



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 91 OF 2023

Jagruk Nagrik Sanghatana and Others

....*Petitioners*

: *Versus* :

The State of Maharashtra and Others

....*Respondents*

Ms. Shriya Awale (*Through VC*), *for the Petitioners.*

Mr. Sugandh Deshmukh *with Mr. Yatin Malvankar, Mr. Irvin D'souza, Mr. Aniket Kanawade & Mr. Vaibhav Thorve, for Respondent No. 6.*

Mr. O.A. Chandurkar, *Additional Government Pleader with Ms. R. A. Salunkhe, AGP for Respondent No. 1-State.*

Mr. Deepak R. More *with Mr. Shivram A. Gawade, for Respondent No. 4.*

Ms. A.R.S. Baxi, *for the Respondent No. 5.*

Mr. Akshay Naidu *with Ms. Nidhi Chauhan i/b Mr. Vishwanath Patil, for Respondent No. 7.*

CORAM : ALOK ARADHE, CJ. &
SANDEEP V. MARNE, J.

Reserved on : 21 AUGUST 2025.

Pronounced on : 26 AUGUST 2025.

JUDGMENT :- *(Per Sandeep V. Marne, J.)*

1) The petition is filed in Public Interest Litigation seeking directions against the three local authorities viz. Pune Municipal Corporation, Pimpri Chinchwad Municipal Corporation and Pimpri Chinchwad New Town Development Authority to remove illegally erected telecommunication towers with multiple antennas at the premises of Petitioners, as well as at various locations indicated in the petition. Petition also prays for a direction against the Department of Telecommunications (“**DoT**”) as well as the State Government for creation of Grievance Redressal Committees at State, District and Local levels as per DOT guidelines dated 1 August 2013. The petition also seeks a direction for holding public hearings before erecting of telecommunication towers in a particular area.

2) Jagruk Nagrik Sanghatana is claimed to have been formed by Petitioner Nos. 2 to 6 and 9 along with various other persons, who work on issues relating to hazardous effects of Electro Magnetic Radiations of telecommunication towers, erected in densely populated localities. Petitioners collectively believe that radiations from telecommunication towers cause various health hazards and amounts to a violation of health rights which are directed connected with ‘living with human dignity’ under Article 21 of the Constitution of India. It is contended that a mobile tower with multiple antennas has been erected adjacent to the structure of Petitioner No.2. Petitioner No.2 has been suffering due to noise and air pollution of the D.G. set of the mobile tower. The family members of Petitioner No.2 started suffering from high blood pressure and heart problems,

and in the year 2017, he lost his wife due to cancer. Petitioner No.2 believes that the radiations from the telecommunication tower have killed his wife. Petitioner No. 3 resides at Nigadi in the jurisdiction of Pimpri Chinchwad New Township Development Authority (“PCNTDA”) and claims that many people residing around the tower, erected 100 mtrs. from his residence, are suffering from high blood pressure and have succumbed to cancer. Petitioner No. 4 is also resident of PCNTDA and a telecommunication tower is erected 50 mtrs. away from his residence. The wife of Petitioner No.4 was detected with breast cancer in absence of any history of cancer in the family. Petitioner No.5 is a medical professional and has formed Jagruk Nagrik Sanghatana. It is claimed that Petitioner No.5 has studied the phenomenon of electromagnetic radiations and has also published a book on the subject. Petitioner No.6 is a member of Petitioner No.1-Association. Petitioner No.7 is a social worker and an expert in electromagnetism, who claims to have studied various research materials relating to emissions from telecommunication towers and other wireless equipment, and their biological hazards. Petitioner No.8 is also a medical professional, having dispensary at Ghorpade Peth, Swargate, Pune. On the top of terrace of building of Petitioner No.8, telecommunication tower with multiple antennas was installed in 2007. It is claimed that due to electromagnetic radiations, the landlord/owner of the building succumbed to cancer in October 2007. That Petitioner No.8 himself suffers from high blood pressure, asthma and insomnia since 2009. His colleague has also suffered from migraine, high blood pressure and sleep disturbance. Petitioner No.9 is resident of PCNTDA and a telecommunication tower has been erected at a distance of less than 100 mtrs. from his residence. Petitioner No. 9 has lost both his parents in the year 2016 and 2018 respectively due to cancer. Petitioner No.9

believes that the deaths of his parents were caused because of harmful radiations emanating from the said telecommunication tower.

