

Ab

WPA 26874 of 2024

The State of West Bengal and others.

... for the writ petitioner.

... for the State.

... for the respondent nos. 3 and 10.

... for the respondent nos. 6 and 7.

... for the respondent no. 9.

... for the respondent no. 11.

... for the respondent no. 12 and 13.

The writ petitioner complains that such tower is hazardous inasmuch as it emits electromagnetic waves, which have the potential to cause substantial harm to the individuals around the same. The writ petitioner claims to be inhabitant of the building (Srishti Apartment) which houses the tower.

The writ petitioner submits that a representation made by him before the Telecom Regulatory Authority of India on May 15, 2024 has remained unheeded. He prays for order on the said authority to take steps in terms of the said representation.

Learned Advocate appearing on behalf of the respondent no. 11 disputes the allegation of the writ petitioner in so far as the allegation regarding the hazards posed by the tower is concerned.

Learned Advocate on behalf of the Telecom Regulatory Authority of India, submits that the said authority has nothing to do in the matter and in support of such contention, he places reliance on an order dated March 22, 2023 passed by this Court in WPA 2268 of 2022 (Tapas Barui & ors. vs. The State of West Bengal & Ors.). He places specific reliance on the observations made in the said order at page 7 thereof, which are extracted herein below:

“Having heard the learned advocates for the respective parties, this court finds from the report of the District Panchayat & Rural Development Officer, Hooghly, that the District Level Committee is the appropriate authority to decide the issue with regard to the installation and operationalization of the concerned mobile tower. The authorities are already considering the issue and have called for separate reports. Thus, the prayer of the petitioners with regard to prevention of installation and construction of the mobile tower shall be decided by the District Level Committee in terms of the West Bengal Telecom Infrastructure Guidelines 2020. All the points which have been mentioned by the District Panchayat & Rural Development Officer shall be considered. The local bodies, i.e. the gram panchayat and the zilla parishad are also a part of the committee, and all the issues with regard to the mobile tower and its installation over an unauthorized building shall be considered and decided by the committee, in accordance with law.”

It appears from the perusal of the order dated March 22, 2023 that this Court had an occasion to deal with a similar situation in the case that was presented

before the Court in WPA 2268 of 2022. This Court was pleased to observe that the grievances of such nature are to be addressed by the District Level Committee, who is the appropriate authority to decide the issue regarding installation and operationalization of a mobile tower.

Learned Advocate on behalf of the State files a report and adopts the submissions made on behalf of the Telecom Regulatory Authority of India. He submits that in terms of the order dated March 22, 2023 passed by this Court, the District Level Committee is the appropriate authority to deal with the grievances concerning a mobile tower. The report filed in Court today is taken on record.

Having heard the learned Advocate for the respective parties and having perused the material on record, it appears that no purpose will be served by keeping the writ petition pending. Justice would be sub-served if the writ petitioner is granted liberty to approach the District Level Committee with an appropriate application raising his grievances.

The District Level Committee shall, if any representation is made to it by the writ petitioner pertaining to the said mobile tower erected at the said Sristhti Apartment, take a decision thereon within a period of six weeks from the date of making of such representation upon affording an opportunity of being heard to the writ petitioner, the respondent no. 11 and the other stakeholders.

It is made clear that this Court has not gone into the merits of the claims and counter-claims of the parties including the setting up/erection of the tower and the allegedly hazardous nature of the tower and it will be open to the District Level Committee to arrive at its own conclusion on all points raised before it strictly in accordance with law. The District Level Committee

shall pass a reasoned order upon hearing the parties and shall communicate the same to the writ petitioner within one week of passing of such reasoned order. The entire exercise as aforesaid shall be completed within a period four weeks from the date of communication of a copy of this order.

With these observations, the writ petition being WPA 26874 of 2024 is disposed of.

There shall, however, be no order as to costs.

(Om Narayan Rai, J.)