



WEB COPY



Writ Petition No.19876 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.19876 of 2023

M/s.Ascend Telecom Infrastructure Private Ltd.,
represented by its Authorized Signatory,
Mr.Tamilselvan
Having Office address at
Old No.32, New No.54, Butt Road,
St.Thomas Mount, Near Kathipara Junction,
Chennai - 600 016.

...Petitioner

Vs

1.The Superintendent of Police,
Tiruvarur.

2.The Inspector of Police,
Vaduvoor Police Station,
Vaduvoor, Tiruvarur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the respondents 1 and 2 to provide effective police protection to the petitioner's company and its staff, subordinate and to erect transmission cell phone tower in the property being a portion of land of 1200 sq.ft. vacant land out of 73 cents of land property at Nagapattinam, Nagapattinam Registration District, Vadur Sub Registration District in the boundary of Manargudi Taluk, Karakottai Vattam, S.F.No.626/13, registered as document No.244/2022 based on the



Writ Petition No.19876 of 2023

complaint dated 07.06.2023 with CSR No.370/2023.

WEB COPY

For Petitioner : Mr.M.Karpagam

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

This petition has been filed for a direction to the respondents 1 and 2 to provide effective police protection to the petitioner's company and its staff, subordinate and to erect transmission cell phone tower in the property being a portion of land of 1200 sq.ft. vacant land out of 73 cents of land property at Nagapattinam, Nagapattinam Registration District, Vadur Sub Registration District in the boundary of Manargudi Taluk, Karakottai Vattam, S.F.No.626/13, registered as document No.244/2022 based on the complaint dated 07.06.2023 with CSR No.370/2023.

2. The case of the petitioner is that the petitioner is engaged in the business of providing broadband Internet services and other allied services throughout India. For the said purpose, cell phone towers are going to be erected. The petitioner had also entered into a lease agreement with the owner of the property and had taken steps to install the cell phone tower.



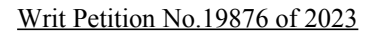
Writ Petition No.19876 of 2023

Already, the Government of Tamil Nadu has granted exemption to all the Telecom companies to install the cell phone towers by virtue of Government Order passed in G.O.Ms.No.2, dated 01.04.2002.

3. When the petitioner attempted to erect the cell phone tower, the residents of the area came to the spot and started causing hindrance to the company officials from carrying out the construction work. The petitioner also gave a complaint dated 07.06.2023 to the second respondent police to provide them with protection. However, the second respondent police had not acted upon the said complaint and therefore, the present petition has been filed.

4. Learned counsel appearing for the petitioner would submit that the issue involved in this petition is covered by the earlier judgments of this Court. Learned counsel brought to the notice of this Court the order passed by this Court in Crl.O.P.No.16618 of 2018.

5. It will be appropriate to extract the relevant portions of the order in



“2.The learned counsel for the petitioner would submit that the petitioner's company had the contract agreement for installation of cell phone tower with M/s.Indus Towers Limited, a company registered under the provisions of Indian Companies Act, 1956. It is further submitted by the learned counsel for the petitioner that whenever the petitioner's company attempted to erect transmission cell phone tower, publics are causing interference. The learned counsel for the petitioner also submitted that by order dated 05.03.2015, the Honourable First Bench of this Court, in W.P.Nos.24976 of 2008 and etc., batch, held that because of the advancement in the science, no one has prevented to erect cell phone towers. It is also submitted that the petitioner has given a complaint dated 24.02.2016 to the first respondent police seeking police protection, for which C.S.R.No.42 of 2016 and since the same has not been considered so far, he has come up with the present petition for the relief stated supra.

4. Considering the facts and circumstances of the case, the petitioner is directed to send a fresh representation to the respondent and on receipt of the same, the respondent is directed to consider the representation to be submitted by the petitioner and pass appropriate orders on merits and in accordance with law, within a period of one week from the date of receipt of copy of this order.

6. This Court has consistently taken the view that no one can be prevented from erecting the cell phone towers on a mere apprehension about



Writ Petition No.19876 of 2023

the effect of radiation from the cell phone tower. The apprehension does not have a scientific backing. Till a positive finding is given in this regard, cell phone towers cannot be prevented to be installed on mere apprehensions.

7. For the reasons stated above, there shall be a direction to the second respondent police to provide police protection to the petitioner for erection of the cell phone tower. The second respondent police shall ensure that the entire process goes on in a smooth manner, without giving rise to any law and order problem and the petitioner shall pay a cost of Rs.10,000/- (Rupees Ten thousand only) to the respondent police towards police protection.

The writ Petition is disposed of with the above direction. No Costs.

06.07.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
gm

N.ANAND VENKATESH, J

gm

To

5/6



Writ Petition No.19876 of 2023

1.The Superintendent of Police,
Tiruvarur.

2.The Inspector of Police,
Vaduvoor Police Station,
Vaduvoor, Tiruvarur District.

3.The Public Prosecutor,
High Court, Madras.

Writ Petition No.19876 of 2023

06.07.2023