3) Petitioner No.9 filed application under the Right to Information Act, 2005 with PCNTDA to find out legality of telecommunication tower erected near his residence, and whether PCNTDA had issued any permission to the said telecommunication tower. Petitioners also sought information relating to illegal telecommunication towers erected in PCNTDA area and were issued list of such illegally erected towers vide reply dated 6-7 December 2018. Petitioners complained to PCNTDA about such telecommunication towers and demanded their removal. Petitioners have also attached a list of telecommunication towers erected in densely populated areas on residential buildings in PCNTDA and PCMC areas. Petitioners have also complained to various authorities, highlighting hazardous effects of electromagnetic radiations on citizens residing in proximity of telecommunication towers.

4) Petitioners have contended in the petition that several telecommunication towers have been illegally erected in densely populated residential areas in the jurisdiction of PCNTDA, PMC and PCMC. Accordingly, Petitioners initially filed the present Petition as a Writ Petition under Article 226 of the Constitution of India, which was numbered as Civil Writ Petition (Stamp) No. 4016 of 2019 seeking removal of telecommunication tower from the residential building of Petitioner No. 8 as well as telecommunication towers erected near the residences/premises of Petitioner Nos. 2, 3, 4 and 9. On 12 August 2022, a Bench of this Court opined that the reliefs sought in the petition are in the nature of a Public Interest Litigation,

and accordingly granted leave to the Petitioners to convert the Writ Petition into a Public Interest Litigation. Accordingly, the petition has been numbered as PIL No. 91 of 2023.

5) Ms. Shriya Awale, the learned counsel appearing for the Petitioners would submit that radiations emanating out of telecommunication towers create various health hazards and erection of such towers in densely populated residential areas amount to a violation of health rights, directly connected with the concept of living with human dignity under Article 21 of the Constitution of India. That Petitioners and their family members have suffered and continue to suffer ailments due to health hazards emanating out of telecommunication towers. That many of them have already succumbed to cancer caused due to electromagnetic radiations emanating out of the telecommunication towers. That Petitioners have produced list of telecommunication towers, which are erected without securing development permissions from respective local authorities. That the Press Release by WHO reported that telecommunication tower radiations are Class IIB carcinogenic. She would rely upon judgment of Rajasthan High Court in *Justice I.S. Israni (Retd.) and Another Versus. Union of India and Others*¹ in support of her contention that telecommunication towers cannot be installed in densely populated residential areas. That when the risk of health and human being is involved the balance tilts in favour of saving health hazard.

6) Ms. Awale would further submit that hundreds of telecommunication towers have been installed in Pune and Pimpri Chinchwad cities without seeking permission from local authorities.

¹ D. B. PIL No. 2774/2012 decided on 27 November 2012

That there are dues to the tune of Rs. 650 crores towards property tax from such illegally erected telecommunication towers. That, however, the scope of the present petition is not restricted to the aspect of permissions to be granted by local authorities for erection of telecommunication towers and that the petition seeks to highlight wider issue of adverse effect of such towers on the health of citizens. She would invite our attention to the provisions of new Telecommunications Act, 2023 and Telecommunications (Right to Way) Rules, 2024 and submit that the Act and the Rules do not permit illegal erection of telecommunication towers. That Government Resolution (GR) dated 19 June 2025 has no application to the present case as the petition highlights erection of illegal telecommunication towers prior to coming into effect of the said GR. She would also rely an order passed in *Bhupesh Sehgal and Others Versus. Delhi Development Authority and Others*² in support of her contention that the Supreme Court has directed shutting down of telecommunication tower on the ground of electromagnetic radiations causing cancer. She would accordingly pray for removal of all telecommunication towers from densely populated residential areas, for removal of all unauthorised towers and for recovery of property taxes in respect of all such towers.

7) Mr. Sugandh Deshmukh, the learned counsel appearing for Respondent No. 6-Tower and Infrastructure Providers Association (TAIPA) would oppose the petition submitting that there is no concrete evidence of telecommunication towers having any adverse impact on health of residents. That issue is clearly covered in judgment of Division Bench of this Court in *Biju K. Balan and Others Versus. State of Maharashtra and Others*³ as well as the Division Bench

² Order dated 30 March 2017 passed in Civil Appeal No. 2612 of 2016

³ (2019) 5 Mah LJ 436

of Himachal Pradesh High Court in *Vijay Verma Versus. State of Himachal Pradesh and Others*⁴. He would submit that the said judgments have been consistently followed by this Court in various judgments including *Indus Towers Limited Versus. Grampanchayat and Others*⁵, *Indus Towers Limited Versus. State of Goa and Others*⁶ and *Indus Tower Limited Versus. Gram Panchayat Tanang*⁷.

