

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8990 OF 2019

Kishor Prabhakar Kshatriya ...Petitioner
V/s.
1. The Chief Officer and Ors.Respondents

Mr. R.N. Gite, Advocate for the petitioner.

Mr. S.S. Kulkarni, Advocate for respondent no.1.

Ms. K.N. Solunke, AGP for respondents no.2 and 3.

**CORAM : B.P. DHARMADHIKARI, &
SANDEEP K. SHINDE, JJ.**

Wednesday, 9th October, 2019.

P.C. :

1. In view of the limited grievance made on 21st August, 2019 this court issued notice and granted time to respondent no.1 to file reply.

2. Advocate Mr. Kulkarni appearing for respondent no.1 states that because of ongoing election process, Chief Officer could not give him complete instructions.

3. Prima-facie it appears that, petitioner was given No-Objection on 28th February, 2019 to erect Mobile Tower in the open land. It was subject to certain conditions. One of the conditions protected Municipal Council in case any environmental disputes/problems in court cases arose.

4. Some of the residents have taken an objection and therefore that NOC has been stayed.

5. According to the petitioner, a small number of people have unnecessarily raised frivolous objection and clauses mentioned (supra) which indemnified Municipal Council is not

attracted.

6. During hearing, we find that petitioner has not expressly pointed out whether any permission of Municipal Council or any other Authority for erecting Tower was obtained and whether the plan accordingly was sanctioned. Petition also does not show whether opportunity of hearing was given to petitioner or not.

7. As the cancellation/suspension has come after petitioner started work, we permit petitioner an opportunity to make representation.

8. If such representation is made within one week from today, Municipal Council shall consider it in accordance with law within next two weeks.

9. With these direction, we dispose of the Writ Petition.