



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.08.2021

CORAM

THE HONOURABLE MR.JUSTICE G.ILANGO VAN

W.P(MD)Nos.13716 and 13717 of 2021

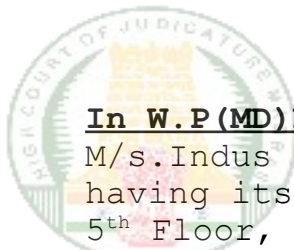
In W.P(MD)No.13716 of 2021:

M/s.Indus Towers Limited,
having its circle office at 5(NP), ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal,
Chennai - 600 097,
represented by its Assistant Legal Manager,
S.Prasanna ... Petitioner

Vs.

- 1.The Superintendent of Police,
District Police Office,
Tenkasi.
- 2.The Deputy Superintendent of Police,
Tenkasi Sub Division, Tenkasi.
- 3.The Inspector of Police,
Ilathur Police Station,
Tenkasi
- 4.The District Collector,
District Collector Office,
Tenkasi. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the fourth respondent herein to grant license/permission for erection of the cell phone tower based on our client's application dated 05.03.2021 within a week and further direction to the respondents 1 to 3 herein to provide the effective police protection to the petitioner company to erect the cell phone transmission tower at S.FNo.382/11, Madurai Main Road, Duraisampuram, Idaikal, Tenkasi - 627 804 as per the letter dated 20.04.2020 vide Lr.No.DDG (Technology)/TN-LSA/DM/Covid-19/20-21/02 issued by the Government of India, Ministry of Communications, Department of Telecommunications to the Secretary (IT) Government of Tamilnadu, copy to Chief Secretary and DGP of Police, Tamilnadu.



In W.P(MD)No.13717 of 2021:

M/s.Indus Towers Limited,
having its circle office at 5(NP), ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthangal,
Chennai - 600 097,
represented by its Assistant Legal Manager,
S.Prasanna ... Petitioner

Vs.

- 1.The Superintendent of Police,
District Police Office,
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- 2.The Deputy Superintendent of Police,
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- 3.The Inspector of Police,
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- 4.The District Collector,
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Tenkasi. ... Respondents

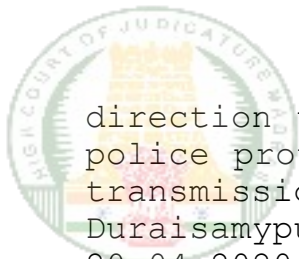
PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to direct the fourth respondent herein to grant license/permission for erection of the cell phone tower based on our client's application dated 22.03.2021 within a week and further direction to the respondents 1 to 3 herein to provide the effective police protection to the petitioner company to erect the cell phone transmission tower at S.F.No.10/1A1A1, Tenkasi Main Road, Kanakupillaivalasai, Shenkottai, Tenkasi - 627 807, as per the letter dated 20.04.2020 vide Lr.No.DDG (Technology)/TN-LSA/DM/Covid-19/20-21/02 issued by the Government of India, Ministry of Communications, Department of Telecommunications to the Secretary (IT) Government of Tamilnadu, copy to Chief Secretary and DGP of Police, Tamilnadu.

In both writ petitions:

For Petitioner : Mr.K.Govindarajan
for Mr.T.N.Karthiekyan
For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor (Crl.Side)

C O M M O N O R D E R

These writ petitions have been filed for issuing a Writ of Mandamus, to direct the fourth respondent herein to grant license/permission for erection of the cell phone tower based on our client's application dated 05.03.2021 within a week and further



direction to the respondents 1 to 3 herein to provide the effective police protection to the petitioner company to erect the cell phone transmission tower at S.F.No.382/11, Madurai Main Road, Duraisampuram, Idaikal, Tenkasi - 627804 as per the letter dated 20.04.2020 vide Lr.No.DDG (Technology)/TN-LSA/DM/Covid-19/20-21/02 and S.F.No.10/1A1A1, Tenkasi Main Road, Kanakupillaivalasai, Sherkottai, Tenkasi - 627 807, as per the letter dated 20.04.2020 vide Lr.No.DDG (Technology)/TN-LSA/DM/Covid-19/20-21/02 issued by the Government of India, Ministry of Communications, Department of Telecommunications to the Secretary (IT) Government of Tamilnadu, copy to Chief Secretary and DGP of Police, Tamilnadu.

2.In these writ petitions, permission letter has already been sent to the District Collectors, which was not processed till the disposal of this writ petition.

3.Heard both sides and perused the materials placed on record.

4.In respect to the installation of cell phone tower, the Government issued G.O(MS) No.2, Information Technology Department dated 01.04.2002. This is the base and ground Government Order. The said Government Order reads as under:-

ABSTRACT

Information Technology - Setting up of Base Transceiver Station lowers and installation of equipment for telecommunication - networks - Leasing of space in government offices on a non-exclusive basis to any licenced telecom company on certain prescribed terms and conditions Orders-Issued.

INFORMATION TECHNOLOGY DEPARTMENT

G.O.Ms.No.2

Dated: 1-04-2002

1) G.O.Ms.No.7, Information Technology department, dated 12.02.2001.

