

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11460 of 2023

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Ashish Kumar, Son of Bibek Kumar, Resident of Village Sukhashan, Uttar Bari, Funiyahi, P.S. and District Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Urban Development and Housing Deptt, Govt. of Bihar, Patna.
2. The Joint Secretary, Urban Development and Housing Deptt, Govt. of Bihar, Patna.
3. District Magistrate, Madhepura.
4. The Deputy Development Commissioner, Madhepura.
5. The Block Development Officer, Madhepura.
6. Circle Officer, Madhepura.
7. The Chairman Cum- Managing Director, Bharat Sanchar Nigam Limited, New Delhi.
8. The Principal General Manager, Bharat Sanchar Nigam Limited, R.Block, Veer Chand Patel Road Area, Patna.
9. The Director, Indus Tower Limited, Gurgaon Pin- 122001.
10. Girish Prasad Singh, Son of Chakardhar Prasad Singh, Resident of Village Funiyahi Ward No. 6, P.S. and District- Madhepura.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Uday Chand Prasad, Advocate
For the Respondent/s	:	Mr.Subhash Pd. Singh (GA-3)
		Mr. Indeshwari Prasad, A.C. to GA-3

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 18-08-2023

1. The Public Interest Litigation is filed to restrain the construction/installation of a mobile tower within a densely populated area and also near a school. The petitioner alleges that the 9th Respondent is constructing a mobile tower



against which a representation has been given to the District Magistrate, and the Circle Officer. It is also submitted that there is violation of Section 4 of the Bihar Communication Towers and Related Structures Rule, 2012 (for brevity “the 2012 Rules”). The proposed location of the tower is said to be the land of the 10th Respondent. The petitioner asserts that the installation of the tower in the proposed site is in contravention of Section 4 of the 2012 Rules, especially when a school and a temple are situated within hundred metres of the aforesaid land. But, for the violation alleged, there is nothing otherwise stated against the installation.

2. The 2012 Rules by Section 4 prohibits installation of a tower within a radius of hundred metres from a school, college or a hospital. The authority under the 2012 Rules is the Municipality to whom an application has to be made under Rule 5 and an approval of the Municipality is also appealable before the Principal Secretary, Urban Development & Housing Department within 30 days of the order. The petitioner ought to have obtained the order of the Municipality and taken it up in appeal if he is aggrieved by the tower installation, in violation of the Rules. The representation filed before the District Magistrate and the Circle Officer cannot evoke any response since the



authority constituted under the 2012 Rules is quite different. The Municipality which has to grant approval under the 2012 Rules also has not been impleaded.

3. We find no reason to entertain the writ petition as a Public Interest Litigation for all the reasons stated above. We hence reject the writ petition but, however, leaving liberty to the petitioner to avail of the remedies available under the 2012 Rules.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

P.K.P./-

AFR/NAFR	
CAV DATE	
Uploading Date	21.08.2023
Transmission Date	

