

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.5699 of 2018

ORDER:

Heard learned counsel for the petitioner, learned Government Pleaders for Municipal Administration & Revenue respectively for respondent Nos.1 to 3 and Sri N. Venkateswarlu, learned Standing Counsel for the 4th respondent from the oral instructions and before ordering notice to the unofficial 5th respondent and perused the prayer in the writ petition with the supporting affidavit and the impugned proceedings of the Nagar Panchayat Commissioner dated 23.11.2017.

The prayer in the writ petition reads as follows:

“.....to issue an appropriate Writ, Order or direction more particularly a Writ in the nature of Mandamus declaring the Order vide Roc.No.115/2017/G1, dated 23-11-2017 of the 4th respondent in Cancelling the Permission for Install Ground Base Tower(GBT) in Sy.No.276/6 Mallayapalem Village, Mummidivaram Mandal, East Godavari District for Reliance Jio Infocomm Limited as illegal, arbitrary, violation of Principal of Natural Justice and contrary to the Rules under G.O.Ms.No.146 dated 19-06-2015 and consequently to set-aside the Order vide Roc.No.115/2017/G1 dated 23-11-2017 and pass such other order or orders.....”

It is the supporting affidavit averments that contrary to the provisions of the law at the instance of the MP, MLA and the Nagar Panchayat Chairman, the Nagar Panchayat Commissioner cancelled the proceedings and the same is unsustainable.

A perusal of the very impugned order while referring to the complaint of the people of the locality regarding the cell tower and the radiation effect adversely on them, it is not for that reason, but at the instructions of the MP, MLA and Nagar Panchayat Chairman

the permission already accorded is cancelled. There is nothing even to say any opportunity to submit the explanation to the petitioner given before taking the action. It is not even an interim suspension. Even G.O.Ms.No.146 dated 19.06.2015 referred as first reference to the proceedings, the same particularly clause 5 of it not even applied as to the requirement. It is not even known whether permission of the authorities concerned for the new telecommunication infrastructure towers obtained in according permission.

Having regard to the above, the impugned proceeding is per se unsustainable and the same is set aside by allowing the Writ Petition. However, it will not prevent the respondent Nagar Panchayat to proceed according to law.

Consequently, miscellaneous petitions, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 21.02.2018
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