



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD)No.15019 of 2021

WEB COPY

M/s. Summit Digital Infrastructure Pvt Ltd.,
[Formerly M/s. Reliance Jio Infocomm Pvt Ltd,
M/s.Jio Digital Fibre Pvt Ltd] having its Circle office at
A1 Tower, 8th Floor, 89-90, Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004,
represented by its Manager,
C.Santhana Krishnan.

... Petitioner

Vs.

1. The Superintendent of Police,
District Police Office, Virudhunagar.
 2. The Deputy Superintendent of Police,
Rajapalayam Subdivision, Virudhunagar.
 3. The Inspector of Police,
Thalavaipuram Police Station, Virudhunagar.
 4. The District Collector,
District Collector Office, Virudhunagar.
- ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 4th respondent herein to grant license/permission for erection of the cell phone tower based on the petitioner's application dated 25.06.2021, within a week and further directing the Respondents 1 to 3 herein to provide the effective police protection to the petitioner Company to erect the cell phone transmission tower at Survey No.131/1, Valavanthalpuram Village, Sankaran kovil Panchayath Union, Virudhunagar District and pass such others as this Hon'ble High Court may deem fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.K.Govindarajan
for M/s. T.N.Karthikeyan
For Respondents : Mr.R.Baskaran,
Counsel for State

ORDER

The petitioner seeks a direction to the fourth respondent to grant licence/permission for the erection of a mobile phone tower on the basis of the petitioner's application dated 25.06.2021. The petitioner states that it is an internet service



provider which is engaged in the business of providing broadband internet services and other allied services on a pan India basis.

2. The petitioner states that the authority to grant a right of way permission in respect of Overground Telecom Infrastructure (Towers) is vested in the District Collector in terms of the Indian Telegraph Right of Way Rules, 2016. In spite of submitting multiple requests seeking such permission, including by the recent application, the petitioner states that such permission has not been granted. In addition, the petitioner has requested for police protection for the erection of such mobile phone transmission tower.

3. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of all the respondents. He submits that the District Collector has been entrusted with the task of granting or denying right of way permission and that the petitioner is not entitled to a positive direction with regard to the grant of such permission.

4. As correctly pointed out by learned counsel for the State, the District Collector has been vested with the authority to decide an application for the grant of right of way. Needless to say, such discretion should be exercised reasonably by citing germane reasons especially in case permission is refused. In any case, a positive direction cannot be granted for the issuance of such permission. However, the petitioner is entitled to the expeditious disposal of its application. As regards police protection, unless permission to erect the mobile phone tower is granted, there is no question of granting police protection.

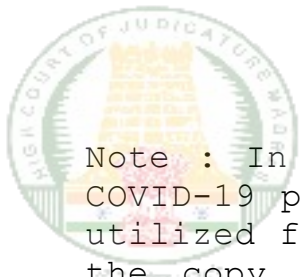
5. Accordingly, without going into the merits of the matter, the fourth respondent herein is directed to consider the petitioner's application for permission to erect the mobile phone tower and dispose of the same by a reasoned order in accordance with law within a period of thirty (30) days after providing a reasonable opportunity to the petitioner, the relevant landlord, and any other person who may be affected by such erection.

6. W.P(MD).No.15019 of 2021 is disposed of on these terms without any order as to costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //



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 Superintendent of Police,
District Police Office, Virudhunagar.
2. The Deputy Superintendent of Police,
Rajapalayam Subdivision, Virudhunagar.
3. The Inspector of Police,
Thalavaipuram Police Station, Virudhunagar.
4. The District Collector,
District Collector Office, Virudhunagar.

+1 CC to M/s.T.N.KARTHIKEYAN, Advocate (SR-27343[F] dated 25/08/2021)

+1 CC to M/s.SPL GP (SR-27362[F] dated 26/08/2021)

W.P (MD) No.15019 of 2021
25.08.2021

DJ(CO)
SB(03.09.2021) 3P 7C