

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 22772 of 2019

ORDER:

Petitioner asserts that it has been granted permission for erecting a cell tower on the subject building. However, at the instance of the neighbours, while the work is being executed, the respondent authorities have instructed its representatives to stop such erection and seized some construction material.

Learned counsel for the petitioner submits that there is no violation of any of the terms of the agreement and it is only with *mala fide* intention, erection of cell tower is being stalled by the respondent authorities without issuing any notice to the petitioner.

Learned Standing Counsel for Nagaram Municipality appearing for respondent No.2, on instructions, submits that on re-examination of the permission granted in favour of the petitioner and basing on the complaint of the neighbours, the municipal authorities have inspected the site and realized that erection of cell tower would cause health hazards to the residents, particularly, children, of the locality, and for making a comprehensive assessment of the safety measures, the municipal authorities have instructed the petitioner for stoppage of erection of cell tower for the time being, and after re-examination of the

issue thoroughly and taking into consideration the complaints of the neighbours, necessary orders would be passed by respondent No.2.

Having regard to the above, the contention of the learned counsel for the petitioner that once permission is granted, the same cannot be recalled or cancelled under any circumstances cannot be sustained, as, the municipal authorities, at the very primary stage itself, are duty bound to ensure that the permission granted itself does not either endanger or cause any inconvenience to the public at large. The technical specifications that are required to be adhered to in terms of G.O.Ms.No.96, Municipal Administration & Urban Development (M1) Department, dated 05.08.2015 are different from the nature of complaints, which the neighbours have admittedly made to the second respondent. Considering the safety of the residents of the locality, particularly, the children, and in view of facts and circumstances of the present case, the action of the municipal authorities in directing the petitioner to keep erection of the cell tower temporarily on hold cannot be found fault with. However, as the petitioner has already been granted permission, a decision is required to be taken by the second respondent after conducting inspection and on considering the relevant factors in an

expeditious manner, and such consideration cannot be postponed indefinitely.

In those circumstances, this Writ Petition is disposed of with the direction to the second respondent to consider all the factors and take appropriate decision as to whether erection of cell tower may be proceeded with by the petitioner or stopped and communicate the same in writing to the petitioner within four (4) weeks from today. As it is submitted by the petitioner that the municipal authorities have seized the construction material, they shall return the same to the petitioner forthwith, as they have no to seize the material.

Miscellaneous Petitions, if any pending, shall stand closed.
There shall be no order as to costs.

CHALLA KODANDA RAM, J

21st OCTOBER, 2019.

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