THE HON' BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.43881 of 2018

ORDER:

The petitioner-Indus Towers Limited, invokes the jurisdiction of this Court under Article 226 of the Constitution of India seeking the following substantive reliefs:

> **(a) declaring the impugned communication of the respondent No.4, i.e., City Planner, GWMC, Warangal, vide ROC No.E-63055/2018 dated 01/05/2018, directing the petitioner to pay the alleged arrears of the annual property tax towards the already erected cell phone towers and to submit NOC obtained from the Revenue section of the GWMC for further approvals considering the new applications for approving the permissions for installation of new Cell Phone Towers in various locations within the territorial limits of GWMC, Warangal, pursuant to the instructions dated 26/04/2018 of the respondent No.3 i.e, the Municipal Commissioner, The Greater Warangal Municipal Corporation (GWMC), Beside MGM Hospital, Warangal – 506002, Telangana, as wholly arbitrary, illegal and inoperative in law, and in violation of Article 14 of the Constitution of India, in contravention of GOMs No.96 dated 05/08/2015 apart from violation of principles of natural justice;**
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> **(b) consequently, issue order or direction restraining the respondents from enforcing the aforesaid impugned communication and to grant approvals/permissions considering all the pending applications for establishing/installation of new Cell Phone Towers/Telecommunication Infrastructure Towers in accordance with the provisions of G.O.Ms.No.96 dated 05/08/2015 issued by the Municipal Administration & Urban Development Department, Government of Telangana; and**
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> **(c) issue further order or directions, as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case, including awarding the costs of these proceedings and render justice.**

2. The petitioner asserts that it is a Company registered under the Companies Act, 1956, having its registered office at Gurugram, Haryana, and its Circle office at Gachibowli, Hyderabad. It is engaged in providing telecommunication connectivity by installing Cell Phone signalling towers and caters to the needs of the cell phone operators. In terms of G.O.Ms.No.96 dated 05.08.2015, the petitioner has made applications to the respondent authorities on various dates i.e., 08.03.2018, 20.03.2018, 12.06.2018, 20.09.2018, 25.09.2018, 01.10.2018, 01.10.2018 and 13.10.2018, along with relevant documents along with a Demand Draft for a sum of Rs.1,18,000/- each towards the Permit fee and Charges for installation/erection of new Cell Phone Towers from time to time within the limits of 2nd respondent-GWMC. However, on account of the inaction on the part of the respondents in considering and processing the applications of the petitioner as mandated in terms of the G.O.Ms.No.96 dated 05.08.2015, the petitioner is being put to tremendous loss.

3. When the matter was listed on 04.12.2018, learned counsel for the respondents sought time for getting instructions with regard to the status of applications made by the petitioner. Today, at the hearing, though the learned counsel submits that as per the information available with her, the reason for not processing the applications of the petitioner is only on account of non-payment of tax dues by the petitioner, however, seeks to file a detailed counter in the writ petition.

4. Having heard the submissions made by respective counsel, there is no dispute that the applications of the petitioner are required to be considered in terms of G.O.Ms.No.96 dated 05.08.2015. A perusal of the G.O., does not disclose that the processing of applications made by the Cell Phone Tower operator would be put on hold for non-payment of dues, if any. Though

learned counsel for the petitioner disputed with respect to there being any tax dues allegedly payable by the petitioner, however, this aspect of the matter would not preclude this Court from passing orders in the present writ petition as the G.O.Ms.No.96 dated 05.08.2015 nor any of the provisions of the Greater Hyderabad Municipal Corporation Act, as applicable to the Greater Warangal Municipal Corporation, authorise inaction on the part of the respondent Corporation in processing applications of the petitioner on the ground of there being tax dues or any other dues payable to the Corporation. However, it is made clear that if any amounts are payable by the petitioner prior to the impugned communication dated 01.05.2018 issued by the respondent authorities, for the purpose of enabling consideration of applications of the petitioner, the petitioner is required to pay the same. It may not be misunderstood that the respondent Corporation is prevented from taking any coercive action for collection of dues payable by the petitioner, in terms of the provisions under the GHMC Act.

5. G.O.Ms.No.96 dated 05.08.2015 mandates disposal of applications within thirty days of their receipt. In the facts and circumstances of the case, there shall be a direction to the 2nd respondent to process the aforestated applications made by the petitioner and pass reasoned orders thereon, in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

6. The writ petition stands disposed of with the above direction. No costs. Miscellaneous petitions, if any pending, shall stand closed.

JUSTICE CHALLA KODANDA RAM

21st January, 2019

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