

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO. 14680 OF 2022

ATC Telecom Infrastructure Pvt. Ltd.	...	Petitioner
Versus		
Kalyan Dombivali Municipal Corporation & Ors.	...	Respondents

Mr. D. S. Patil, Advocate for the Petitioner.

Mr. A. S. Rao, Advocate for the Respondent Nos.1 and 2/Corporation.

Ms. Tabassum K. Bairagdar, Advocate for Respondent No.4.

**CORAM: S.V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.**

DATED : NOVEMBER 29, 2022

P.C.

1. We have heard learned Counsel for the petitioner, learned Advocate for the Corporation and learned Advocate for respondents.

2. Amongst other submissions made by the learned Counsel for the petitioner, one of the submission is that prior to the impugned order passed against him, no notice was issued to the petitioner and no opportunity of hearing was accorded to the petitioner.

3. From the record, it does not appear that the petitioner was heard before the present order was passed or even the notice was issued to the petitioner. It appears that the

Society has raised an objection to the installation of tower of the petitioner on the ground that the same is constructed over the water tank and is dangerous to the members of the Society.

4. As before passing the order, no notice was issued to the petitioner, we pass the following order :

ORDER

- i) The impugned order shall be construed as show cause notice.
- ii) The petitioner shall file reply to the same alongwith all the relevant documents on which the petitioner relies.
- iii) The petitioner shall appear before the Authority alongwith his say on 7th December 2022.
- iv) The say shall be filed by the petitioner. The respondent Corporation, thereafter shall take fresh decision with regard to the tower of the petitioner on its own merits in accordance with law.
- v) The parties may take further steps pursuant to the decision that may be taken by the Corporation.
- vi) The writ petition is disposed of with aforesaid directions. No costs.

(ARIF S. DOCTOR, J.)

(S.V. GANGAPURWALA, J.)

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