

Sl. No.14
06.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 11616 of 2022

Partha Pratim Das
versus
The State of West Bengal & Ors.

Mr. Md. Sarwar Jahan
Mr. Maidul Islam Kayal
Mr. Sumit Alaskar

... for the Petitioner.

Mr. Atish Ghosh
Mr. Tanmoy Sett
Ms. Sumana Biswas

... for the respondent no.8

Mr. N. C. Bihani
Mrs. Papiya Banerjee Bihani

... for the State

Mr. Anjan Chakraborty

... for the UOI/respondent no.3

Mr. Rabindranath Mahato
Mr. Aritra Shankar Ray

... for the respondent nos.5 & 6

The petitioner seeks a direction upon the Municipality to permit erection of Mobile Tower in accordance with the permission/no objection certificate issued by the office of the Nodal Officer for establishment of Mobile Tower, Base Tower Station/Laying Optical Fiber Cable for telegraph infrastructure, South 24 Parganas.

The permission which was granted was valid till 25th April, 2022.

The petitioner alleges that the Municipality is standing in the way of erection of mobile tower despite the no objection certificate issued for establishment of the same.

Reliance has been placed on the Memo No.585-Estt/ITE-20012/2/2020 dated 28th December, 2020 issued by the Department of Information Technology & Electronics, Government of West Bengal, wherein guidelines relating to the setting up of mobile tower have been mentioned.

According to the said guidelines, the appropriate authority on behalf of the Government of West Bengal, the Department of Information Technology & Electronics is designated as the Nodal Department and appropriate authority for the State of West Bengal.

A designated officer nominated by the Department of Information Technology & Electronics, Government of West Bengal shall act as the designated nodal officer for the entire gamut of activities.

The District Magistrate of the concerned District is responsible for scrutinizing application submitted by any applicant for establishment of telecommunication infrastructure within the respective District and the District Magistrate is also the head of the District Level Committee which comprises of the representative from the local bodies and other related departments.

The petitioner relies upon the communication dated 30th May, 2022 made by the Joint Secretary to the Government of West Bengal and the Nodal Officer and Member Convener of the State Level Clearance Committee under the West Bengal Broad Band Policy, 2020 to the District Magistrate, South 24 Parganas with request to extend support for erection of telecom tower under the limit of Pujali Municipality in favour of Indus Towers Limited.

Learned advocate representing the Municipality submits that permission of the Municipality is required as the petitioner is intending to raise construction.

It appears that a dispute has cropped up with regard to setting up of the mobile tower even though no objection certificate has been issued for erection of the same.

As it appears that request was already made by the Joint Secretary to the Government of West Bengal to the District Magistrate for extending support for erection of the telecom tower and the Municipality is standing in the way of such erection, accordingly, this Court thinks it fit to direct the District Magistrate, South 24 Parganas to provide an opportunity of hearing to the petitioner as well as the representative of the Municipality and the representative of the service provider and to sort out the issue so that permission

which has been granted for setting up of mobile tower may be acted upon by the parties.

The District Magistrate is directed to take a decision in the matter at the earliest, but positively within a period of six weeks from the date of communication of this order.

The parties are requested to render all sorts of cooperation at the time of hearing that will be conducted by the District Magistrate to resolve the issue.

The District Magistrate is directed to pass formal order upon hearing the submissions made on behalf of all the parties and the action to be taken in the matter by the parties for the purpose of setting up of the mobile tower. The District Magistrate shall communicate the order to all the parties immediately thereafter.

Learned advocate appearing on behalf of the petitioner is directed to forward all documents in connection with erection of mobile tower to the District Magistrate at the time of communicating the order of the Court.

Affidavit of service filed in Court is taken on record.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Amrita Sinha, J.)