

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 31ST DAY OF JANUARY 2015

BEFORE

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

WRIT PETITION NO.202878/2014 (GM-LB)

BETWEEN:

1. M/S. ASCEND TELECOM INFRASTRUCTURE
PVT.LTD. FORMERLY KNOWN AS:
M/S ASTER INFRASTRUCTURE PVT. LTD.,
A REGISTERED COMPANY INCORPORATED UNDER
THE PROVISIONS OF THE COMPANIES ACT,1956
AND HAVING ITS BRANCH OFFICE AT
BAGMANE LAUREL, BAGMANE TECH PARK,
7TH LEVAL, B-BLOCK, 6TH FLOOR
C.V.RAMAN NAGAR, BANGALORE-560093
REPRESENTED BY ITS
POWER OF ATTORNEY HOLDER
Mr. SUBHASH K. BHAT
s/O SRI K. T. BHAT
AGE: 41 YEARS

... PETITIONER

(BY SRI G. G. CHAGASHETTY, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REP. BY ITS SECRETARY
MUNICIPAL CORPORATION,
M.S.BUILDING,
K.R.CIRCLE, BANGALORE

2. THE DEPUTY COMMISSIONER & ADMINISTRATOR
MAHANAGARA PALIKA, BIJAPUR
BIJAPUR TALUKA & DISTRICT
3. THE COMMISSIONER
MAHANAGARA PALIKA, BIJAPUR
BIJAPUR TALUKA & DISTRICT
4. THE POLICE INSPECTOR
BIJAPUR TALUKA & DISTRICT
5. SRI PRAVEENKUMAR
S/O VAJRAKANTH BONDARDE
AGED ABOUT 40 YEARS
OCC: ADVOCATE
6. SRI ASHOK S/O YALLAPPA KABADE
AGED ABOUT 40 YEARS
OCC: BUSINESS
R/O LIG-250, ADARSH NAGAR
BIJAPUR-586103
7. SRI ASHOK
S/O ARANYAKUMAR NAGARALLI
AGED ABOUT 45 YEARS
OCC: BUSINESS
R/O LIG-287, ADARSH NAGAR
BIJAPUR-586103
8. SRI JAFFAR S/O HAJILAL SANGLIKAR
AGED ABOUT 45 YEARS, OCC: SERVICE
R/O LIG-245, ADARSH NAGAR
BIJAPUR-586103
9. SR.RUDRAPPA S/O DUNDAPPA RANJANAGI
AGED ABOUT 35 YEARS, OCC: BUSINESS
R/O LIG-311, ADARSH NAGAR
BIJAPUR-586103
10. SRI SADANAND B. ANGADI
AGED ABOUT 45 YEARS
OCC: BUSINESS
R/O LIG-312, ADARSH NAGAR
BIJAPUR-586103

11. SRI MANJUNATH V. DHARWADKAR
AGED ABOUT 28 YEARS, OCC: COOLIE
R/O LIG-191, ADARSH NAGAR
BIJAPUR-586103
12. SRI MAHANTESH M. HOSAMANI
AGED ABOUT 48 YEARS, OCC: BUSINESS
R/O 91/3D/3, ADARSH NAGAR
BIJAPUR-586101
13. SMT. SHANTHA W/O BASAYYA VIBHUTI
AGED ABOUT 50 YEARS, OCC: BUSINESS
R/O LIG-288, ADARSH NAGAR
BIJAUPR-586103
14. SRI SURESH K.
AGED ABOUT 45 YEARS
OCC: BUSINESS
R/O LIG-247, ADARSH NAGAR
BIJAUPR-586103
15. SRI DEVENDRA S/O YALLAPPA KABADE
AGED ABOUT 50 YEARS, OCC: BUSINESS
R/O LIG 250, ADARSH NAGAR
BIJAPUR-586103
16. SRI VEERANNAGOUDA N. PATIL
AGED ABOUT 45 YEARS, OCC: SERVICE
R/O LIG 252, ADARSH NAGAR
BIJAPUR-586103
17. VISHWANTH KALMESHVAR
AGED ABOUT 30 YEARS, OCC: BUSINESS
R/O LIG-251, ADARSH NAGAR
BIJAPUR-586103
18. SRI CHANNABASAYYA M. HIEMATH
AGED ABOUT 45 YEARS, OCC: SERVICE
R/O LIG-253, ADARSH NAGAR
BIJAUPR-586103
19. PUSHPA W/O SHRISHAIL GACHHINMATH
AGED ABOUT 35 YEARS, OCC: SERVICE

