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

Reserved on: 24.02.2016

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Pronounced on: 26.04.2016

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W.P.(C) 5550/2015

KAPIL CHOUDHARY AND ANR.

..... Petitioners

Through: Mr.Sushil Kr.Jain & Mr. Manish  
Kumar, Advocates

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr.Manish Mohan, CGSC with  
Mr.Shivam Chanana, Ms.Puja Mishra  
& Ms.Manisha Saroha, Advocates for  
R-1  
Mr.Santosh Kumar Tripathi, ASC for  
GNCTD./R-2 & 3

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE JAYANT NATH**

**JAYANT NATH, J. (JUDGMENT)**

1. The present public interest litigation is filed seeking a writ of mandamus directing the respondents to remove the mobile towers installed in the residential area of village Tekhand, New Delhi with immediate effect.
2. It is the contention of the petitioners that they are social workers living in Tekhand village, Okhla Industrial Area, New Delhi which is a village about 700 years old. It is urged that Mobile Phone Company has installed towers in the residential area which is contrary to the policy of respondent No.1-Union of India. As per the policy, no mobile tower can be

installed in a residential area. It is urged that despite the same, no action has been taken against the mobile towers. It is further stated that the buildings being old, the constructions are not in a position to bear the load of the towers. Stress is also laid on the fact that the presence of the towers will cause diseases on account of radiation that is emitted. It is stated that the people are already suffering from cancer and two persons, namely, Sh. Kishan and Sh.Zile Singh have died of cancer disease. Based on these submissions, the present writ petition is filed.

3. The respondent No.1-Union of India have filed its counter affidavit pointing out that the contentions of the petitioners about there being any radiation or any emissions which are harmful to the health of the citizens are baseless. It is urged 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.

4. Reliance is also placed on the judgments of the High Courts of Kerala, Madras, Punjab & Haryana, Allahabad, Delhi and Ahmedabad to contend that similar pleas have been rejected by all these High Courts.

5. We have heard learned counsel for the parties and gone through the record. Learned counsel for the petitioner has relied upon the judgment of the Allahabad High Court in the case of ***Ram Singh Jauhari vs. Union of India, Case No. 11275/2010*** where certain observations have been made based on the report of Prof. Girish Kumar that people residing in the vicinity of cell towers may suffer from different diseases. Based on these observations, the Allahabad High Court had directed the Government of

India to constitute a committee of five members to submit a report. On the basis of the report Government was to take necessary precautions.

6. Learned counsel appearing for the respondent has reiterated the submissions made in the counter affidavit. He has also filed a compilation of various judgments of different high courts where such contentions raised have been rejected. The judgments relied upon are as follows:

- (i) ***Dhup Singh vs. Union of India, 2014 SCC P&H 12408.***
- (ii) ***Reliance INFOCOM Ltd. vs. Chemanchery Grama Panchayat & Ors., 2006 SCC Ker 247.***
- (iii) ***K.R.Ramaswamy @Traffic Ramaswamy vs. Union of India, W.P.No.24976/2008, Madras High Court.***
- (iv) ***Muktipark Co-operative Society vs. Ahmedabad Municipal Corporation, SCA No.5548 of 2014, Gujarat High Court.***
- (v) ***Ashwani Vs. State of U.P., PIL No. 40535 of 2013, Allahabad High Court.***
- (vi) ***Resident Welfare Association vs. UOI., W.P.(C) 8661/2015, Delhi High Court.***

7. A perusal of the petition filed shows that it completely lacks material particulars. Except making allegations of ill effects of radiations from mobile phone towers, there is no attempt to substantiate or support the submissions.

8. The counter affidavit, on the other hand, has placed on record detailed facts to demonstrate that radiations from mobile phone tower are not known to have any adverse health effect. Some of the relevant portion of the counter-affidavit reads as follows:-

“16. ... WHO has referred to approximately 25,000 studies, conducted around the world over past 30 years, and based on an in-depth review of scientific literature, has concluded: “current evidence does not confirm the existence of any health

consequences from exposure to low level electromagnetic fields”. . . .

17. That with reference to Electromagnetic Radiation emanating from cellular mobile towers, World Health Organization (WHO) in its Fact Sheet No. 304, May 2006 on Electromagnetic Fields and Public Health (Base Stations and Wireless Technologies) has concluded that “considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak RF Signals from base stations and wireless networks caused adverse health effects. From all evidence accumulated so far, no adverse short or long term health effects have been shown to occur from the RF Signals produced by based stations.”

9. Reference may also be had to the judgment of the Division Bench of the Kerala High Court in the case of ***Reliance INFOCOM Ltd. vs. Chemanchery Grama Panchayat & Ors., 2006 SCC Online Ker. 247: AIR 2007 Kerala 33***. That was a case in which the mobile phone company was seeking to erect a mobile base station. The plan was approved by the Panchayat and the petitioner was issued a building permit. However, when the petitioner started preparation for constructing the tower, certain segments of the local population raised objections. The Panchayat acting on complaints received from the local residents cancelled the permit issued to the petitioner apprehending that apart from pollution, the radiation from the tower would cause a health hazard. The Kerala High Court noted that the panchayat had no scientific data or relevant material to cancel the license already granted on the ground that the installation of the tower would cause any health hazard. Based on the same, the writ petition was allowed. Reference may be had to the following observations of the court.

