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W.P.(MD) No.3319 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.(MD) No.3319 of 2021

and

W.M.P(MD).No.2670 of 2021

Kathiresan

.. Petitioner

Vs

1.The District Collector,
Tenkasi District,
Tenkasi.

2.The Tashildar,
Tenkasi Taluk Office,
Tenkasi District.

3.The Block Development Officer,
Keelapavoor,
Tenkasi District.

4.The Joint Chief Environmental Engineer's Office,
Tamilnadu Pollution Control Board,
Tirunelveli,
Tirunelveli District.

5.The General Manager,
Reliance JIO Tower Installation Pvt Ltd,
Kurukshetra Sector-Indus Towers Limited,
Near Bharamsarovar,
Hariyana.

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, to direct the respondents 1 to 4 to forbear the fifth respondent from installing the cell phone tower in the land in survey No.138/61, situating in Aavudaiyanur Village, Kottaivillaiyur, Tenkasi Taluk, Tenkasi District by considering the petitioner's representation dated 31.10.2020.

For Petitioner	:	Mr.S.Alagu Sundhar
For Respondents	:	Mr.P.Thilak Kumar
		Standing Counsel for Government
		for R1 to R3
		Mr.C.Kasirajan for R4
		Mr.Abishek Jenasanen for R5



ORDER

[Order of the Court was made by The Hon'ble CHIEF JUSTICE]

The petitioner complains of a proposed transmission tower being erected in the middle of Aavudaiyanur Village in Tenkasi Taluk of the same District.

2.The fifth respondent says that the procedure requires the prior permission of the District Collector to be obtained before a mobile telephone tower may be installed. According to the fifth respondent, an application has been made with the first respondent Collector but the permission has not been granted. The fifth respondent says that though the ground work has been prepared, the tower has not been installed since the permission has not been forthcoming.

3.It also appears that the petitioner has approached the Tamil Nadu Pollution Control Board, though the fifth respondent says that such board cannot exercise any jurisdiction over the construction of a mobile tower.

4.The construction of a mobile tower may or may not be a hazard for plants and animals. Anecdotal accounts speak for birds avoiding resting on mobile towers and avoiding the area around the mobile tower altogether. If such is the case, surely, the installation of a mobile tower may have some adverse environmental impact that the pollution control board should be able to look into.

5.It is also imperative that all considerations have to be taken into account by the District Collector in the event there is a procedure in such regard for the District Collector to grant permission before a mobile tower is installed.

6.Since the petitioner has brought a petition challenging the proposed installation of a telephone tower and such telephone tower has not yet been set up, the petition is disposed of by permitting the petitioner to carry the petitioner's objections to the District Collector who is in seisin of the fifth respondent's application for permission to set up a tower. In the event the petitioner furnishes a written representation to the District Collector within a fortnight from date the District Collector must dispose of such representation by a speaking order before according permission to the fifth respondent to set up the relevant mobile tower.



7.W.P(MD)No.3319 of 2021 is disposed of. W.M.P(MD)No.2670 of 2021 is closed. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

PS/SSL

Note : *In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*

To:

- 1.The District Collector,
Tenkasi District,
Tenkasi.
- 2.The Tashildar,
Tenkasi Taluk Office,
Tenkasi Distirct.
- 3.The Block Development Officer,
Keelapavoor,
Tenkasi District.
- 4.The Joint Chief Environmental Engineer's Office,
Tamilnadu Pollution Control Board,
Tirunelveli,
Tirunelveli District.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-27128[F] dated 24/08/2021)

+1 CC to M/s.ABISHEK JENASEVAN, Advocate (SR-27139[F] dated 25/08/2021)

W.P. (MD) No.3319 of 2021
and
W.M.P (MD) .No.2670 of 2021
24.08.2021

RK (01.09.2021) 3P 7C