



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 12.10.2018

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**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

W.P(MD)No.21507 of 2018 and  
W.M.P(MD)Nos.19388 to 19390 of 2018

M/s.Reliance Jio Infocomm Limited,  
Rep. Through its Legal Manager,  
Having its circle office at  
A1 Tower 8<sup>th</sup> Floor,  
89-90, Dr.Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.

.. Petitioner

**-Vs-**

The Inspector of Police,  
Thuvarankurichi Police Station,  
Trichy District.

.. Respondent

**PRAYER:-** Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent dated 05/10/2018, quash the same, as the same is arbitrary, ultravires, contrary to the G.O.M.S.No.2, 302, 177, dated 01/4/2002, 12/12/2002, 17/12/2002 respectively, and consequentially direct the respondent to provide police protection for erection of mobile tower at S.F.No.79/6, Nethaji Nagar, Thuvarankurichi Village, Trichy District, on the basis of the representation, dated 04.10.2018.

|                |                                            |
|----------------|--------------------------------------------|
| For Petitioner | : Mr.R.G.Shankar Ganesh                    |
| For Respondent | : Mr.B.Bhagawathi,<br>Government Advocate. |

**ORDER**

This petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent dated 05/10/2018, quash the same, as the same is arbitrary, ultravires, contrary to the G.O.M.S.No.2, 302, 177, dated 01/04/2002, 12/12/2002, 17/12/2002 respectively and consequentially direct the respondent to provide police protection for erection of mobile tower at S.F.No.79/6, Nethaji Nagar, Thuvarankurichi Village, Trichy District, on the basis of the representation, dated 04.10.2018.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The issue involved in this Writ petition is already covered



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by the judgment passed by this Court on an earlier occasion in W.P.(MD).No.19427 of 2018, dated 07.09.2018. It will be relevant to extract the following portions from the judgment.

"3. When the petitioner attempted to erect the cell phone tower, the residents of the area came to the spot and started causing hindrance to the company officials from carrying out the construction work. The petitioner also gave a representation to the respondent Police to provide them with protection. However, the respondent Police had not acted upon the said complaint and therefore, the present Writ Petition has been filed.

4. The learned counsel appearing for the petitioner would submit that the issue involved in this Writ Petition is covered by the earlier Judgments of this Court. The learned counsel brought to the notice of this Court the order passed by this Court in CrI.O.P.No.16618 of 2018, wherein the very same petitioner was a party.

5. It will be appropriate to extract the relevant portions of the order in CrI.O.P.No.16618 of 2018, which is extracted hereunder:-

"2.The learned counsel for the petitioner would submit that the petitioner's company had the contract agreement for installation of cell phone tower with M/s.Indus Towers Limited, a company registered under the provisions of Indian Companies Act, 1956. It is further submitted by the learned counsel for the petitioner that whenever the petitioner's company attempted to erect transmission cell phone tower, public is causing interference. The learned counsel for the petitioner also submitted that by order dated 05.03.2015, the Honourable First Bench of this Court, in W.P.Nos.24976 of 2008 and etc., batch, held that because of the advancement in the science, no one has prevented to erect cell phone towers. It is also submitted that the petitioner has given a complaint dated 24.02.2016 to the first respondent police seeking police protection, for which C.S.R.No.42 of 2016 and since the same has not been considered so far, he has come up with the present petition for the relief stated supra.

3.Heard the learned Additional Public Prosecutor appearing for the respondent.

4.Considering the facts and circumstances of the case, the petitioner is directed to send a fresh representation to the respondent and on receipt of the same, the respondent is directed to consider the representation to be submitted by the petitioner and pass appropriate orders on merits



and in accordance with law, within a period of one week from the date of receipt of copy of this order.

5. With the above directions, this Criminal Original Petition is disposed of."

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6. This Court has consistently taken the view that no one can be prevented from erecting the cell phone towers on a mere apprehension about the effect of radiation from the cell phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, cell phone towers cannot be prevented to be installed on mere apprehensions."

3. The learned counsel for the petitioner also brought to the notice of this Court G.O.M.S.No.2, dated 01/4/2002, G.O.Ms.No. 302, dated 12/12/2002, G.O.Ms.No.177, dated 17/12/2002, wherein specific orders have been passed granting exemption for the Information Technology Companies to erect towers, for which no specific permission is required to be taken by the petitioner.

4. In view of the above, the impugned order passed by the respondent police is unsustainable. The respondent police cannot prevent the petitioner from erecting the mobile tower merely because some objection is made by the people belonging to the locality. If any law and problem arises, it is for the respondent police to deal with the same in accordance with law.

5. In the result, this writ petition is allowed and the impugned order passed by the respondent police is hereby set aside. There shall be a direction to the respondent police to provide police protection to the petitioner to erect the mobile tower. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Joint Registrar (Judicial)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Inspector of Police,  
Thuvarankurichi Police Station,  
Trichy District.

+ 1 CC TO Mr.R.G.SHANKAR GANESH, ADVOCATE IN SR No. 90871

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 90810

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