

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO. 5808/2017

1. ATC Infrastructure Services Private Limited,
A Company Registered under the Companies Act,
having it's Office at 303-304, Third Floor, Mayfair
Towers, Pune-Mumbai Road, Wakdewadi
Pune-411 005.
2. Swapnil S/o Ashok Lavtawar, aged about 32 years,
shareholder of the Petitioner No.1, residing at Flat
No.A2/408, Astonia, Classic Undri, Pune-411060.

PETITIONERS

.....VERSUS.....

1. Grampanchayat, Karanjgaon, Panchayat Samiti
Chandur Bazar, District Amravati
through it's Village Development Officer.
2. State of Maharashtra,
Through Hon'ble Collector, Amravati.
3. Maharashtra State Electricity Distribution Company,
through its Chief Engineer, Amravati
Zone, Amravati.

RESPONDENTS

Shri M. Anilkumar, counsel for the petitioner.
Shri A.A. Madiwale, Assistant Government Pleader for respondent no.2.
Shri S.V. Purohit, counsel for the respondent no.3.

CORAM : A. S. CHANDURKAR AND SMT. PUSHPA V. GANEDIWALA, JJ.

DATE : 13TH JANUARY, 2022.

ORAL JUDGMENT (PER : A.S. CHANDURKAR, J.)

RULE. Rule made returnable forthwith and heard the learned
counsel for the parties.

2. The petitioner is a company rendering cellular services. It
approached the respondent no.1-Gram Panchayat Karanjgaon and sought
permission for erection of a mobile tower. On 09.07.2008, the Gram
Panchayat issued a no objection certificate permitting erection of mobile

tower on Property No.396. Pursuant thereto the petitioner commenced its operations. It appears that the Gram Panchayat in its meeting held on 27.03.2017 passed a resolution by which after noticing the complaints made by various residents granted time of six months to the petitioner to re-locate the mobile tower. Pursuant thereto on 01.04.2017 the Gram Panchayat issued a communication to the petitioner stating therein that after period of six months, the no objection certificate would come to an end. Being aggrieved the petitioner has approached this Court challenging the action of the Gram Panchayat.

3. This Court issued notice on 06.09.2017 and directed the parties to maintain *status quo* as on that date. The said order has been continued thereafter. The respondent no.1 despite grant of sufficient opportunity has not chosen to contest the writ petition. In the aforesaid backdrop, we have heard the learned counsel for the petitioner and the respondent nos.2 and 3.

4. It is not disputed by the respondent no.1 that on 09.07.2008 the Gram Panchayat had granted no objection certificate to the petitioner to erect a mobile tower. On grant of such permission the petitioner took necessary steps and thereafter erected the mobile tower.

5. If the Gram Panchayat intended to take any action against the petitioner in the form of cancellation/withdrawal of the no objection certificate it ought to have granted an opportunity to the petitioner to put forth its say in the matter. By granting the no objection certificate to the petitioner, rights were created in favour of the petitioner and the same could not have been taken away without granting an opportunity to it to explain its position. A similar issue was considered by this Court in Writ Petition No.4815 of 2021 [*ATC Telecom Infrastructure Pvt.Ltd. Versus Bokhara Gram Panchayat & Another*] decided on 22.12.2021. The averment in paragraph 30 of the writ petition that the impugned action was in violation of the principles of natural justice has gone undenied by the respondent no.1. In that view of the matter, the following order is passed:

- (I) The communication dated 01.04.2017 issued by Gram Panchayat Karanjgaon to the petitioner thereby revoking the no objection certificate after a period of six months is quashed and set aside.
- (II) If the Gram Panchayat proposes to take any action against the petitioner pursuant to the issuance of the no objection certificate dated 09.07.2008 it shall comply with the principles of natural justice and thereafter proceed in the matter.

(III) We make it clear that we have not examined the validity of the resolution passed by the Gram Panchayat and the impugned communication has been set aside for non-compliance of principles of natural justice.

6. Rule is made absolute in aforesaid terms. No costs.

(SMT. PUSHPA V. GANEDIWALA, J.) (A.S. CHANDURKAR, J.)

APTE