



W.P.(MD)No.9854 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2021

CORAM

THE HONOURABLE **MR.JUSTICE G.CHANDRASEKHARAN**

W.P.(MD)No.9854 of 2021

M/s.ATC Telecom Infrastructure Private Limited,  
Rep.by its Authorized Signatory  
Mr.N.Senathipathi, Legal Manager,  
Having Circle Office at "Celesrial Point",  
No.45, Damodharan Street,  
Opposite to T.Nagar Bus Stand,  
T.Nagar, Chennai-600 017. ... Petitioner

Vs.

- 1.The Superintendent of Police,  
District Police Office,  
Nagercoil, Kanyakumari District.
- 2.The Inspector of Police,  
Karungal Police Station,  
Karungal, Kanyakumari District.
- 3.The District Collector,  
District Collector Office,  
Nagercoil, Kanyakumari 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 the effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical & electronics equipments, OFC Cable and its maintenance work on the said BTS transmission tower on the property of Mr.Murali, S/o.Kolappan



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Pillai, bearing N.S.No.222/7 & 222/8, S.No.1859 & 1860, lying and situated at Keelmidalam Village, Vilavancode Taluk, Kanyakumari District, as per the the complaint dated 16.04.2021.

For Petitioners : Mr.M.Karal Marx

For Respondents : Mr.M.Muthumanikkam,  
Government Advocate(Crl.side)

**ORDER**

This writ petition has been filed praying to issue a Writ of Mandamus, to direct the respondents 1 and 2 to provide effective police protection to the petitioner company to erect transmission cell phone tower and to install all the telecommunication electrical & electronics equipments, OFC Cable and its maintenance work on the said BTS transmission tower on the property of Mr.Murali, S/o.Kolappan Pillai, bearing N.S.No.222/7 & 222/8, S.No.1859 & 1860, lying and situated at Keelmidalam Village, Vilavancode Taluk, Kanyakumari District, as per the the complaint dated 16.04.2021.

2.The case of the petitioner is that he is the Authorized Signatory of the petitioner Company and he is working as Legal Manager. The petitioner Company is carrying the business of operation and maintenance of mobile phone towers across India for



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all the mobile phone operators/service providers, who got licence from the Government under Section 4 of the Indian Telegraph Act, 1885. The petitioner Company obtained IP-1 category license from the Department of Telecommunication, Government of India, to provide passive infrastructure to telecom service providers. All the towers are erected and installed upon private property, after obtaining permission in the form of lease from the respective property owners. The Government of Tamil Nadu has exempted the mobile phone tower service providers from getting building plan approval from all Corporations, Municipalities and Panchayats vide G.O.Ms.No.177 and G.O.Ms.No.302. As per Government Orders, the Company need not obtain any specific permission or No Objection Certificate from any local authorities. However, as per the order of this Court in W.P.No.7544 of 2017 and W.P.No.15144 of 2019 and W.P.(MD)No.15974 of 2017, the petitioner Company has to send permission/requisition letter to the District Collector to erect transmission cell phone towers and the District Collector shall pass orders in accordance with the Rules and the order should be passed not later than three weeks from the date of application from the mobile phone tower operators.



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3.The petitioner, in this case, has sent an application to the District Collector on 10.03.2021, which is annexed as document No.2 in the typed-set. The petitioner has also annexed the agreement entered into between the petitioner Company and the land owner, as document No.1. The petitioner has not received any communication from the third respondent/District Collector with regard to the disposal on the petitioner's application dated 10.03.2021 and when the petitioner made arrangements to erect mobile towers, the local residents are causing hindrance and therefore, this petition came to be filed.

4.The learned counsel for the petitioner submitted that the third respondent has not given any disposal to the application dated 10.03.2021 either giving permission or rejecting the request of the petitioner and due to delay in disposing the application, the petitioner is put to hardship and not able to proceed with the erection of cell phone towers, which is need of the hour, in view of the COVID-19 situation prevailing in the world.

5.The installation of mobile towers is utmost importance for the reason that every nook and corner of India through its Villages, Cities, Metropolitans are being connected by telecommunication



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network. Online education and training are the order of the day, when there is no possibility of having physical presence of the students and trainees due to prevailing COVID-19 situation. Hence, the learned counsel for the petitioner prayed for issuing a direction to the respondents 1 and 2 for giving necessary protection for installation of cell phone towers.

