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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3627/2020, CM APPL. 12921/2020 & CM APPL. 12925/2020

MS. KIRTI GARG

.....Petitioner

Through: Ms. Jyoti Nayak, Advocate.

versus

NORTH DELHI MUNICIPAL
CORPORATION & ORS.

.....Respondents

Through: Mr. Akhil Mittal, SC with Ms.
Namita Gupta, Advocate for R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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08.10.2024

1. The challenge in this writ petition is to installation of a mobile tower in premises bearing No. 69/10 (Old No. 91), Khasra No. 202, Khewat no. 1, Onkar Nagar-B, Tri Nagar – 110035.
2. Respondent No. 3 – M/s. Indus Towers Ltd., has specifically stated in its counter affidavit dated 22.07.2020 that the mobile tower has been installed in the said premises after obtaining the permission of Municipal Corporation of Delhi [“MCD”]. A copy of MCD’s permission dated 20.03.2020 has also been annexed to the same.
3. This Court by a judgment dated 29.04.2011 in W.P.(C) 3267/2010 [*Cellular Operators Association of India & Ors v. Municipal Corporation of Delhi*] and connected matters has held that temporary structures/



towers on roof tops for providing Cellular Basic Mobile phone services fall within the definition of “building” under Municipal Statutes and all provisions of the Municipal Act and bye-laws are thus applicable. Permission granted for installation of a mobile tower can thus be assailed before the Appellate Tribunal for the MCD [“ATMCD”] under Section 347B of the Delhi Municipal Corporation Act, 1957. By an order dated 11.04.2023 in W.P.(C) 3113/2022 [*Sh. Jai Prakash Gupta vs. North Delhi Municipal Corporation and Ors.*], the petitioner was relegated to alternative remedies in a similar challenge.

4. Relying upon the said decisions, Ms. Jyoti Nayak, learned counsel for the petitioner, seeks permission to withdraw this writ petition, with liberty to approach the ATMCD on such grounds as may be available to her in law.

5. The petition, alongwith all pending applications, is disposed of, with liberty as aforesaid.

PRATEEK JALAN, J

OCTOBER 8, 2024

‘Bhupi’/