

HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.18500 OF 2017

ORDER:

1. This writ petition is filed by the petitioner seeking to declare the action of the 1st respondent in interfering with the installation of equipment on the tower erected as per the permission proceedings dated 18.11.2016 by way of issuing a notice dated 27/28.12.2016 at the behest of the 2nd respondent as illegal.

2. Heard and perused the material available on record.

3. The petitioner-company is engaged in the business of providing Passive Telecom site Infrastructure Service termed as “Infrastructure Service” to Cellular mobile telephone operations in India. The Central Government granted registration certificate to the petitioner to provide telecom infrastructure in all telecom circles in India including erstwhile State of Andhra Pradesh. Pursuant to the said license, the petitioner has been providing telecom infrastructure facilities in the State of Telangana and the State of Andhra Pradesh. In that process, the petitioner-company identified a site in Sy.No.91 at Gachibowli Village, Ranga Reddy District for maintaining continues network of the operators. Accordingly, after entering into an agreement with the owner of the property, the petitioner-company submitted an application for erection of telecommunication infrastructure tower by complying with all the requirements as per G.O.Ms.No.96, dated 5.8.2015. The 1st respondent-Corporation has accorded permission for erection of the subject tower. While so, the 1st respondent issued the notice impugned. It is stated in the impugned notice that a complaint petition was filed by 2nd respondent stating that the tower site is in close proximity of high density residential area and that the

mounting points for the antenna are directly facing the 7th floor of their building, as a result of which, the health of the people residing in the building will adversely be affected. Aggrieved by the said notice, the petitioner filed this writ petition.

4. Heard and perused the material available on record.

5. It is the case of the petitioner that a detailed representation dated 3.1.2017 was submitted to the notice impugned. But no orders have been passed so far. On 2.6.2017 when the representatives of the petitioner-company went to the site, the officials of the 1st respondent directed them not to proceed with the work.

6. The learned Counsel for the petitioner submitted that in similar circumstances, similar situated company filed W.P.No.18937 of 2016 and this Court allowed the said writ petition.

7. This Court has gone through the order relied upon by the learned Counsel for the petitioner. In W.P.No.18937 of 2016, even though the petitioner therein submitted explanation for the show cause notice issued by the 1st respondent therein, the impugned order rejecting the permission granted to the petitioner therein was passed on the ground that the petitioner has not submitted any explanation. In such circumstances, this Court allowed the said writ petition setting aside the order impugned therein and directing the 1st respondent therein to pass a fresh reasoned order after considering the explanation, whereas in the present case, the 1st respondent has not passed any order on the representation/explanation given by the petitioner to the notice impugned. Therefore, this Court is of the view that the facts in the above W.P.No.18937 of 2016 are different.

8. Considering the above circumstances and the grievance of the petitioner, this Court is inclined to pass the following order:

“The petitioner is directed to give a representation in continuation of his earlier representation dated 3.1.2017. On such representation being made, the 1st respondent is directed to consider the same and pass appropriate orders in accordance with law as expeditiously as possible.”

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, Miscellaneous petitions pending, if any, shall stand closed.

Dated: 8th June, 2017
Nn.



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