

THE HONOURABLE SRI JUSTICE P.KESHA RAO

WRIT PETITION No.1528 of 2016

ORDER:

The prayer sought for in this writ petition is as under:

“.....to issue writ or direction more particularly in the nature of writ of mandamus declaring the action of the respondents in the revised orders issued by the 1st respondent vide G.O.Ms.No.146 Municipal Admn and Urban Dept., (M2 Department) dated 19.6.2015 in modification of G.O.Ms.No.380 MA Dept., dated 1.8.2013 for erection of TIT includes (Ground Based Tower (GBT) roof top tower (RTT)/Roof Top Polls (RTP) Cell Phone Tower (CPT)/ Antenna fixtures, fabricated antenna, tower to install the telephone lines and transmission towers by deleting the condition “Erection of TIT shall not be allowed with a radius of 100 mts from the boundary of the premises of school/hospital, heritage building or any other prescribed building by the Government from time to time, though the installation of GBT, RTT or RTP in the thickly populated areas and within the radius of 100 mts., from school is hazardous to human health, and experts opinions on the issue and substituting Rule F(ix) by “the erection of Telecommunication Infrastructure Towers or Pole Structures or Accessory Rooms shall be permitted basing on the NOC from Building Owner” vide G.O.Ms.No.203 MA&UD (M1) Department, dated 1.10.2014 as illegal, arbitrary, highhanded and cannot be justified in the eye of law and consequently direct the respondents not erect the cell towers in the interest of justice”.

Heard the learned counsel for the petitioners and the learned Government Pleader as well as the learned Standing Counsel for Guntur Municipal Corporation.

During the course of arguments, it is brought to the notice of this Court about clause-5 of G.O.Ms.No.146 Municipal Administration & Urban Development (M2) Department dated 19.6.2015 which reads as under:

“The radiation norms given by DeITY have to be strictly followed by all Tower Infrastructure Service Providers and limit the Power Emissions/Radiations. All the complaints regarding radiation and radiation related technical details are being dealt by TERM cell of DOT and any citizen can approach the concerned TERM Cell of DOT with regard to grievance on any issues relating to radiation”.

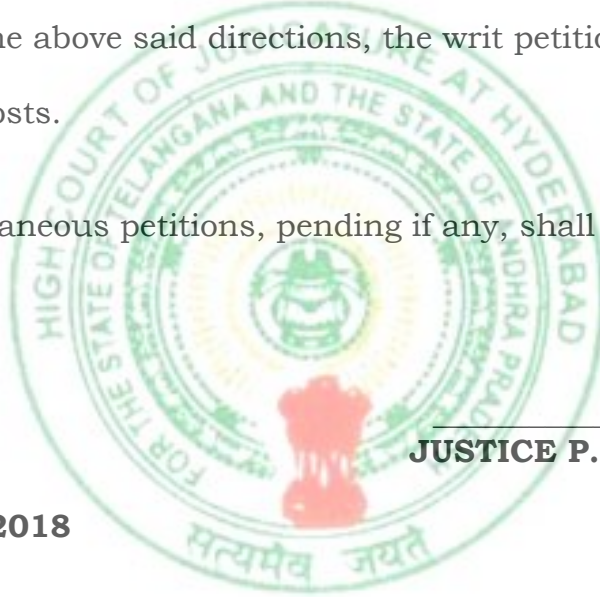
Since the basic grievance of the petitioners is with regard to the radiation that will be caused from the cell tower will affect and cause health hazards to the public and aggrieved by the erection of the cell tower by the respondent No.4 on the building of respondent No.5, this writ petition is filed. It is also stated in the affidavit that as directed by the Indian Government, cellular companies have to take prior permission from the Residents Welfare Associations (RWAs) before setting up base stations in residential areas so as to reduce the dangerous effects of electromagnetic radiation exposure. All cell towers in areas close to schools and hospitals should be checked and removed.

That being the position and looking into clause 5 of G.O.Ms.No.146 dated 19.6.2015, the TERM Cells of DOT is the competent body to deal with and ascertain the effect of radiations from the cell tower.

In these circumstances, liberty is given to the petitioners to approach the concerned TERM Cell of DOT, Vijaywada by submitting their representation to the said TERM Cell of DOT. On such representation, the same shall be considered by the said authority and appropriate orders may be passed as per law.

With the above said directions, the writ petition is closed. No order as to costs.

Miscellaneous petitions, pending if any, shall stand closed.



JUSTICE P.KESHA RAO

Date:16.04.2018
Slk/ES

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