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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 117/2026, CM APPL. 14967/2026 & CM APPL. 14968/2026
HARJIT SINGHAppellant

Through: Mr. Nikhil Beniwal, Ms. Ishita Kadyan, Ms. Sanchita Beniwal, Mr. Gyanendra Kashyap and Mr. Pulkit Duhan, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI
& ORS.Respondents

Through: Mr. Tushar Sannu and Mr. Pravin Bansal, Advocates for MCD.
Mr. Chandrashakhora Bahrati, Mr. Vishnu Sharma A.S., Mr. Yasharth Mishra, Mr. Arjun Malik and Mohd. Ilyas, Advocates for R-5.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER
12.03.2026

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1. This *intra court* Appeal seeks to challenge the order dated 19.02.2026 (“**Impugned Order**”) passed by the learned Single Judge, whereby the W.P.(C) No. 13577/2025 (“**Writ Petition**”) instituted by the Appellant / Petitioner, has been dismissed.
2. Respondent No. 5, which is a service provider in the area of Telecommunication, had for the purposes of installation of a mobile tower contacted Respondent No. 6, who consented for installation of the mobile tower over the roof top of the third floor of the building being House No. 737, Pocket-I, Janta Flats, Paschim Puri, West, Delhi (“**Subject Premises**”) where



she occupies first, second and third floors. The Subject Premises comprises of four floors namely ground plus 3 floors. Initially, the entire Subject Premises was owned by Respondent No. 6, however, the ground floor of the Subject Premises was purchased by the Appellant / Petitioner, whereby he became the owner of the ground floor of the Subject Premises.

3. On the Application moved by Respondent No. 5, the Wireless Planning and Communication Wing of the Department of Telecommunication, Ministry of Communications, Government of India approved the site in question namely, the rooftop of third floor of the Subject Premises. The said approval was accorded by the Ministry on 11.06.2025.

4. An Application seeking permission for installation of rooftop telecom tower was moved on 12.07.2025 by Respondent No. 5 to the Municipal Corporation of Delhi (“MCD”). Along with the said Application, certain documents were also enclosed namely, Leave and Lease Agreement entered into between Respondent No. 5 and Respondent No. 6, Ownership Papers, No-Objection Certificate from the owner, Structure Stability Certificate issued by the Indian Institute of Technology, Roorkee (“IIT-Roorkee”), SACFA Declaration, Safety Declaration, Indemnity Bond, Location Plan, Building Plan, Landmark, Undertaking, Self-Declaration on DG, etc.

5. The Writ Petition was filed by the Appellant / Petitioner with a prayer to direct the MCD to withdraw the permission granted to Respondent No. 5 for installation of mobile tower on the rooftop of the third floor of the Subject Premises. The learned Single Judge while dealing with the submissions made by the learned Counsel for the Appellant / Petitioner has dismissed the Writ Petition by observing and recording a finding in the Impugned Order that the installation of tower is being made in conformity with the provisions



contained under Rule 15(4) of the Telecommunications (Right of Way) Rules, 2024 (“**Telecom Rules**”) and, therefore, there is no legal infirmity in installation of the mobile tower.

6. Assailing the Impugned Order passed by the learned Single Judge, it has been contended vehemently by the learned Counsel for the Appellant that in terms of the requirement of Rule 15(4) of the Telecom Rules, the service provider has to submit certain information along with the details of the building or structure where the establishment of the mobile tower is proposed and also a copy of the certification by a Structural Engineer authorized by a public entity attesting to the structural safety of the building or structure where the mobile tower or pole is proposed to be established, however, before conducting any survey for the purpose of attesting the structural safety of the building, the Appellant was never associated with any such process and that since the installation was proposed to be made on the rooftop of the Subject Premises where the Appellant owns his flat at the ground floor, any erection of the tower has to be necessarily with the consent of the Appellant for the reason that in case any threat to the structure of the Subject Premises is posed, the Appellant would also suffer.

7. It has further been contended by the learned Counsel for the Appellant that though the installation of the tower is proposed on the rooftop of the third floor of the Subject Premises, any such installation is likely to affect the structural safety of the flat being owned by the Appellant as well and, therefore, it was incumbent upon the authority which conducted the survey for the purpose of the certification in relation to the safety of the Subject Premises, to have associated the Appellant with the same.



8. The submissions made by the learned Counsel for the Appellant, however, do not persuade us to interfere with the Impugned Order in the present Appeal for the reasons which are as follows:

- a) The Parliament, for the purpose of providing a comprehensive legislation for the Telecom sector has enacted the Telecommunications Act, 2023 (“Act”). For the purposes of permitting right of way and other ancillary requirements of the service providers in the Telecommunication sector, the Central Government has framed the Telecom Rules being the Telecommunications (Right of Way) Rules, 2024. The Telecom Rules *inter alia* govern the establishment, operation and maintenance of underground Telecommunication Network in public properties; establishment, operation and maintenance of overground Telecommunication Network in public properties; and establishment, operation and maintenance of Telecommunication Network in properties other than the public properties.
- b) Admittedly, the Subject Premises in the instant case is not a public property rather a private property and, therefore, establishment, operation and maintenance of Telecommunication Network in such a property will be governed by Chapter V of the Telecom Rules. Sub-rule 4 of Rule 15 of the Telecom Rules requires that in case any service provider intends to establish, operate and maintain a mobile tower or a pole over a private property, prior to commencement of such establishment, it shall submit information in writing to the concerned public entity along with the details of the building or structure where the establishment of the mobile



tower or pole is proposed. The said Rule further requires that along with information to be submitted to the public entity, a copy of certification by a Structural Engineer authorized by a public entity attesting to the structural safety of the building or structure, where the mobile tower or pole is proposed to be established, is also required to be furnished. Rule 15(4) of the Telecom Rules is extracted hereinbelow:

