

R.M. AMBERKAR
(Private Secretary)

KANCHAN
PRASHANT
DHURI

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KANCHAN
PRASHANT DHURI
Date: 2022.01.06
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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9564 OF 2021

ATC Telecom Infrastructure Pvt Ltd .. Petitioner
Versus
Islampur Municipal Council, Islampur & Ors. .. Respondents

-
- Mr. D.S. Patil for the Petitioner
 - Mr. Rupesh K. Bobade for Respondent Nos. 1 and 2
 - Mr. Y.D. Patil, AGP for the State
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CORAM : S.J. KATHAWALLA &
MILIND N. JADHAV, JJ.

DATE : JANUARY 06, 2022.
(Through Video Conferencing)

P.C.:

. Respondent Nos. 1 and 2 i.e. Islampur Municipal Council, Islampur has passed an order on 05.08.2021 restraining the Petitioner from carrying out further construction with regard to the mobile tower. The said order is admittedly passed without giving any hearing to the Petitioner and despite the Chief Officer of Islampur Municipal Council himself having passed an order on 27.07.2021 permitting the Petitioner to continue with the construction of the mobile tower after granting stay on the earlier order dated 23.04.2021 by which the Petitioner was restrained from carrying out construction. In view thereof, the impugned order dated 05.08.2021 is quashed and set aside.

2. Respondent No. 2 - Chief Officer, Islampur Municipal Council shall give a hearing to the Petitioner and all concerned parties within a period of two weeks from today and pass his speaking order strictly on merits within a period of two weeks thereafter. All contentions of the parties are kept open.

3. Copies of the complaints received by Islampur Municipal Council against the setting up / construction of the mobile tower shall be given to the Advocate for the Petitioner and / or the Petitioner.

4. The Petitioner is allowed to carry out construction of the mobile tower until Respondent No. 2 - Chief Officer, Islampur Municipal Council passes his speaking order and for a period of two weeks from the date of service of the order on the Petitioner and / or its Advocate in the event of the Order passed by the Respondent No.1 is against the Petitioner. However, the Petitioner will not be allowed to claim any equities for carrying out further construction between the date of this Order and the Order passed by the Respondent No.1 comes into effect.

5. The above Writ Petition is accordingly disposed of.

[MILIND N. JADHAV, J.]

[S.J. KATHAWALLA, J.]