

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.18442 of 2019

ATC Telecom Infrastructure Private Ltd.
Circle Office: 'Celestial Point'
No.45, Dhamodharan Street
T.Nagar, Chennai-600 017
Rep. by its Circle Head and
Power Agent, T.Sekkilar ... Petitioner

Vs

- 1 The District Collector
Collectorate Office
Kanchipuram District.
- 2 The Special Office (Cum Block Development Officer)
Thandalam Panchayat
Kundrathur Panchayat Union
Padappai, Kanchipuram.
- 3 The Revenue Divisional Officer
Tambaram Taluk
Tambaram, Chennai.
- 4 The Tahsildar
Pallavaram
Tambaram Taluk
Tambaram, Chennai.
- 5 The Inspector of Police
T-13, Kundrathur Police Station
Kundrathur, Chennai-600 069. ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for records pertaining to the Notice bearing No.367/2019/B1, dated 24.05.2019 calling for Approval Plan and to Stop Work issued by the second respondent herein and quash the same as null and void and without jurisdiction.

For Petitioner : Mr.T.V.Ramanujam
Senior Counsel
for Mr.J.Ravi Kumar

For Respondents : Mr.S.N.Parthasarathi
Government Advocate

ORDER

(Order of the Court was made by M.DURAISWAMY,J.)

The above writ petition has been filed by the petitioner to issue a writ of certiorari to call for the records pertaining to the notice dated 24.05.2019 issued by the second respondent herein, calling for the approved plan from the petitioner and directing them to stop work and to quash the same.

2. It is the case of the petitioner that BTS Towers fall under the subject of Telegraph, Telephone, Wireless and other forms of communications covered by Entry 31 of List-I in the Seventh Schedule to the Constitution of India and are regulated by the Telecom Regulatory Authority of India as per the Indian Telegraph Act and the second respondent has no jurisdiction to interfere with the functioning of the BTS Towers. Further, the petitioner contended that the impugned notice is contrary to the exemption orders of the State Government and in particular, the Government Letter dated 26.3.2019, wherein the State Government has specifically instructed the local bodies not to insist upon building permission for erection of BTS Towers. It is averred that contrary to the Government Letter dated 26.3.2019, the second respondent called for approved plan and also directed the petitioner to stop work.

3. The learned Government Advocate fairly submitted that as per the Government Letter dated 26.3.2019, in relation to the erection of BTS Towers, the second respondent ought not to have called for approved plan or issued stop work notice.

4. In view of the submissions made by the learned Government Advocate and in the light of the Government Letter dated 26.3.2019, we are of the view that the notice dated 24.5.2019 issued by the second respondent is liable to be set aside and, accordingly, the same is set aside.

In the result, the writ petition is allowed. No costs.
Consequently, W.M.P.No.17764 of 2019 is closed.

Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To:

- 1 The District Collector
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+1cc to Mr.J.Ravi Kumar, Advocate SR.No.63504

+1cc to Government Pleader SR.No.63865

W.P.No.18442 of 2019

SAI (CO)
GMY (31/07/2019)