

24.11.2021
Court No. 19
Items No.3
CP

WPA 11536 of 2021

Biswanath Sing
Vs.
The State of West Bengal & ors.

Mr. Nilanjan Pal
Mr. Soumyajit Das Mahapatra

.....for the petitioner.

Mr. N.C. Bihani
Mrs. Papiya Banerjee Bihani

...for the Pollution Control Board.

Mr. Tridib Bose

.....for the respondent no.11.

Mr. H. S. Chakraborty
Mr. Tapan Roy
Mr. Shayak Chakraborty

....for the State respondents.

The petitioner is aggrieved by the installation and running of a mobile tower by the respondent no. 11 at Plot No. 33 in Mouza – Kajichak, J.L. No. 147, Khatian No. 159, P.S. Debra, Paschim Medinipur. The petitioner submits that multiple antennas have been installed only 15 metres away from the building of the petitioner and the electromagnetic radiation is causing serious risk to the life and health of the petitioner and his family members. It is further submitted that as the mobile tower does not have any electric connection, the tower is being operated

by a generator which has been emitting carbon monoxide and fumes thus, resulting in air and noise pollution.

By several decisions of this court and also by different circulars, the Telecom Regulatory Authority of India and also the Department of Telecommunication have directed the State Governments to constitute grievance committees at the district level as also at the State level. However it is intimated from the bar that such committees have not yet been formed and the petitioner is remediless. Thus the writ petition has been moved before this court for redressal of the grievances of the petitioner which would otherwise have been considered and disposed of by the committees comprising of experts.

With regard to the allegation of air and noise pollution on account of the diesel engine being run for operation of the mobile tower, the West Bengal Pollution Control Board shall look into the grievances and pass a reasoned order upon hearing the petitioner as also the representative of the respondent no. 11 within a period of three weeks from the date of communication of this order. The representation of the petitioner is at annexure – P-7 to the writ petition which shall be disposed of accordingly. The order shall be communicated to all concerned.

With regard to the allegation of emission of electromagnetic waves, this court is not equipped to adjudicate the same. As the District Magistrate is the highest authority in the district administration, the said authority is directed to enquire into the matter and decide whether the mobile tower has been installed in accordance with law and upon observing all statutory requirements and upon fulfilling all necessary compliances. Opinions of experts may also be taken, if necessary.

Needless to mention that at the time of disposal of the representation, the respondent no. 11 shall produce all documents before the concerned District Magistrate to substantiate their claim that all the regulations as required by the law and the notifications issued by the TRAI and the Department of Telecommunication have been complied with. Upon hearing the petitioner as also the respondent no. 11, the District Magistrate shall pass a reasoned order and communicate the same to all concerned within a period of four weeks from the date of communication of this order.

This court has not gone into the merits of the case. The authorities who have been directed to consider the grievances of the petitioner shall do so independently and on the basis of the papers, spot

inspections as also opinions of experts, as the case may be.

Petitioner is directed to serve a copy of the writ petition upon the learned advocate for the respondent no. 11.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)