



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.NO.18078 OF 2021

ATC Telecom Infrastructure Pvt. Ltd.,
Represented by Authorised Signatory,
N.Senathipathi,
"Celestial Point",
No.45, Damodharan Street,
T.Nagar, Chennai - 600 017.

... Petitioner

Versus

1. The District Collector
Collectorate,
District Collector Office,
Salem - 636 001.
2. The Superintendent of Police,
District Police Office,
Salem - 636 002.
3. The State,
Rep. by Inspector of Police(Law & Order),
Ethappur Police Station,
Yethappur,
Salem District - 636 117.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 Constitution of India, to issue Writ of Mandamus, to direct the Respondents 2 & 3 to forthwith provide effective police protection to the petitioner's company to fully complete the erection of transmission cell phone tower and to install all the telecommunication electrical and electronic equipments, cables at the open land admeasuring about 950 Sq.ft situated and or comprised in Survey No.101/1G, lying and situated at Erramasamuthiram Village, Pethanayakanpalayam SRO, Salem East Registration District., Pethanayakanpalayam Taluk., Salem District, on the basis of the complaint filed by the petitioner dated 10.05.2021, since, the deemed permission to install the



BTS transmission Tower was granted by the 1st respondent as per the G.O.(MS) No.1, Information Technology (B4) Department dated 21.02.2018, by implementing the Indian Telegraph Right of way Rules, 2016, notified by the Government of India, Ministry of Communications, Department of Telecommunication vide No.G.S.R.1070(E) dated 15.11.2016.

For Petitioner : Mr.J.Ravikumar

For Respondents : Mr.A.Damodharan,
Government Advocate (Crl.side)

ORDER

This Writ petition has been filed for the issuance of a Writ of Mandamus, to direct the Respondents 2 & 3 to forthwith provide effective police protection to the petitioner's company to fully complete the erection of transmission cell phone tower and to install all the telecommunication electrical and electronic equipments, cables at the open land ad measuring about 950 Sq.ft situated and or comprised in Survey No.101/1G, lying and situated at Erramasamuthiram Village, Pethanayakanpalayam SRO, Salem East Registration District., Pethanayakanpalayam Taluk., Salem District, on the basis of the complaint filed by the petitioner dated 10.05.2021, since, the deemed permission to install the BTS transmission Tower was granted by the 1st respondent as per the G.O.(MS) No.1, Information Technology (B4) Department dated 21.02.2018, by implementing the Indian Telegraph Right of way Rules, 2016, notified by the Government of India, Ministry of Communications, Department of Telecommunication vide No.G.S.R.1070(E) dated 15.11.2016.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

3. The learned counsel for the petitioner relied on the decision of a Division Bench of this Court in W.P.Nos.24976 of 2008 etc. batch cases and the decision of a learned Single Judge of this Court in Crl.O.P.(MD).Nos.12596 to 12599 of 2014 and 12601 of 2014 would submit that without any basis their activities cannot be stopped.

4. The law regarding establishment of cellphone tower has already been dealt with in the judgments referred supra. In the absence of any illegality or unlawful activities, no one can interfere with the lawful activities of a person concerned. If there is any objection for construction and erection of cellphone tower, the objector will has to workout his remedy in



the manner known to law instead of preventing the person concerned from putting up construction, which is legally entitled to do so.

5. For the reasons stated above, there shall be a direction to the third respondent police to provide police protection to the petitioner for erection of the cell phone tower. The third respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem and the petitioner shall pay a cost of Rs.10,000/- (Rupees Ten thousand only) to the respondent police towards police protection.

6. Accordingly, this Criminal Original Petition is disposed of with a direction to the respondents to give adequate police protection, if there is no legal impediments.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate,
District Collector Office,
Salem - 636 001.
2. The Superintendent of Police,
District Police Office,
Salem - 636 002.
3. The Inspector of Police(Law & Order),
Ethappur Police Station,
Yethappur,
Salem District - 636 117.

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CA(CO)
PBS/29/10/2021