

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
PUBLIC INTEREST LITIGATION NO.109 OF 2019

Bhaskar s/o Vishnu Mapari
and another

Petitioners

Versus

The Manager,
Reliance Jio Infocomm Ltd. & others

Respondents

Mr.B.V.Dhage, advocate for the petitioners.
Mr.K.S.Patil, AGP for Respondents No.2 to 6.

**CORAM : PRASANNA B. VARALE &
AVINASH G. GHAROTE, JJ.**

DATE : 18th September, 2019

PER COURT:

1 It is vehemently submitted by the learned Counsel for the petitioners that Respondent No.1 – Reliance Jio Infocomm Ltd had undertaken the work of OFC cable for a particular stretch of an area in Ahmednagar district. It is the submission of Mr.Dhage that Respondent No.1-Company, by giving a go bye to the relevant conditions prescribed for grant of permission, completed the work and the work, being carried out, is leading to danger to the human lives. On this premise, the petitioner framed prayer in the petition, namely Prayer Clause (B). The petitioners also pray for issuance of

directions in the nature of registration of offence against the Respondent No.1-Company for breach of conditions.

2 The material placed on record is in the form of exchange of communication dated 31.01.2019 between the two authorities i.e. Exhibit "A" This communication is forwarded by the Chief Engineer, Public Works Division, Nasik to the Executive Engineer, Public Works Department, Sangamner. This communication refers to an application received by the Company. There is a statement in the communication that though the said work is on the stretch of State Highway No.31 and that the said State Highway was declared as National Highway, for the maintenance of the road, actual transfer of road is not undertaken. Then, the communication states certain prerequisites for grant of permission to the proposal on behalf of the Public Works Department. This document hardly makes out any case that there was entire go bye to the relevant conditions by the Respondent No.1-Company. It is seen that there is copy of the representation submitted by the petitioner and the title of the representation is "*request to the Chief Engineer for registration of an offence*". There is one more communication dated 21.05.2019 placed on record, which is issued by Sub Divisional Engineer, Public Works Sub

Division, Rahata, to Respondent No.1-Company wherein it is stated that the cable work done in stretch of 15 meters distance needs to be removed, as it was carried out by Respondent No.1-Company in spite of caution notice. The petitioner himself has placed on record the photographs and the photographs show that the cables are already laid down. It is the submission of the learned Counsel that the work is not yet completed.

3 Today, Mr.Dhage placed on record a copy of the communication dated 26.08.2019, forwarded by the Sub Divisional Engineer, World Bank Project, Sub Division No.1, Ahmednagar to the Executive Engineer, World Bank Project, Public Works Department, Ahmednagar. This communication refers to lodging of report against Respondent No.1-Company in Rahuri Police Station for breach of conditions. Now, if any responsible authority, such as Sub Divisional Engineer, World Bank Project, Sub Division No.1, Ahmednagar, provides an information to the Executive Engineer about registration of an offence against Respondent No.1-Company and very particularly that this registration of offence is on the backdrop of breach of conditions, we see no reason to entertain this PIL, at this stage, without permitting the authority and the competent forum, such as the Investigating agency to take the matter to its logical end of registration of offence. Any indulgence

by this Court, at this stage, would be nothing but a premature act.

4 Apart from this, we could not find any supporting material to satisfy this Court in support of submission of the learned Counsel that laying down the optical cables, that too underground, any breach of certain prerequisites would be health hazardous and there can be an apprehension in respect of danger to the human lives. Merely because a submission is made before this Court, we are unable to accept this submission as there is no positive material in the form of any expert opinion. The submission of the learned Counsel that laying down the underground optical cables is health hazardous would be nothing but a layman's opinion and we are afraid, that this Court cannot jump to the conclusion as the learned Counsel wants us to do without there being any supporting material placed on record.

5 The learned Counsel is reiterating the same submission again that laying down the underground cables in breach of conditions is health hazardous. To a specific query put to the learned Counsel as to what prompted the petitioners to make out this impression, there is no satisfactory reply to this query. This Court again put a query to the learned Counsel as to whether

the petitioners are having any expertise in the field of optical cables, its installation, functioning, etc., the learned Counsel submits that it is the impression of the petitioners, out of which, one is a Press Reporter. Admitted position, insofar as status of petitioners is concerned, petitioner no.1 is an agriculturist and petitioner no.2 claims to be a Press Reporter. There is nothing in the petition to prompt this Court to accept that any of the petitioner is having expertise in the field of optical cables or its functioning. Thus, even on this count, we are unable to accept the submission of the learned Counsel for the petitioners.

6 Considering all these grounds, we hardly see any reason to entertain the present petition as PIL. Accordingly, the petition is dismissed at the threshold.

AVINASH G. GHAROTE
JUDGE

PRASANNA B. VARALE
JUDGE

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