

15.05.2023
Court No. 19
Item 22
CP

WPA No. 10904 of 2023

Sri Kartik Banerjee
Vs
The Union of India & Ors.

Mr. Sanjib Seth

....for the petitioner.

Mr. Prosenjit Mukherjee
Mr. Golam Mohiuddin
Mr. A. K. Das
Ms. Puja Mondal

....for the respondent nos. 12 to 14.

The writ petition is not maintainable due to non-joinder of parties. In the absence of the mobile tower company and/or its subsidiary who are allegedly responsible for construction of the alleged mobile tower, no orders can be passed. By impleading the club which has rented out a portion of its property for construction of the mobile tower, the writ jurisdiction cannot be invoked seeking direction upon the panchayat authorities to stop the erection and operation of the mobile tower.

The State of West Bengal has published the West Bengal Telecom Infrastructure Guidelines, 2020. The said guidelines deal with clearance and permission to set up mobile tower or base tower stations and laying optical fiber cables etc.

In the said guidelines, the procedure for permission to apply for, install and operate a mobile tower has been made. Clauses 4, 5, 6 and 7 speak about the procedures in detail. Clause 9 provides that prior to commencement of establishment and maintenance of telegraph infrastructure, measures to mitigate public inconvenience and ensure public safety, should be taken.

The petitioner, as a resident of the area, has approached this court with his grievance that the construction of the mobile tower would be hazardous to public health, security and the environment.

Mr. Mukherjee, learned advocate for the respondent nos. 12 to 14, submits that the writ petition has been filed out of vengeance. The petitioner was the erstwhile secretary of the 'Bankra Milan Sangha' and was aware of the entire process.

As the guidelines clearly provide for a three-tier system in deciding the issues as also the complaints of any local person, the writ petition is disposed of granting liberty to the petitioner to approach the appropriate authority in terms of the guidelines. If such approach is made, the complaint shall be disposed of, in accordance with law, and upon hearing all concerned. A reasoned order shall be passed and communicated to the parties.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)