



W.P. No.3053 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.3053 of 2023

and

W.M.P. Nos.3137, 3138 and 9331 of 2023

Tower Vision India Private Ltd.,
Rep. By its Authorised Signatory
B. Kaladharan

... Petitioner

Vs

1. Assistant Electrical Engineer,
E & P, West Division,
Tamil Nadu Generation and Distribution Corporation,
Vellore.

2. The District Collector,
Vellore District,
Vellore – 9.

3. The Superintendent of Police,
Vellore District.

4. The Executive Engineer, PWD
Office of the Executive Engineer,
PWD Buildings (C & M) Division,
Vellore – 632 004.



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5. The Tahsildhar,
Vellore District.

6. M. Ameena *

* Impleaded vide order dated 17.04.2023
in W.M.P. No.11100 of 2023

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in the impugned order / letter bearing No.Lr. No.207/AE/O & M/West Vellore/Ko/21/22, dated 01.04.2022 and quash the same and further direct the 1st respondent to provide Electricity connection to the Cell phone Tower installed by the petitioner at No.1/36, Burma Colony Vasanthapuram, K.K. Nagar, Vellore – 632 001.

For Petitioner

: Mr. P.J. Rishikesh

For Respondents

: Mr.S. Madhusudhanan for R1 (TNEB),
Mr.T. Seenivasan,
Spl. Govt. Pleader for R2 to R5

ORDER

This writ petition has been filed to quash the letter dated 01.04.2022 issued by the 1st respondent as well as for direction to provide Electricity connection to the Cell phone Tower installed by the petitioner at No.1/36, Burma Colony Vasanthapuram, K.K. Nagar, Vellore – 632 001.



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2. The case of the petitioner is that they are engaged in the business of installation, operation and maintenance of wireless passive infrastructure assets and providing services of wireless telecommunications. It is averred that they have entered into a licence deed on 09.03.2021 with one V. Karunkaran (Licensor) for erection of Tower at the Roof top of the building belonging to the Licensor. At the time of commencement of the said installation work by the petitioner at Site No.1/36, Burma Colony, Vasanthapuram, K.K. Nagar, Vellore – 632 001, the 6th respondent along with some politically influenced persons have raised objections for the said tower erection. Later, the 1st respondent issued a Communication dated 26.10.2021, in which the petitioner has been directed to get No Objection from public in order to provide electricity connection for the said tower erection. Subsequently, the 2nd respondent vide letter dated 13.04.2022 directed the Law Enforcing authorities to give adequate protection for installation of cell phone tower at the said place. That being the position, when the petitioner approached the 1st respondent by way of several representations for providing electricity connection for the said tower, the same has been rejected by way of passing the impugned order, dated



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01.04.2022. Being aggrieved with the said order, they approached this Court by filing this writ petition with the aforesaid prayer.

3. Learned counsel for the petitioner submitted that inspite of proper approval submitted by the petitioner, the 1st respondent has passed the impugned order, whereby they have been insisted to submit No Objection from local residents / public for providing electricity connection in respect of the tower. He also stated that based on the permission accorded by the 2nd respondent, tower is erected in the year 2022, which is legally permissible. He vehemently argued that the action of the 1st respondent for not providing electricity connection is with a malafide motive in collusion with the 6th respondent and for political gains. On that score, he prays for quashment of the impugned order, dated 01.04.2022 passed by the 1st respondent and for issuance of appropriate directions.

4. Reiterating the submissions made in the counter affidavit, learned Standing counsel for the 1st respondent vehemently opposed the contention of the petitioner and submitted that based on the objections received from



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the public, that too after conducting field inspection, the impugned order has been issued by the 1st respondent and therefore, the same is valid.

Further, he submitted that the said erection would create law and order problem and adequate police protection is required as the proposed roof top tower is over a dilapidated building. Therefore, the order passed by the 1st respondent, which is impugned herein is proper and no interference is warranted.

5. Replying to the contentions of the petitioner, learned counsel appearing for respondents 2 to 5 submitted that though directions have been issued to give adequate police protection by the 2nd respondent for the said task, the erection of tower in the said place would cause law and order problem and therefore, the prayer sought for in this writ petition may be dismissed by this Court and he prays for issuance of appropriate directions in the above regard.

