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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.21641 of 2021

Reliance Jio Infocomm Limited,
Having Its Registered Office
105, Saffron Near Centre Point,
Panchveti, 5 Raasta, Ambavadi, Ahmadabad,
rep by its Power Agent Thiyagarajan S/o.Hariharan
residing at H.No.85/2, Kamaraj Nagar,
Chinnathiurpathi, Salem-636008Petitioner

-Vs-

1.The Superintending Engineer,
TANGEDCO,
Salem-636140.

2.The Junior Engineer (O/M),
TANGEDCO
Hasthampatti
Salem-636 008. . . .Respondents

Prayer:Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the proceedings of the second respondent herein vide KA.No.E.NI.PO /E&P/A.PATTI/ KO.ELECTRICITY SERVICE CONNECTION /A.No.086-1/2021 dated 01.07.2021 and quash the same consequently direct the second respondent to give service connection to the petitioner's Cell Phone Tower erected in Survey No.153/1, Kumaraswamy patti Village, Salem situated in Plot No.B-31, Rani Anna Nagar, Salem.

For Petitioner : Mr.Muruganantham

For Respondents : Mr.Abul kalam
Standing Counsel (TNEB)

O R D E R

On consent given by either side, the main writ petition itself has been taken up for final hearing.



2. This writ petition has been filed challenging the impugned proceedings of the second respondent dated 01.07.2021 and for a consequential direction to the second respondent to give service connection to the cell phone tower that has been erected by the petitioner in the subject property. The petitioner is a cell phone service provider and by taking appropriate permission, they started putting up a cell phone tower in the subject property. The same was objected and some persons in the locality did not allow the petitioner to put up the cell phone tower. The petitioner therefore approached this Court and filed W.P.No.4585 of 2021. This Court, on considering the facts and circumstances of the case, passed an order on 01.03.2021 directing the police to provide police protection to enable the petitioner to erect the cell phone tower. Pursuant to the said order, the cell phone tower was erected.

3. The petitioner thereafter made an application before the respondents by paying necessary charges seeking for service connection. The second respondent, through the impugned proceedings dated 01.07.2021, rejected the application made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.T.Muruganantham, learned counsel for the petitioner and Mr.Abul Kalam, learned Standing Counsel appearing for the respondents.

5. A careful reading of the impugned letter issued by the second respondent shows that, the second respondent has relied upon a suit that is pending in O.S.No.142 of 2021 on the file of the Additional District Munsif Court IV, Salem. That apart, the second respondent has also sought for a legal opinion from the Government Advocate and has informed the petitioner that till the legal opinion is given, the service connection cannot be granted to the petitioner.

6. Insofar as the first ground that has been stated in the impugned letter viz., the pendency of the suit in O.S.No.142 of 2021 on the file of the Additional District Munsif Court IV, Salem, the said suit has been filed as a representative suit by one Thamarai Kannan seeking for the relief of permanent injunction. The suit itself is based on an apprehension that the radiation that is emitted by the tower will affect human lives and will cause various diseases and it will create havoc in the residential locality. The very basis of the suit that has been initiated goes against the Division Bench judgment of this Court in W.P.No.24976 of 2008 etc., batch of writ petitions dated 05.03.2015. The Division Bench, after considering all these apprehensions raised by the petitioners, categorically held that there is no scientific proof that the radiation



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emitted from the cell phone tower will impact human lives. This order passed by the Division Bench was taken note of subsequently in various writ petitions and orders were passed permitting the erection of cell phone towers with police protection. On the one hand, everyone is craving for good signal in order to use their mobile phones and on the other hand, they are preventing the cell phone tower to be erected based on certain apprehensions for which there is no scientific backing. Therefore, the very basis on which the suit has been filed is very shaky and does not impress this Court. Therefore, the respondents ought not to have placed reliance upon the pending suit more particularly when there is no interim order passed by the concerned Court stopping the respondents from granting the service connection.

7. The next ground that has been stated in the impugned letter of the second respondent pertains to the legal opinion that is awaited from the Government Advocate. There is no requirement for such a legal opinion, since this Court has already granted permission to put up the cell phone tower and the same has also been completed and what remains is only to effect service connection to enable the cell phone tower to be put in operation.

8. In view of the above discussion, this Court has no hesitation to interfere with the impugned letter issued by the second respondent dated 01.07.2021 and the same is hereby quashed. Therefore, there shall be a direction to the second respondent to process the application submitted by the petitioner and if the petitioner has satisfied all the other requirements, the service connection shall be effected within a period of two weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CS-IX)

//True Copy//

Sub Assistant Registrar

KST

To

1.The Superintending Engineer,
TANGEDCO, Salem-636140.



2.The Junior Engineer (O/M),
TANGEDCO
Hasthampatti
Salem-636 008.

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+1cc to Mr.T.Muruganantham, Advocate, S.R.No.52386
+1cc to Mr.M.Abul Kalam, Advocate, S.R.No.52905

W.P.No.21641 of 2021

EV(CO)
GN(11/10/2021)