

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

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WRIT PETITION NO.10666 OF 2022

ATC Telecom Infrastructure Pvt. Ltd. .. Petitioner
Versus
Navi Mumbai Municipal Corporation & Ors. .. Respondents

Mr.Dadaso S. Patil for the petitioner.
Mr.Telesh Dande for the respondent nos.1 to 3.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATE : 19th September 2022**

P.C.:-

1. Learned counsel for the petitioner states that all the respondents are served. Mr.Dande, learned counsel waives service for the respondent nos.1 to 3. The respondent nos.4 & 5 did not appear when the matter was called out.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks a writ of certiorari for quashing and setting aside the notice dated 18th May 2022 issued by the respondent nos.1 to 3 thereby resuming installation of telecom tower at Hotel Sai Baba, Nerul, Navi Mumbai.

3. The petitioner was granted permission by the respondent nos.1 to 3 on 20th April 2022 to install the telecom tower for a period of one year. It is the case of the petitioner that pursuant to the said permission/NOC granted by the respondent nos.1 to 3, the petitioner has already installed the telecom tower. However, in view of the alleged

complaint received by the respondent nos.1 to 3, the respondent nos.1 to 3 has issued a stop work notice. As a result of such stop work notice, the respondent no.4 has also taken away the electric meter in respect of the said telecom tower.

4. Since no hearing was granted to the petitioner before stop work notice, we direct the respondent no.3 to grant a personal hearing to the petitioner as well as to the complainant.

5. Mr.Dande, learned counsel for the respondent nos.1 to 3 agrees to furnish a copy of the complaint received from the third party to the petitioner by 5.00 p.m. tomorrow.

6. Learned counsel for the petitioner states that his client would file its Say before the respondent no.3 within three days from the date of service of the copy of the complaint. Statement is accepted.

7. The respondent no.3 to decide the said stop work notice along with complaint made by third party after hearing the petitioner as well as the complainant and after considering the reply, if any, filed by these parties and to pass an order within two weeks thereafter. The petitioner as well as the complainant are directed to remain present before the respondent no.3 on 27th September 2022 at 11.00 a.m. The respondent nos.1 to 3 are directed to convey this order to the complainant for information and compliance.

8. If any adverse order is passed against the petitioner, no coercive steps shall be taken against the petitioner for a period of two

weeks from the date of communication of such order. If the stop work notice is withdrawn and the petitioner is granted further permission to operate the telecom tower, the petitioner would be at liberty to apply for installation of electric meter. The respondent no.4 in that event to reinstall the electric meter within three days from the date of such application.

9. We accept the submissions of the learned counsel for the respondent nos.1 to 3 that if the stop work notice is withdrawn, an appropriate extension of time would be granted to the petitioner which is taken by the respondent nos.1 to 3 in issuing stop work notice and for disposal of the complaint as well as stop work notice issued by the Corporation.

10. Petition is disposed off in aforesaid terms. Rule is made absolute. No order as to costs. Parties to act on the authenticated copy of this order.

KAMAL KHATA, J.

R.D. DHANUKA, J.