8) Mr. Deshmukh would further submit that the DoT had issued Guideline dated 1 August 2013 for regulating installation of telecommunication towers. That the State Government had issued GR dated 4 March 2014 containing provisions inconsistent with the DoT guidelines. That this Court in *Towers and Infrastructure Providers and Others Vs. State of Maharashtra*⁸ ruled that the DoT policy would prevail over the State directives. He would submit that under the Indian Telegraph Right of Rules 2016 read with clarification dated 22 May 2018 issued by DoT, telecommunication tower can be erected on payment of administrative fees of Rs. 10,000/- and that there is no requirement of seeking development permission of planning authorities under the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act). He would rely upon various policies formulated by Government of Maharashtra from time to time as well as the amended Rules.

9) Mr. Deshmukh would rely upon provisions of Telecommunications Act, 2023 brought into force with effect from 26 June 2024 as well as the Telecommunications (Right of Way)

4 (2015) SCC OnLine HP 2722

5 (2023) SCC Online Bom 1472

6 (2022) SCC OnLine Bom 6863

7 (2025) SCC Online Bom 2232

8 Writ Petition No. 2043 of 2014 decided on 25 August 2014

Rules, 2024. That in pursuance of the new Act and the Rules, GR dated 5 February 2025 has been issued by the State Government. That a separate direction has been issued by the State Government vide circular dated 21 May 2025 to all local authorities directing them to follow the provisions of the new Act and the Rules. That under the new Act and Rules, it is not necessary for the telecommunication tower companies to take development permission from local authorities, but the installation can be done by merely issuing an intimation in writing. That mobile tower and mobile services are treated as essential services which aid in achieving speedy growth of economy. That therefore no action can be taken against mobile towers only on account of baseless apprehensions raised by the Petitioners in the present petition. He would pray for dismissal of the petition.

10) We have also heard Mr. More, the learned counsel appearing for Pimpri Chinchwad Municipal Corporation, Mr. Naidu, the learned counsel for Pune Municipal Corporation, Ms. Baxi, the learned counsel appearing for Maharashtra State Electricity Distribution Company Limited and Mr. Chandurkar, learned Additional Government Pleader appearing for Respondent No.1-State.

11) After having considered the submissions canvassed by the learned Counsel appearing for the parties, it is seen that the petition was initially filed to espouse private rights of Petitioner Nos. 2, 3, 4, 8 and 9 as the petition specifically contains a prayer for removal of mobile towers from/near the premises of those Petitioners. This is the reason why the petition was initially filed as a Writ Petition espousing private right of some of the Petitioners. However, since some of the

prayers in the petition are not restricted to personal rights of any of the Petitioners, this Court thought it appropriate to direct conversion of the petition into Public Interest Litigation. It would be apposite to reproduce the prayers in the petition, which read thus :-

“1. That the Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other appropriate writ directing to Respondent No. 2, 3, 7 to remove illegal erected mobile towers with multiple antennas at the top of Petitioner No.8- Dr. Suresh Gokhale's clinic at Bankar Niwas, 502, Shivaji Road, Ghorpade Peth, Swargate, Pune - 411042.

2. That the Hon'ble Court be pleased to issue writ of mandamus or writ in the nature of mandamus or any other appropriate writ directing to Respondent No. 2, 3, 4 to remove illegally erected mobile towers with multiple antennas erected at-

(i) Near Petitioner No. 2's house at bungalow of Mr. Pandit at Sector 28, Plot No.182 Pradhikarn (PCNTDA), Nigadi, District Pune;

(ii) Near Petitioner No.3's house in Sector 25, Plot No.329, Pradhikarn (PCNTDA) Nigadi, District Pune;

(iii) Near Petitioner No.4's house at Sector 27A, Plot No.412 Pradhikarn (PCNTDA) Nigadi, District Pune and

(iv) Near Petitioner No.9's house at Plot No.388, Sector 27. Pradhikaran, Nigadi, Pune-411044.

