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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 23rd February, 2022

+ W.P.(C) 11831/2021& CM APPL. 36584/2021

INDUS TOWERS LTD Petitioner

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Rohit Jain, Advocate

For the Respondents: Ms. Khushboo Nahar and Ms. Latika Malhotra, Advocates
for North DMC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

1. The hearing was conducted through video conferencing.
2. Petitioner impugns work stop notice dated 27.08.2021 requiring the petitioner to stop further work of installation of a telecommunication tower on property bearing No. 50, F-Block, Baljit Nagar, Punjabi Basti, near Ramjas Ground, New Delhi.
3. Learned counsel for the petitioner submits that the permission for installation of a telecommunication tower was duly granted on

23.08.2021 after petitioner had complied with all the requisite formalities and obtained permissions for installation of the said tower.

4. Learned counsel submits that after the tower installation work commenced the impugned work stop notice dated 27.08.2021 was issued requiring the petitioner to stop further construction work.

5. Counter affidavit has been filed by the respondent wherein it is confirmed that permission to commence the installation process was allowed only after receipt of all requisite documents from the petitioner and on completion of all the formalities.

6. The counter affidavit states that the work stop notice had to be issued as complaints were received from residents of F-Block, Baljit Nagar raising objection with regard to installation of tower. Copies of the complaints have been annexed with the counter affidavit.

7. Perusal of the complaints annexed with the counter affidavit show that the only objection taken is that the installation of a tower in the colony is harmful and may cause great harm to children, old people and pregnant women.

8. It is not in dispute that petitioner has complied with all the requisite formalities for installation of the telecommunication tower and permission was granted only after the petitioner fulfilled the

conditions.

9. Petitioner, as per the Circulars of the Respondent-Corporation, has to also comply with the requirements of appropriate protective and preventive measures to be taken post installation and commission of the telecommunication tower.

10. Further, it may be noticed that the objection raised by the residents that the tower is likely to cause harm to children, old people and pregnant women is no longer *res integra* as by judgment dated 26.04.2016 a Division Bench of this Court in *W.P. (C) No. 5550/2015* titled *Kapil Chaudhary & Anr. Vs. Union of India & Ors.* has categorically held that there is no scientific data available to show that installation of mobile phone tower and emission of waves by the said tower is in anyway harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect.

11. The Division Bench in *Kapil Chaudhary (supra)* was considering a public interest petition seeking removal of the mobile towers installed in residential area. The ground raised in the petition *inter alia* was that the presence of the towers will cause diseases on account of radiation that is emitted. The Union of India had filed a Counter Affidavit therein stating that “*many studies have been conducted on the health hazard of radiations of mobile phone*

towers/networks. These studies have been conducted under the aegis of WHO. The studies have concluded that there is no conclusive scientific evidence of adverse health effects due to low level of RF emission from mobile phone towers”

12. The Division Bench after considering several Judgments of various High Courts wherein similar pleas had been rejected held as under:

“12. In view of the above, it is clear that there is no scientific data available to show that installation of mobile phone towers and the emission of the waves by the said towers is in any way harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect. The petitioner has not been able to produce any data whatsoever showing any such harmful effects on the health of human beings. The petitioner has also not been able to show violation of any norms by the respondent.”

13. In view of the above, the work stop notice issued by the respondent Corporation, solely on the ground of the above referred complaints received from residents, is not sustainable. Accordingly, the work stop notice dated 27.08.2021 is quashed.

14. Petitioner would be at liberty to carry out the installation of telecommunication tower as per with the sanction/permission granted by the Corporation in accordance with law. Petitioner shall also comply with the post installation and commission stipulations.

15. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J
FEBRUARY 23, 2022/‘rs’

