



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

**W.P.No.17796 of 2022 &
W.M.P.Nos.17088 & 17091 of 2022**

A.K.Mohammed Sheik Maraikayar

... Petitioner

VS.

- 1.The District Collector,
District Collectorate Offier,
Tiruvarur District.
- 2.The Tahsildar,
Thiruthuraipoond Taluk Office,
Tiruvarur District.
- 3.The Executive officer,
Muthupet Town Panchayat,
Muthupet – 614 704.
- 4.The Superintendent of Police,
Office of Deputy Superintendent of Police,
District Police Office,
Tiruvarur.
- 5.Deputy Superintendent of Police,
Office of Deputy Superintendent of Police,
Muthupet Sub Division,
Tiruvarur District.



6.The Inspector of Police,
Muthupet Police Station,
Tiruvarur District.

7.M/s.Indus Towers Limited,
having its circle office at 5 (NP) ESPEE, IT Park,
5th Floor, Jawaharlal Nehru Road,
Ekkatuthagal,
Chennai – 600 097.

8.A.Sirajudeen

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for writ of Certiorarified Mandamus call for the records of the first respondent proceedings in Na.Ka.No.2027/2022/Oo.4 dated 06.06.2022 and quash the same as illegal, arbitrary and non-est in laws and also forbear the respondents from erecting cell phone towers inTiruvarur District, Thiruthuraipoondi Taluk, Muthupet, No.82, Thuraikadu Revenue Village, Bakkirivadi Street, Old S.F.No.231/3 in New S.F.No.231/3A1, Patta No.1922 subdivided in New S.F.No.231/3A1B.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents 1 & 2 : Mr.K.H.Ravikumar
Government Advocate

For Respondent 3 : Ms.V.Yamunadevi,
Special Government Pleader

For Respondents 4 to 6 : Mr.R.Murthi,
Government Advocate



ORDER

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This writ petition has been filed challenging the order dated 06.06.2022 passed by the first respondent rejecting the petitioner's representation requesting to forebear the seventh respondent from erecting the cell phone tower near the petitioner's property.

2. Mr.K.H.Ravikumar, learned Government Advocate accepts notice on behalf of the first and second respondents, Ms.V.Yamunadevi, learned Special Government Pleader accepts notice on behalf of the third respondent and Mr.R.Murthi, learned Government Advocate accepts notice on behalf of the respondents 4 to 6. By consent of both parties, this writ petition is taken up for final disposal in the admission stage itself.

3 .Heard Mr.G.Mohammed Aseef, learned counsel for the petitioner, Mr.K.H.Ravikumar, learned Government Advocate appearing for the first and second respondents, Ms.V.Yamunadevi, learned Special Government Pleader appearing for the third respondent and Mr.R.Murthi, learned Government Advocate appearing for the respondents 4 to 6



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4. Earlier the petitioner had approached this Court and by order dated 21.03.2022 passed in W.P.No.6532 of 2022, this Court directed the official respondent to consider the petitioner's representation requesting to forbear the 7th respondent from erecting cell phone tower near the petitioner's property which according to the petitioner is situated in the middle of the residential area and within 15 meters of a school. The petitioner has challenged the impugned order dated 06.06.2022 rejecting the petitioner's representation on the ground that the first respondent has completely ignored the directions given by this Court earlier in W.P.No.6532 of 2022 and has also passed the order in violation of principles of natural justice as no opportunity of hearing was granted to the petitioner.

5. This Court has also perused and examined the order dated 21.03.2022 passed in W.P.No.6532 of 2022 as well as the impugned order. As seen from the impugned order, the direction given by this Court in W.P.No.6532 of 2022 on 21.03.2022 have not been followed as no opportunity of hearing has been granted to the petitioner and the order dated 21.03.2022 passed in W.P.No.6532 of 2022 is also not reflected in the impugned order passed by the first respondent. Under the impugned order,



the petitioner's representation requesting the official respondent to forbear the seventh respondent from erecting the cell phone tower near the petitioner's property which is situated in the residential area and near a school has been rejected.

6. Since the direction issued by this Court on 21.03.2022 in W.P.No.6532 of 2022 has not been followed as no opportunity of hearing was granted to the petitioner, the impugned order has to be necessarily quashed as it is a non speaking order and it is an order passed by violating the principles of natural justice.

7. For the foregoing reasons, the impugned order dated 06.06.2022 passed by the first respondent is hereby quashed and the matter is remanded back to the first respondent for fresh consideration on merits and in accordance with law after affording a fair hearing to the petitioner including granting him the right of personal hearing. The first respondent shall pass final orders within a period of eight weeks from the date of receipt of copy of this Order.



8. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently connected miscellaneous petitions are closed.

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Index: Yes/No

Internet: Yes/No

Speaking/Non-speaking orders



To

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ABDUL QUDDHOSE, J.
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