2) From Tvl Reliance Infocom Limited, Chennai, letter Ref.No.2375/IT/2001- 02, dated 29.1.2002.

ORDER:

In the G.O first read above, consolidated policy guidelines were issued specifying terms and conditions for the issuance of centralised permission for the use of public



right of way by any private or public sector applicant that proposes to lay optic fibre cables in the National and State Highways and other roads in Tamil Nadu.

2. Tvl. Reliance Infocom Limited, who have been given centralised permission to lay optic fibre cables in Tamil Nadu, have indicated that in order to maximise the coverage throughout the State, permission is required for renting / leasing out Government land / Government buildings for putting up Base Transceiver Station Towers (BTS Towers) at technically feasible locations. The company has also requested the Government to grant exemption to it from observing side set back rules of Chennai Metropolitan Development Authority / Directorate of Town and Country Planning for the BTS towers which are only temporary structures and to apply the rules only in the cases of construction of buildings for BTS equipment room, Diesel Generator Set room etc.

3. The Government after careful consideration and detailed examination, have decided to issue general permission to any licenced telecom company providing infocom service's to the end users, on a non-exclusive basis subject to certain terms and conditions.

4. Accordingly, the Government hereby accord permission to any licenced telecom company and which is committed to the cause of Government of Tamil Nadu to install its Base Stations consisting of Tower equipment room and generator room, on roof top or on the ground of premises and buildings belonging to Government of Tamil Nadu, subject to availability and technical feasibility on a non-exclusive basis and also subject to the following terms and conditions:-

i) Permission for installing towers, equipment and generator etc., on case to case basis will be issued by the district Collectors concerned in consultation with the district is concerned,

ii) Availability of space of 4.5 Mts x 4,5 Mts.

iii) Technical feasibility - Building should be structurally strong to take a load of 3.5 MT to 6.0 MT depending on the height of tower.

iv) A . Telecom company providing infocom services and is desirous of utilising the Government premises / buildings for installing the base stations, should comply with all



the regulations and stipulations including that of the Ministry of Civil Aviation, Government of India, in installation of the Base stations. All clearances / permissions, required in the process of establishing the base stations are to be obtained by such company.

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v) Permission may be given on non-exclusive basis.

vi) The future extension / expansion of building /premises may be kept in mind,

vii) Permission may be granted initially for a period of 10 (ten) years.

viii) Damages caused, if any, shall be rectified by such company and bring back to original condition and to the satisfaction of the authorities concerned.

ix) Leasing of the premises or buildings to such company should not be detrimental to the daily routine and activities of the Office or Offices concerned.

x) Appropriate rent shall be charged from such company.

xi) Exemption shall be given to the telecom companies from side set back rules of Chennai Metropolitan Development Authority / Directorate of Town and Country Planning for the BTS Towers and the said rules shall be applicable only to the construction of buildings.

5. This order issues with the concurrence of Housing & Urban development, Revenue and Public Works departments.

(BY ORDER OF THE GOVERNOR)

VTVEK HARINARAIN

SECRETARY TO GOVERNMENT

5.The issue involved in the present writ petitions is covered by the order of this Court, dated 21.05.2021, passed in W.P.(MD) Nos.4714, 4720, etc. Batch in the case of **M/s.Indus Towers Limited Vs The Superintendent of Police, District Police Office, Thanjavur and another.** The above G.O was much applicable to private buildings or lands as per G.O.M.S.No.177, Municipal Administration and Water Supply Department dated 17.12.2012.

6.In view of the order passed by this Court in W.P.(MD) Nos.4714, 4720,___etc. Batch, dated 21.05.2021, the following directions are issued:-

(i) The third respondent District Collector is directed to process the application dated 05.03.2021 submitted by the



order strictly in accordance with the guidelines issued in the aforesaid Government order and subsequent orders and letters etc.

(ii) The result must be intimated to the petitioner within a week thereafter.

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(iii) Depending upon the out come of the application, the petitioner is at liberty to make proper fresh representation seeking police protection, if any necessity arises mentioning the facts , circumstances and necessity.

(iv) If such request or representation is made by the petitioner, the second respondent Inspector of Police are hereby directed to consider the same on merits and give police protection, if permission is granted by the District Collector for installing mobile phone towers in the area, immediately as mentioned in this petition.

7. With the above directions, these Writ Petitions are disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

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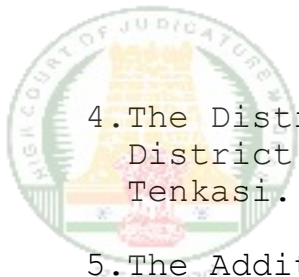
Sub Assistant Registrar(CS)

CM-VR

Note:(i) 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 Superintendent of Police,
District Police Office,
Tenkasi.
2. The Deputy Superintendent of Police,
Tenkasi Sub Division,
Tenkasi.
3. The Inspector of Police,
Ilathur Police Station,
Tenkasi



4.The District Collector,
District Collector Office,
Tenkasi.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.N.KARTHIKEYAN, Advocate (SR-26996[F]
dated 23/08/2021)

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dated 23/08/2021)

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