“15. Establishment of telecommunication network in property other than public property. –

(4) In the case of establishment, operation and maintenance of mobile tower or pole over such property, the facility provider shall, prior to commencement of such establishment, submit information in writing, in the form provided for this purpose on the portal, to the concerned public entity along with details of the building or structure where the establishment of the mobile tower or pole is proposed, and a copy of certification by a structural engineer authorised by a public entity, attesting to the structural safety of the building or structure where the mobile tower or pole is proposed to be established.”

There is no dispute that the ‘public entity’ where the information is to be submitted in terms of the requirement of Rule 15(4) of the Telecom Rules in the instant case is the MCD. As a matter of fact, the phrase ‘public entity’ occurs at two places in Rule 15(4) of the Telecom Rules. As per the requirement of Rule 15(4) of the Telecom Rules, the service provider intending to establish and operate a mobile tower has to furnish certain information including the certification by a Structural Engineer authorized by ‘a public entity’ attesting to the structural safety of the building or the structure concerned. The phrase ‘public entity’ occurring at the



latter part of Rule 15(4) of the Telecom Rules is preceded by the letter ‘a’. Accordingly, we are of the considered opinion that the phrase ‘a public entity’ occurring in Rule 15(4) of the Telecom Rules would include a public entity other than the MCD as well, insofar as the instant case is concerned.

- c) Public entity has though not been defined in the Telecom Rules, however, in terms of Section 10(1)(b) of the Act, public entity would mean: (i) the Central Government; (ii) the State Government; (iii) local authority; (iv) any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or (v) any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central Government. Section 10(1)(b) of the Act is extracted hereinbelow:

“10. Definition of terms used in this Chapter.—For the purpose of this Chapter,—

(b) “public entity” means,— (i) the Central Government; (ii) the State Government; (iii) local authority; (iv) any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or (v) any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central Government;”

A perusal of the definition of ‘public entity’ occurring in Section 10(1)(b) of the Act reveals that other than the Central Government, State Government or a local authority, public entity would also



mean an authority established by the Central Government under any statute. Accordingly, in furtherance of the requirement of Rule 15(4) of the Telecom Rules, if a certification by a Structural Engineer authorized by a public entity created or incorporated under a statute is given attesting the structural safety of the building or structure concerned, in our opinion, the same would fulfil the requirement of Rule 15(4) of the Telecom Rules read with Section 10(1)(b) of the Act. Insofar as the instant case is concerned, the certification as enclosed by Respondent No. 5 along with its Application submitted to the MCD, in fulfilment of requirement of Rule 15(4) of the Telecom Rules, was issued by the IIT-Roorkee, which has been incorporated under a Parliamentary enactment known as Institutes of Technology Act, 1961 and the Institutes of Technology (Amendment) Act, 2002. Since, IIT-Roorkee has been incorporated under the aforesaid enactments, it will be 'a public' entity within the meaning of said term occurring in Section 10(1)(b) of the Act.

- d) The certification issued by IIT-Roorkee attesting to the structural safety of the Subject Premises is on record, which is dated 24.05.2025. The said certification clearly states that the Subject Premises had been surveyed, and feasibility was checked for installation of a 9 meter-high rooftop Delta with outdoor unit. The certificate also clearly states that the Subject Premises was found suitable in all respects as per the guidelines of the Bureau of Indian Standard (BIS) Codes.



- e) From the discussion made above, it is apparent that IIT-Roorkee is a public entity and, therefore, any certification issued by an authority of IIT-Roorkee will fall within the requirement of Rule 15(4) of the Telecom Rules.
- f) So far as the submission of the learned Counsel for the Appellant that in the survey conducted before issuance of such certificate relating to the structural safety of the Subject Premises, the Appellant was not associated is concerned, we are of the opinion that the certificate issued by IIT-Roorkee cannot be doubted for the reason that IIT-Roorkee is a premier technological institution of the country especially in the field of civil engineering.

Furthermore, the certificate itself clearly mentions that the Subject Premises was surveyed, and we have no reason to doubt the authenticity of such a survey. Moreover, so far as the Appellant is concerned, he cannot plead any right in respect of the rooftop of the third floor of the Subject Premises for the reason that he is the owner only of the ground floor. The rooftop of the third floor of the Subject Premises falls well within the right of the owner of the third floor, which, admittedly, is Respondent No. 6 and the agreement to install the tower has been entered into between Respondent No. 5 and Respondent No. 6. Thus, any such submission made by the learned Counsel for the Appellant is not acceptable.

9. We, thus, do not find any good ground to interfere with the Impugned Order which is under challenge in this Appeal passed by the learned Single Judge. The Appeal resultantly is hereby dismissed. Pending Applications stand disposed of.



10. There shall be no order as to costs.
11. The interim order granted earlier on 11.03.2026 stands discharged.

DEVENDRA KUMAR UPADHYAYA, CJ

TEJAS KARIA, J

MARCH 12, 2026

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