“2. .... The above issue came up for consideration before a Division Bench of the Bombay High Court in WP No. 2112 of

2004. The Bench directed the Ministry of Health and Family Welfare, Government of India to conduct a scientific study on the issue. The ministry of Health and Family Welfare on the direction of the Bombay High Court constituted a Committee under the Chairmanship of Dr.N.K.Ganguly, DG ICMR to evaluate the following aspects.

1. Whether it is advisable to frame and/or adopt interational guidelines pertaining to installation of Base Stations by mobile telephone service providers, so as to avoid any potential risk to health and safety to public at large.

2. Explore the possibility for studying the course of action and framing a reaserach project.

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3. Report submitted before the Bombay High Court was made available by Shri Santhosh Mathew, Advocate which gave us considerable scientific insight for resolving the problem posed before us. Petitioner has also stated that the experiments conducted in and around BTS towers at points where the public is likely to be exposed has proven that emission at these points are 150,000 times below the level at which significant heating can occur. Petitioner has also produced a chart showing a comparison between mobile base station and other sources of radio frequency which stated that 200 microwatts is the safe exposure limit set by different regulatory bodies. Petitioner has made a comparison of power density (Microwatts/sq.cm.) between AM Radio, FM Radio, Mobile Base Station, UHF TV, VHF TV, Paging Services etc. and submitting that radiation from the Mobile Base Station is less compared to that of AM Radio and FM Radio. Atomic Energy Regulatory Board also submitted a report before the Bombay High Court in WP No.2112 of 2004. Report states that radio frequency waves used for mobile phones are not covered under the definition of "radiation" as given in the Atomic Energy Act, 1962 and non ionizing radiations do not have the capability to ionize the

matter with which they interact. Radiation Protection Division (NRPB) of the U.K. Health Protection Agency in the year 2000 has reported that the balance of evidence indicates that there is no general risk to the health of people living near the base stations on the basis that exposures are expected to be small fractions of guidelines. Scientific data made available to the Court would indicate that the use of mobile phone, AM Radio, FM Radio etc. is more harmful to the human beings compared to the power emission from the base Transcieving Stations and that of Mobile Towers. Surveys conducted in proximity to base stations indicate that the public is exposed to extremely low intensity RF fields in the environment and all the evidence indicates that they are unlikely to pose a risk to health. We may in this connection also refer to the order of the Delhi High Court in OS 1121/02 wherein the court opined that so far there is neither any conclusive research nor authoritative scientific evidence to show that the radiations emitted by such Transmission Towers are dangerous to the health of human beings.”

10. Reference may also be had to the judgment of the Division bench of the Ahmadabad High Court in the case of ***Multipark Co-operative Society vs. Ahmedabad Municipal Corporation (supra)***. That case was also filed in public interest by local residents claiming that the installation of WiFi mobile towers was in violation of the guideline issued by Union of India and is likely to cause a potential health threat due to the emission of radio-active waves from the said towers. The High Court relying upon the above-noted judgment of the Kerala High Court further held as follows:-

“19. Based on such recommendations of the Inter-Ministerial Committee, the Government of India has now adopted stricter norms for emission from the base stations, being 1/10th of the limits prescribed by ICNIRP. Accordingly, the licence conditions of all the telecom service providers in India were again amended to this effect. The letter dated 26.6.2013 issued

by the DoT refers to the amendment made to the Licence Agreements in this regard.

20. The DoT has thereafter issued guidelines effective from 1.8.2013, which, inter alia, reflect the adoption of 1/10th of the limits prescribed by ICNIRP. The comparative table given in the reply of the respondent no. 2 and also reproduced hereinbelow gives the norms prevalent in India as against those prescribed by the ICNIRP:

Frequency (in Mega Hertz or MHz)	Power Density Limit prescribed by ICNIRP (in Watt/meter <sup>2</sup> or W/m <sup>2</sup> )	Power Density Limit prescribed by DoT (in Watt/meter <sup>2</sup> or W/m <sup>2</sup> )
900	4.5	0.45
1800	9	0.9
2100 and above	10.5	1

11. In the light of these facts, the writ petition was dismissed. However, the court passed the following directions.

“31. Before parting with this matter, we deem it necessary to mention that the concerned authorities should, by way of communication through T.V., Radio etc. bring it to the notice of the people at large that there is no reason for them to fear the erection of the Base Transceiver Station, known as the Wi-Fi Mobile Tower. The reason why we are saying so is that the impression in the mind of a common man is that the Wi-Fi Mobile Towers erected all over the State has the potential to cause health hazard due to the emission of radio active waves from the said tower.”

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. Regarding the judgment in the case of ***Ram Singh Jauhari vs. Union of India (supra)*** passed by the Allahabad High Court relied upon by the petitioners, the observations made in the said judgment are based on a report of Prof. Girish Kumar. These were prima facie observations and the directions were issued to constitute a committee to go into the issue. No details are forthcoming about the outcome of the report of the committee. In the absence of the same, in our opinion, the said directions of the Allahabad High Court do not in any way support the case of the petitioners.

14. The writ petition being without merit is dismissed

**(JAYANT NATH)  
JUDGE**

**CHIEF JUSTICE**

**APRIL 26, 2016**  
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