



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.5917 of 2020

M/s.Indus Towers Limited,
Having its circle office at
5(NP) ESPEEIT Park,
Jawaharlal Nehru Road,
Ekattuthangal,
Chennai-97,
(Represented through its
Legal Head,
Mr.Manoj Madhavan)

... Petitioner

Vs

1.The District Collector,
District Collectorate Campus,
Madurai District.

2.The Commissioner of Police,
Madurai City, Madurai.

3.The Inspector of Police,
K.Pudur Police Station,
K.Pudur,
Madurai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the first respondent to grant permission for the mobile phone tower erection and operation work of the petitioner at the premises admeasuring 1120 sq ft of vacant land in Madurai District, Madurai North Taluk, Thiruppalai Group, Siruthur Village, Sri Meenatchiyamman Nagar, Resurvey No.214/1 and 215/2 and New Resurvey No.214/1A and 215/2A in Plot No.222 within the limits of Kannanendhal Panchayat, considering the petitioner's representation dated 23.01.2019 in the light of the order passed by this Court in W.P.No.22258 of 2019 and consequently, direct the second and third respondents to provide necessary police protection to the petitioner for their mobile phone tower work in the said premises.



For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.A.Robinson
Govt. Advocate (Crl. Side)

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ORDER

The petitioner wants this Court to direct the first respondent to grant him permission for erecting the mobile phone tower at the petition mentioned site. The petitioner also wants this Court to direct the respondents 2 and 3 to provide him necessary police protection for carrying out the said work.

2.The petitioner's counsel placed reliance on the order dated 29.08.2019 passed by the Hon'ble Division Bench in W.P.(MD)No.15974 of 2019 etc. batch. The said order had been followed in W.P.(MD) No.22258 of 2019.

3.Heard both sides.

4. The Hon'ble Division Bench of this Court in a batch of writ petitions in W.P.No.7544 of 2017 and 15144 of 2019, dated 22.08.2019 held as follows:-

"21.The said judgement has come prior to G.O.Ms.No.1 dated 21.02.2018 which makes the position very clear. In view of the above, we hold that general permission to any licenced telecom company and erect towers can be granted subject to the terms and conditions, laid down in G.O.Ms.No.2 dated 01.04.2002, passed by the Information Technology Department.

22.Keeping in mind the statement of Mr.Om.Prakash, learned Senior Counsel that his clients have approached the officers concerned and they have not processed the request further, we direct Indus Towers Limited, Chennai, sixth respondent in W.P.No.15144 of 2017 and tenth respondent in W.P.No.7544 of 2017, to make a fresh application, in terms of G.O.Ms.No.2, Information Technology Department, dated 01.04.2002, for erection of towers (even if they are already installed), within a period of three weeks from the date of receipt of a copy of this order. On receipt of the same, respondent Nos.1 to 4 in W.P.No.15144 of 2017 are directed to consider the application and take a decision in accordance with law, within a period of six weeks, thereafter.

23.In those areas where Mobile Towers have been erected without following the G.O.Ms.No.2, Information Technology Department, dated 01.04.2002, the Collectors are directed to issue notices to the operators directing them to make applications for erection of the Mobile Towers, within one week from the date of receipt of this order and on the



receipt of the application, the District Collectors shall pass orders on merits in accordance with rules, but not later than three weeks and issue directions in accordance with the decision taken.

24. With the above direction, writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed."

5. In view of the order passed by the Hon'ble Division Bench of this Court, the petitioner is directed to file an application in view of the G.O.(Ms)No.2, Information Technology Department, dated 01.04.2002, before the concerned District, seeking permission to erect the Cellphone Tower. On receipt of such application, the concerned District Collector is directed to pass order on merits and in accordance with law within a period of eight weeks from the date of application. If the District Collector granted permission to erect the Cellphone Tower, the petitioner is at liberty to seek adequate police protection to the concerned jurisdictional Police and it may be considered by the concerned police after conducting enquiry with the objectors and pass orders on merits and in accordance with law.

6. The writ petition stands disposed of with the aforesaid directions. No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

/ /2020

Sub Assistant Registrar

To:

1. The District Collector,
District Collectorate Campus,
Madurai District.
2. The Commissioner of Police,
Madurai City, Madurai.
3. The Inspector of Police,
K.Pudur Police Station,
K.Pudur, Madurai.

W.P. (MD)No.5917 of 2020
23.03.2020

RMI

JM/VR/SAR 3/24.03.2020/3P/4C