6.The learned Government Advocate(Crl.side) appearing for the respondents submitted that in fact, they received a complaint dated 16.04.2021 and prepared to abide by direction of this Court.

7.As rightly pointed out by the learned counsel for the petitioner, erection of cell phone towers to connect India through its length and breadth is absolute need of the hour. We have close to nearly for 16 months so far, due to the prevailing pandemic situation, not in a position to move, interact and do our regular business freely. The situation is that the students are being taught only through online education. Business transaction and official meeting are being held through video conferencing. In fact, the conduct of Court proceedings are being done through video conferencing. Therefore, it is necessary that the information and communication technology network should be expanded for



meeting the growing need. Installation and erection of cell phone towers is one of the necessary steps to be taken for the effective and robust communication network.

8. Admittedly, the petitioner sent an application dated 10.03.2021 to the third respondent / District Collector along with necessary documents seeking permission. It appears that no order has been passed so far. Therefore, the third respondent is directed to

(a) pass appropriate orders on the application dated 10.03.2021 filed by the petitioner, within a period of two weeks from the date of receipt of a copy of this order and the decision taken should be communicated to the petitioner, within a week, thereafter.

(b) Based on the outcome of the application, dated 10.03.2021, the petitioner is at liberty to make proper representation to the respondent police for protection, if any required.

(c) If such representation is received by the respondents 1 and 2, they are directed to consider the same on merits and give proper police protection, if necessary, at the cost of the petitioner.



9. Accordingly, this writ petition is allowed. No costs.

**10.06.2021**

Index :yes/No  
Internet:yes/No  
gns

**NOTE:** In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Superintendent of Police,  
District Police Office,  
Nagercoil, Kanyakumari District.
2. The Inspector of Police,  
Karungal Police Station,  
Karungal, Kanyakumari District.
3. The District Collector,  
District Collector Office,  
Nagercoil, Kanyakumari District.

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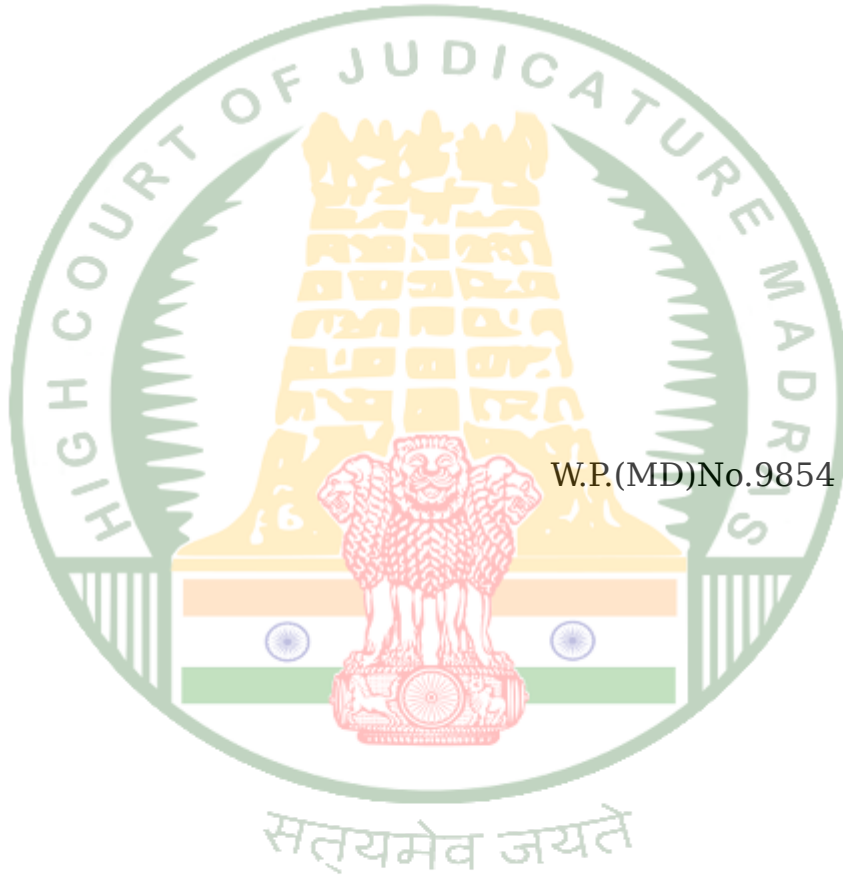
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**G.CHANDRASEKHARAN, J.**

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