R/O LIG-285, ADARSH NAGAR
BIJAPUR-586103

20. SRI BHASKAR
S/O AMARESH HOSAMANI
R/O LIG-258, ADARSH NAGAR
BIJAPUR-586103
21. SMT. SUVARANA
W/O BHIMARAYA BIRADAR
AGED ABOUT 50 YEARS, OCC: SERVICE
R/O LIG-295, ADARSH NAGAR
BIJAPUR-586103
22. SRI SHIVARAJ
S/O SANGAPPA JATTI
AGED ABOUT 45 YEARS
OCC: BUSINESS
R/O LIG-248, ADARSH NAGAR
BIJAPUR-586103
23. SRI GURUPADAPPA L. CHALAWADI
AGED ABOUT 65 YEARS
OCC: PENSIONER
R/O LIG-246, ADARSH NAGAR
BIJAPUR-586103
24. SRI RAVI M. RATHOD
AGED ABOUT 45 YEARS
OCC: BUSINESS
R/O EWS-163, ADARSH NAGAR
BIJAPUR-586103
25. SRI RAMESH S. BAGALKOT
AGED ABOUT 45 YEAS, OCC: SERVICE
R/O LIG-294, ADARSH NAGAR
BIJAPUR-586103

... RESPONDENTS

(BY SRI SHIVAKUMAR TENGLI, AGA FOR R1 & R4
SRI P.S. MALIPATIL, ADVOCATE FOR R3
SRI S.S. MAMADAPUR, ADVOCATE FOR R5 TO R25
R2 SERVED)

THIS WRIT PETITION FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT BY QUASHING THE IMPUGNED ORDER VIDE NO: MANAPAV/LOVI/TOWER/2043/2013-14, DATED 26.03.2014 IS PRODUCED HERewith FOR THE KIND PERUSAL OF THIS HON'BLE COURT AND MARKED AS ANNEXURE-G, ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner was permitted to erect the mobile tower on 22.03.2014 consequently invested huge amount but respondent No.3 without issuing any show cause notice or without giving any opportunity of hearing all of a sudden revoked the licence issued by it and directed the petitioner not to proceed further. Hence, this petition.

2. On enquiry it is found that the withdrawal/cancellation is on the basis of objections by the neighbourers. When the permission is granted the respondents should not have withdrawn the same.

Hence, he seeks quashing the endorsement and also directions to the authority to permit the petitioner to complete the work.

3. Learned counsel for the respondents submitted that by virtue of guidelines issued by the department of Telecommunications the petitioner should have complied the mandatory relevant provisions namely NOC from Fire station and such other mandatory requirements. Unless such certificates are obtained no persons are permitted to do so.

4. In the light of the above submissions what is gathered is before granting such permission to the petitioner Municipal Corporation might have looked into the guidelines of the Central Government. It is clarified that before granting such permission it is fundamental duty of the concerned authority to examine as to whether the concerned person has complied the mandatory requirements for putting up such tower.

From the permission issued in favour of the petitioner it is not forthcoming as to compliance of said mandatory things. Under the circumstance, petitioner is permitted to make available requisite mandatory compliance in the light of the guidelines issued by the Department of Telecommunications. On being satisfied as to compliance, the respondents are directed to consider the case of the petitioner for the purpose of issuing of licence for putting up tower and further directed to comply the same within three months from the date of compliance made by the petitioner.

Writ Petition is accordingly disposed of.

**Sd/-
JUDGE**

sdu