2026:AHC:207585-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 40094 of 2026

Jagdev Singh Chauhan

.....Petitioner(s)

Versus

Union Of India And 9 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Jitendra Rana
Counsel for Respondent(s)	:	A.S.G.I., Anjali Upadhya, Arvind Kumar Goswami, C.S.C.

Court No. - 1

HON'BLE AJIT KUMAR, J.

HON'BLE GARIMA PRASHAD, J.

1. Heard Sri Jitendra Rana, learned counsel for the petitioner, Sri Arvind Kumar Goswami, learned counsel for the respondent No. 1, Ms. Ishita Sand holding brief of Mrs. Anjali Upadhya, learned counsel for the respondent No. 4 and learned Standing Counsel for the State respondents.

2. By means of this petition filed under Article 226 of Constitution of India, petitioners have prayed for a writ of mandamus to command the respondents not to permit the installation, completion or commissioning of the mobile tower at site unless and until the competent authorities are satisfied that all applicable statutory, development, technical, structural and safety requirements have been duly complied with.

3. It is contended by learned counsel for the petitioner that the controversy is no more res integra in the light of the judgment of the Division Bench of this Court passed in writ petition being Writ-C No. 8309 of 2026 dated 20.03.2026.

4. Learned counsel for the respective respondents do not dispute the above argument and submit that this petition may also be disposed of in terms of the order passed by the Division Bench referred to herein above.

5. The directions as contained in the order dated 20.03.2026 are reproduced herein under.

"1. The present writ petition has been filed seeking a direction by way of

issuance of writ of mandamus commanding the respondents not to install the mobile tower at Radha Niwas, Hanuman Vatika, Tatiya and Vrindavan Road, Tehsil and District Mathura.

2. Learned counsel for the petitioner has submitted that the area has immense population of about 3000 and in paragraph No.11 of the affidavit, a categorical assertion has been made that the petitioner is residing within 3 meters distance, from where the tower is being installed. He has also annexed photograph by way of Annexure No.5 to demonstrate that there is an ongoing construction of the tower. He has further placed reliance on a guideline which forms part of the judgment dated 29.01.2015 in Writ-C No.1626 of 2015 (Chhedilal Yadav Vs. Union of India and 5 Others) to submit that a mobile tower may not be erected against the norms laid by the Government regarding the location which is also reproduced hereinbelow:

"Location

Location of communication towers is governed by radio frequency ksystem and cellular operators shall avoid residential areas for erection of the same. The location shall be decided as follows :

i. First preference shall be given to the location of tower in the Forest areas.

ii. Second preference shall be given to the location of tower in the open or public areas away from residential locations.

iii. Where it is not possible to avoid the location of the tower in residential area, the same shall be located in open space or park with prior consent of owners of adjoining residential houses.

iv. Erection of tower shall not be allowed within the radius of 100 metre from residential building, school and hospital."

3. From perusal of the aforesaid guidelines, it is evident that the erection of tower shall not be allowed within the radius of 100 meters from residential building, school and hospital.

4. Sri A.K. Goswami, learned counsel appearing for the Union of India has placed reliance on a judgment of this Court dated 05.01.2023 in PIL No.2494 of 2022, and by way of which in pursuance of Government Order dated 27.03.2015 issued by the Home Department, Government of U.P., a Committee headed by the District Magistrate has been constituted at district level, for considering the aforementioned grievances of the residents of the area, where mobile tower are being erected. He has submitted that at present no construction is underway over the plot in question on the basis of report dated 11.01.2026, which has been annexed as Annexure No.2 to the affidavit filed along with aforesaid writ petition.

5. In view of the aforesaid and by consent of the parties, the present writ petition is being disposed of at admission stage with the following direction:

(i) Petitioner may approach the concerned authority as provided under the Government Order dated 27.03.2015 within a period of 10 days from today.

(ii) In case the petitioner makes a representation before the committee constituted under the Government Order dated 27.03.2015, the committee shall consider his grievance and pass a reasoned order preferably within a period of three weeks from the date of the aforementioned representation.

(iii) Till the said grievance of the petitioner is addressed by the committee constituted under the Government Order dated 27.03.2015, the State shall ensure that no construction takes place over the plot in question.

6. With the aforesaid observation, the writ petition stands disposed of. "

6. This petition is also accordingly **disposed of** in terms of the above.

(Garima Prashad,J.) (Ajit Kumar,J.)

October 5, 2026
A.K.Srivastava

Digitally signed by :-
ARUN KUMAR SRIVASTAVA
High Court of Judicature at Allahabad