

S/L 7
18.07.2022
Court. No. 19
GB

WPA 6227 of 2022

Kabita Saha
VS
The State of West Bengal & Ors.

*Mr. Anirban Tribedi,
Mr. Supratick Syamal,
Mr. Somnath Ganguly.*

...for the Petitioner.

*Mr. Samrat Sen,
Ms. Manali Ali.*

...for the State.

*Mr. Debasis Kar,
Mr. Arka Tilak Bhadra.*

...for the Respondent No.7.

Strangely, Bharti Airtel Limited, the construction of whose mobile tower was being allegedly obstructed by the respondent no.7, is not before the Court. It does not appear from the records that the service provider has any allegation against the respondent no.7, with regard to such obstruction.

The petitioner is the land owner, on whose premises the alleged mobile tower was sought to be installed by Bharti Airtel Limited. Bharti Airtel Limited, has also not been impleaded as a respondent in this proceeding. The licence or the permission granted by the Nodal Officer is in the name of one Rupak Kumar Singh and Bharti Airtel Limited. The petitioner apprehends that due to the obstruction, the mobile tower would not be constructed and the petitioner would lose out on the money. It is apprehended that Bharti Airtel Limited will terminate the contract.

Whether Bharti Airtel Limited had satisfied all the formalities, which were required for construction of a mobile tower or whether the allegation of the respondent no.7 with

regard to violation of the norms are correct or not, cannot be decided either by the writ Court or by the police authorities.

With regard to the police inaction, it is found that as many as two cases have been registered by the Officer-in-Charge, Ghola Police Station on the complaint filed by the petitioner, namely, Ghola P.S. Case No.180 of 2022 dated March 26, 2022, Ghola P.S. Case No.203 of 2022 dated April 2, 2022. The police authorities are continuing with the investigation. Notice under Section 41A of the Code of Criminal Procedure was served upon the FIR names accused person, namely Ashok Pal, a member of the respondent no.7. The said accused surrendered before the learned jurisdictional Magistrate and was released on bail.

Under such circumstances, this Court cannot direct the police authorities to provide assistance in the construction of the mobile tower on the prayer of the petitioner, who is merely the land owner. The service provider is neither aggrieved, nor before the Court. The petitioner cannot espouse the cause of the service provider. Whether the service provider is at all interested to construct the mobile tower is also not on record. Thus, this Court is not in a position to ascertain whether all the requirements and terms and conditions as per the licence granted by the nodal officer, have been complied with or not. The petitioner and the respondent no.7 have already moved the District Magistrate with regard to these allegations. Such issues may be decided by the district administration in accordance with law, but the writ Court cannot grant police assistance in

favour of the petitioner, in the facts and circumstances stated hereinabove.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)