6. Denying the contentions of the petitioner, Mr.Abrar Mohammed Abdullah, learned counsel for the newly impleaded respondent /6th



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respondent submitted that without getting No Objection Certificate from the competent authority, the petitioner would not be permitted to erect cell phone tower and electricity connection required for the said erection task has to be merely rejected. Reiterating the averments contained in the affidavit filed in support of W.M.P. No.11100 of 2023, he vehemently argued that installation of Roof Top Tower in the said place, which is over a dilapidated building would cause imminent danger and the local residents have made protest in this regard. Hence, he prays before this Court that the petitioner may be directed to get No Objection Certificate from the public for obtaining electricity connection.

7. Responding to the submissions of the learned counsel for the respondents, learned counsel for the petitioner submitted on instructions that the petitioner has given an undertaking to pay all applicable charges and fees and he will abide by the terms and conditions for grant of requisite permission and no hindrances would be caused to public in the above regard. Hence, he prays before this Court for issuance of appropriate directions to resolve the issue.



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8. Heard learned counsel on either side and perused the materials placed on record.

9. The facts in the case are not in dispute. Admittedly, the petitioner / firm was assigned with the task of installation of cell phone tower. Further, it reveals that the 6th respondent as well as local residents have raised serious objections and hence, the 2nd respondent has directed the Law enforcing agency to give adequate police protection for such installation work. Moreso, the petitioner is seeking grant of electricity connection to complete the tower installation task and they have given an undertaking that they will strictly abide by the terms and conditions for the aforesaid installation, including damages if any caused in future. Also, it is noted from the submissions that politicians in the said locality as well as the 6th respondent are causing great hardship to the petitioner to complete the task.

10. Further, it is to be noted that permission has been accorded for the installation of the tower by the concerned respondent. Only as a result of the said permission, the petitioner had undertaken the task of installation of



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the said tower. That being the admitted position, it does not lie in the mouth of respondents 2 to 5 to contend that the building where the tower is erected is in a dilapidated condition. The petitioner had also produced the structural stability certificate. If really the respondents 2 to 5 were concerned about the stability of the building, the prudent course for respondents 2 to 5 was to have rejected the permission at the threshold. Granting permission to the petitioner to erect the tower and then turning back and claiming that the building is in a dilapidated condition clearly shows that all is not well with the act of respondents 2 to 5 and that it could only be inferred otherwise.

11. A bare perusal of records reveal that the petitioner has conducted necessary tests in the said place where the tower is housed, which building, it is alleged, is in dilapidated condition, by the respondents 2 to 5, though the petitioner has obtained structural stability certificate. Also, it is seen that there are some cracks found in the said building and subsequent to permission accorded by the 2nd respondent, tower is erected in the said place. At this juncture, this Court is of the considered view that the requisite permission sought for by the petitioner for providing electricity



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connection has to be granted by the respondents with stringent conditions to prevent any loss to the petitioner and also keeping in mind the safety to the public in the said locality.

12. In view of the above, the impugned order, dated 01.04.2022 passed by the 1st respondent is liable to be set aside and accordingly, the same is set aside. The 1st respondent is directed to provide electricity service connection to the tower installed by the petitioner, by imposing stringent conditions. It is made clear that in case of any damages being caused to person or property of the persons in the locality, it is the petitioner, who will have to bear the damages, if any, caused due to the erection of the said tower.

13. The writ petition is allowed with the aforesaid observations and directions. Consequently, connected miscellaneous petitions are closed. The act of the 1st respondent, being contrary to the directions issued by the 2nd respondent, which, as pointed out by this Court is for reasons best known, which has been highlighted above, this Court imposes a cost of



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Rs.5,000/- (Rupees Five thousand only) on the 1st respondent, to be paid to the Tamil Nadu State Legal Services Authority, Chennai, within a period of one week from the date of receipt of a copy of this order.

17.04.2023

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Note : Registry is directed to carry out necessary amendment, before issuing the order copy.

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

To

1. Assistant Electrical Engineer,
E & P, West Division,
Tamil Nadu Generation and Distribution Corporation,
Vellore.

2. The District Collector,
Vellore District,
Vellore – 9.

3. The Superintendent of Police,
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M.DHANDAPANI, J.

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