

**BEFORE THE NATIONAL GREEN TRIBUNAL, CENTRAL ZONAL BENCH,
BHOPAL**

Original Application No. 107/2015 (CZ)

Vijay Anand Vs. State of MP & 2 Ors.

**CORAM : HON'BLE MR. JUSTICE DALIP SINGH, JUDICIAL MEMBER
HON'BLE PROF. A.R. YOUSUF, EXPERT MEMBER**

PRESENT : Applicant: Shri Sambhav Sogani, Advocate

Date and Remarks	Order of the Tribunal
Order No.1 16th October, 2015	<p>The Applicant has filed this O.A with the grievance that the Respondent No. 3 has directed and set up a mobile tower on the House Nos. 43, 44 & 45 of Shriram Campus, Ayodhya Bye-pass Road, Bhopal, MP without any due permission and contrary to the guidelines of Department of Telecommunication (DoT) and the directions of the Hon'ble Rajasthan High Court to the DoT, Government of India in case of <i>I S Israni Vs. Union of India</i> which is now a subject matter pending before the Hon'ble Supreme Court in appeal.</p> <p>The Applicant further submits that the Applicant had approached the Hon'ble M.P High Court at Jabalpur by means of Writ Petition No. 8360/2014 filed through the Shriram Welfare Society seeking directions against the State of M.P, the Collector Bhopal and other Respondents as their complaint and representation filed before the Commissioner, Bhopal Municipal Corporation / Respondent No. 3 was not being decided.</p> <p>Vide Annexure A/4 the order dated 04.09.2014 passed by the M.P High Court the Writ Petition was disposed of with the directions to the Municipal Commissioner to decide the complaint of the applicant after affording opportunity of hearing to the defaulting parties or companies or persons. Learned Counsel further submits that despite the aforesaid direction of the Hon'ble High Court in the aforesaid writ petition vide order dated 04.09.2014, the tower was erected and has now been commissioned also and made operational but the Commissioner, Bhopal</p>

Municipal Corporation has failed to decide objections and the complaints submitted by the Applicant.

Learned Counsel further submitted that this Tribunal has also in earlier case of *Praveen Patkar V/s Sarla Tower & Ors.* O.A.No.320/2014 issued directions as well as interim orders that such mobile towers which have been constructed and erected without due permissions and also contrary to the guidelines issued by the DoT and the directions in case of *I S Israni Vs. Union of India* “shall be made non-operational and deactivated by the service providers on ‘precautionary principles’.” The said mobile tower has been made operational.

In view of the above since the petitions are already pending before the Commissioner who is the authority for grant of permission for the construction and establishment of tower at a particular location in accordance with the guidelines and the directions issued by the various courts and Tribunals and the said representation has not yet been decided by the Commissioner, we would direct that the Applicant approach the Commissioner, BMC with the judgement of the Hon’ble High Court of 04.09.2014, if not already having done so along with a copy of this order and we would expect that the Commissioner would take a decision in the matter on the representation of the applicant if not already decided in accordance with the directions issued by the Hon’ble High Court. In case no decision is taken within seven days of the said order being brought to his notice, the Commissioner shall issue orders for the decommissioning of the mobile tower and the same shall be made non-operational.

With the aforesaid direction, this Original Application No. 107/2015 stands disposed of.

.....JM
(DALIP SINGH)

.....EM
(PROF. A.R. YOUSUF)

