

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.03.2021
CORAM
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.1861 of 2020

Indus Towers Limited,
Rep. by its Authorized Signatory,
Mr.S.Prasanna,
No.5, ESPEE IT PARK,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal, Chennai - 600 097.

... Petitioner

Vs

1. The Secretary to the Government,
Information Technology Department,
Fort St. George, Chennai - 600 009.

2. The District Collector,
Coimbatore District, Coimbatore.

3. The Executive Officer,
Vellalore Town Panchayat,
Coimbatore District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the second respondent to permit the erection and installation of the mobile phone tower of the petitioner at the premises measuring about 1000 sq. ft. of vacant land situated and comprised in S.F.No.46/1A, Vellalore Village, Vellalore Road, Coimbatore South Taluk, Coimbatore District in accordance with the petitioner's representation dated 27.09.2019.

For petitioner

... Mr.Harikrishnan,
for Mr.S.Anil Sandeep

For Respondents 1 & 2

... Mr.V.Shanmuga Sundar,
Special Government Pleader

For Respondent 3

... Ms.A.Sri Jayanthi,
Special Government Pleader

ORDER

This Writ Petition has been filed has been filed for a mandamus seeking for a direction to the second respondent to

permit the erection and installation of the mobile phone tower at the premises measuring about 1000 sq. ft. of vacant land situated and comprised in S.F.No.46/1A, Vellalore Village, Vellalore Road, Coimbatore South Taluk, Coimbatore District based on the petitioner's representation dated 27.09.2019.

2. The case of the petitioner is that the petitioner is a company incorporated under the Indian Companies Act, 1956 and engaged in the business of establishing and maintaining telecommunication infrastructure. According to the petitioner, they sought permission from the second respondent for installation of mobile phone tower at the aforementioned property by their representation dated 27.09.2019. According to the petitioner, they have complied with all the requirements of the second respondent by producing all the documents required by them. However, it is their case that instead of granting permission, the second respondent has requested the petitioner to furnish additional documents. According to the petitioner, since the said representation has not been considered till date, the petitioner has approached this Court under Article 226 of the Constitution of India.

3. A counter affidavit has been filed by the respondent before this Court stating that the residents of the area where the mobile phone tower is proposed to be located are objecting the said installation. It is also stated that a copy of type test certificate issued by ARAI for running DG sets as per the provisions of Environment Protection Act and Noise and Pollution (Regulation & Control) Rules, 2000, a copy of clearance from the Fire Safety Department and a copy of Structural Stability Certificate of the Building will also have to be produced.

4. Heard Mr.Hari Krishnan, learned counsel representing Mr.S.Anil Sandeep, learned counsel for the petitioner, Mr.V.Shanmuga Sundar, learned Special Government Pleader for the respondents 1 and 2 and Ms.A.Sri Jayanthi, learned Special Government Pleader for the third respondent.

5. Learned counsel for the petitioner would submit that the petitioner has submitted all the documents required by the respondents for the purpose of getting permission for installation of the mobile phone tower including the documents mentioned in the counter affidavit filed by the respondent.

6. Ms.A.Sri Jayanthi, learned Special Government Pleader for the third respondent would submit that the respondents are willing to consider the petitioner's representation seeking permission to install mobile phone tower subject to the condition that the petitioner is able to satisfy the respondents by producing all the documents required by the respondents.

7. No prejudice will be caused to the respondents, if the petitioner's representation seeking permission to install the mobile phone tower at the subject location is considered by the respondents on merits and in accordance with law.

8. After recording the rival submissions, this Court directs the second respondent to consider the petitioner's representation dated 27.09.2019 seeking permission for the installation of a mobile phone tower in the land measuring about 1000 sq. ft. of vacant land situated and comprised in S.F.No.46/1A, Vellalore Village, Vellalore Road, Coimbatore South Taluk, Coimbatore District and pass final orders on merits and in accordance with law after affording a fair hearing to the petitioner and also permitting them to file additional documents to satisfy the requirements of the respondent within a period of twelve weeks from the date of receipt of a copy of this Order.

9. With the aforesaid direction, this writ petition is disposed of No costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to the Government,
Information Technology Department,
Fort St. George, Chennai - 600 009.
2. The District Collector,
Coimbatore District, Coimbatore.
3. The Executive Officer,
Vellalore Town Panchayat,
Coimbatore District.

+1cc to Mr.S.Anil Sandeep, Advocate, S.R.No.15631.

+1cc to Ms.A.Sri Jayanthi, Advocate, S.R.No.15126.

W.P. No.1861 of 2020

GPL (CO)
CSR 29.03.2021