Counsel for petitioner relies upon decision in P.Varalaxmi v. Commissioner and Special Officer, GHMC<sup>1</sup> and counsel for 2<sup>nd</sup> respondent relies on unreported decision of this Court dated 03.01.2013 in W.P.No.1514 of 2009 and batch.

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<sup>1</sup> 2013 (2) ALD 600 (DB)

I have perused the material available on record and also the decisions relied upon by the parties. *Prima facie*, this Court is of the view that at the first instance, the jurisdiction completely rests with the 1<sup>st</sup> respondent for considering the location, establishment and continuation of cell tower by petitioner and in the enquiry the 1<sup>st</sup> respondent proposes to conduct in this behalf the objections of members of 2<sup>nd</sup> respondent association are taken note of and proper findings recorded. The counsel consent to disposing of the writ petition by this order:

The 2<sup>nd</sup> respondent is given liberty to re-submit the representation filed against petitioner by enclosing a copy of this order within four weeks from today and the 1<sup>st</sup> respondent is directed to take up the representation and also the pending application of petitioner filed in this behalf, afford opportunity to both parties and pass orders within further period of two months from the date of filing of representation by 2<sup>nd</sup> respondent. The interim order granted on 16.06.2011 is directed to be continued till a decision is taken and communicated to the parties.

The writ petition is disposed of accordingly. No order as to costs.

Miscellaneous petitions pending, if any, shall stand closed.

S.V.BHATT, J

Date: 10.08.2017

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