

BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH, BHOPAL

Original Application No.31/2013

Ramakant Mishra & Ors Vs. Bharat Sanchar Nigam Ltd., Chhindwara & Ors.

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE MR. P.S.RAO, EXPERT MEMBER**

**PRESENT : Applicant : Ms. Sheetal Saraswat, Advocate on behalf
of Shri Ramakant Mishra, Advocate
Respondent No. 1 : Shri Deepesh Joshi, Advocate**

Date and Remarks	Order of the Tribunal
Item No. 1 23rd October, 2013	<p>The Learned Counsel appearing for the applicant submits that declarations with regard to the translated copies have been filed. The same be taken on record. However, the translation of the order dated 02.02.2011 passed by the Trial Court has not been filed. Learned Counsel undertakes to file a translated copy of the order passed by the Trial Court within two weeks.</p> <p>It has been brought to our notice that a similar case came up for consideration before the Hon'ble High Court of Rajasthan & the Division Bench of the said Court, vide judgement dated 27.11.2012, passed certain directions with regard to location of the mobile phone Towers which <i>inter alia</i> required the telecom operators to shift the towers from three locations namely from the proximity of the educational institutions, from the proximity of the hospitals as well as proximity of play grounds as people in these areas, in the opinion of the Court, were considered to be more prone to the effects of radiation caused by the mobile phone towers.</p> <p>We have also been informed that against the decision of the Hon'ble High Court of Rajasthan an SLP came to be filed before the Hon'ble Supreme Court with the prayer for stay of the implementation of directions and the Hon'ble Supreme Court has not granted any stay in favour of the mobile operators and only extended the time period initially granted by the Hon'ble High Court for relocation of the towers from the aforesaid three locations. It has also been brought to our notice that certain other High Courts are also seized of the matter and a few similar cases are</p>

also pending before the Principal Bench, National Green Tribunal at New Delhi.

The Learned Counsels for the parties seek time to apprise this Tribunal regarding the status of the case pending before the Hon'ble Supreme Court arising out of the decision of the Hon'ble High Court of Rajasthan dated 27.11.2012 as also similar cases pending before the Principal Bench, National Green Tribunal at New Delhi.

It has also been brought to our notice by the Learned Counsel appearing for the respondent no. 1 (Bharat Sanchar Nigam Ltd.) that new guidelines have been issued by the Department of Telecommunications, Government of India on 01.08.2013. The same has been filed as Annexure R-8 alongwith the additional reply filed before this Tribunal by the Respondent (Bharat Sanchar Nigam Ltd.). The Learned Counsel appearing for the Respondent (Bharat Sanchar Nigam Ltd.) seeks time to apprise the Tribunal as to whether before issuance of the above guidelines, the Department of Telecommunications, Government of India took in to consideration the directions issued by the Hon'ble High Court of Rajasthan and also as to whether, since the matter pertains to radiation and its harmful effect on the environment, the matter was referred to Ministry of Environment and Forests, Government of India, before issuing the guidelines dated 01.08.2013 (Annexure R-8) and taken into account the views of the MoEF on the same.

Another issue which has been raised on behalf of the applicant is in respect of the impact on the environment as a result of the use of Diesel Generator Set (DG Set). The Learned Counsel for the respondent shall also apprise the Tribunal by way of supplementary affidavit whether any tests have been carried out and norms fixed are followed with regard to the installation and use of DG Sets which are located with every mobile phone tower.

Since the issue pertains to radiation allegedly caused and the harmful effects on the environment as a result of the location of the Mobile

Tower Antenna though it is pointed out that the guidelines from time to time have been issued laying down standards and norms for the aforesaid purpose, it is submitted before us that it is quite often found that a single tower is often used by more than one service provider for fixing their antenna. In such eventuality, the Learned Counsel for the respondent shall apprise this Tribunal whether the aforesaid action is permissible under the norms of the Department of Telecommunications (DOT). He shall also inform us whether as a result of aforesaid practise of use of single tower for more than one service provider results in multiplication of the radiation emission and in which event what steps are suggested by the DOT in consultation with the MoEF to curb and check the aforesaid practise.

It was also submitted that in many cases mobile phone of towers are erected by more than one telecom company as a cluster in a small area. Whether such combined radiation as a result of location of more than one tower at one place or in close proximity is also permissible or whether the DOT in consultation with the MoEF had laid down any norms for the minimum distance to be maintained from tower to tower, even in case of different service providers.

Learned Counsel for the parties shall submit whether any study in this behalf has been made by any service provider or any other agency whether in any densely populated area, where such towers have been located has resulted in any hazardous effects if any on the environment including human beings and other living creatures. The respondent and the applicant shall be at liberty to place the same before the Tribunal.

Stand over to 17.12.2013 as prayed and as agreed.

.....JM
(DALIP SINGH)

.....EM
(P.S.RAO)