

Item No.21

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

08.06.2023
Ct-24
AGM

WPA 8299 of 2023

ATC Telecom Infrastructure Pvt. Ltd. & Anr.
v.
The State of West Bengal & Ors.

Mr. Siddhartha Banerjee
Mr. Sandip Bhowmick
Mr. Sayak Ranjan Ganguly
Ms. Srijani Ghosh

... for the petitioners.

Mr. S. P. Lahiri

... For the State.

Mr. Sandipan Banerjee
Mr. Ankit Sureka
Mr. Sobham Majumdar

... for the HMC.

Report in the form of affidavit on behalf of the respondent no. 1 filed in Court today is taken on record.

Copy of the same has been handed over to the learned advocates appearing for the respective parties.

It has been submitted by the learned advocate representing the petitioners that with regard to filing application along with supporting documents for obtaining new clearance and permission, the Anumoti Portal is functional and operating smoothly; but with respect to the towers, which have been set up awaiting formal permission, the portal stops responding after a certain level.

The guidelines of the Department of Information Technology and Electronics dated 20th April, 2023 have been placed in Court. It has been submitted that the portal becomes non-functional in respect of the permission sought under Guideline 11(b). The portal requires further information in respect of existing infrastructure including supplying the old NOC number.

It has been submitted that as the towers were set up awaiting formal permission from the authority, the old NOC number is not available. Due to non-incorporation of the old NOC number the portal cannot proceed any further.

The petitioners are facing difficulties in filing and submitting the Common Application Form for seeking the telecom infrastructure NOC in respect of the towers which were set up awaiting formal permission.

Learned advocate representing the State respondents seeks time to take instruction in the matter.

To find a solution which the petitioners are presently facing, leave is granted to the representative of the petitioners to make a formal representation to the respondent no. 6 highlighting the difficulties that they are facing at the time of submitting the Common Application Form online for seeking Telecom Infrastructure NOC.

If such representation is made, the same shall be taken into consideration by the respondent no. 6 after giving reasonable opportunity of hearing to the representative(s) of the petitioners.

Steps shall be taken by the aforesaid respondent to ensure that the petitioners are able to submit their application and the supporting documents in accordance with the guidelines formulated by the Department.

The aforesaid respondent shall take steps to dispose of the representation at the earliest but positively within eight weeks from the date of filing the writ petition.

The respondent no. 6 shall take steps to ensure that the petitioners are able to submit their application along with all supporting documents so that the towers which were set up awaiting formal permission may be regularized in accordance with the guidelines framed by the Department.

The impugned demands raised by the Howrah Municipal Corporation dated 19th October, 2021 appearing at pages 79 to 91 of the writ petition and the connected tax invoices issued by the Howrah Municipal Corporation on 9th February, 2023 appearing at pages 95 to 107 of the writ petition stands set aside.

The writ petition stands disposed of.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Amrita Sinha, J.)