3. That the Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other appropriate writ directing the Respondent Nos. 2, 3, 4, 6 and 7 (i.e. PCNTDA, PCMC, MSEB and PMC) to immediately remove the illegal towers erected in the area of PCNTDA, PCMC and PMC including the mobile towers mentioned in Table No.1 and Table No.2 (Annexure 'E' and 'F').

4. That the Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other appropriate writ directing the Respondent Nos. 1 and 2 that Grievance Redressal State, District and

Local Level Committees shall be formed as per DOT Guidelines of 1/08/2013.

5. That the Hon'ble Court be pleased to issue writ mandamus or writ in the nature of mandamus or any other appropriate writ directing the Respondent Nos. 1 and 2 to hold public hearing before erection of a mobile tower in a particular area.

6. Considering the continuous health hazards and illegality of the Mobile Towers, the Respondent Nos. 3, 4 and 7 may kindly be directed to file their replies along with all related documents, tabulated data regarding illegally erected mobile towers in their areas, their service provider companies and the pending dues from them.

7. Ad interim relief in terms of prayer clause (1) and (2) be awarded in favour of the Petitioners as follows-

(a) Till the final hearing and decision of this Writ Petition, the directions may kindly be issued to Respondent No.7 -Pune Municipal Corporation to remove/deactivate the illegal mobile tower erected at the top of dispensary of Petitioner No.8-Dr. Suresh Purushottam Gokhale, at Bankar Niwas, 502, Shivaji Road, Ghorpade Peth, Swargate, Pune -411042.

(b) Till the final hearing and decision of this Writ Petition, the directions may kindly be issued to Respondent No. 3- PCNTDA to remove or deactivate the illegal mobile towers erected near the residential houses of Petitioner No.2, 3, 4 and 9 at Pradhikaran, (Nigadi area) Pune-411 044.

8. Any other just and equitable orders may kindly be passed.”

12) Petitioner have essentially raised twin grievances in the petition. Firstly, Petitioner have highlighted the adverse impact on the health of public on account of electromagnetic radiations emanating out of telecommunication towers. They contend that mobile towers cannot be installed in densely populated residential areas. Petitioners have also claimed that the electromagnetic radiations emanating from telecommunication towers have caused ailments like cancer, high

blood pressure, migraine, etc. to Petitioners as well as to their family members and have also claimed that deaths of some of the family members of the Petitioners are attributable only to such radiation. The second grievance of the Petitioners is that several telecommunication towers have been erected in cities of Pune and Pimpri Chinchwad without securing any permissions from the local authorities. Petitioners have accordingly prayed for removal of illegally erected mobile towers. Petitioners have also contended that there are huge dues towards property taxes in respect of several telecommunication towers and have accordingly sought a direction for recovery of such property taxes dues.

13) We first take up the grievance of the Petitioners about the health hazards being caused due to electromagnetic radiations emanating from telecommunication towers. The issue no more *res integra* and is squarely covered by Division Bench judgment of this Court in **Biju K. Balan** (supra). The petition was filed challenging grant of permission by Municipal Corporation for erecting of telecommunication cell sites, base station and installation of equipment for telecommunication network on the ground that the same would have adverse impact on health and well-being of residents in the vicinity of the location. It was contended on behalf of the Petitioners that the permission was granted in utter disregard to the ill effects resulting through electromagnetic radiations. Reliance was placed on certain reports of parliamentary studies as well as other research material in support of the contention that the electromagnetic radiations emanating from telecommunication towers have adverse impact on human and other living creatures. It was contended that the human life could not be placed in peril in the light of existence of opinions about removal effect of electromagnetic

radiations on human life. The Division Bench considered the above objections and held in paragraphs 34, 35, 47 to 51 and 55 as under :-

34. This propels us to the fundamental challenge to the impugned permissions on account of the alleged deleterious effects of the electro-magnetic radiation emanating from the TCS/BS. It was urged with a degree of vehemence on behalf of the petitioners that respondent No. 1 has granted the permission for erection of the TCS/BS in utter disregard to the ill effects of electro-magnetic radiations. Banking upon certain reports of the Parliamentary Studies and the other research material, the learned counsel for the petitioners would urge that the majority of the studies have indicated that the electro-magnetic radiation emanating from TCS/BS have negative impacts upon humans and other living creatures.

35. Amplifying the aforesaid submissions, it was urged that the human life cannot be placed in peril when there is a body of opinion which indicates electromagnetic radiation is harmful to human life and well-being. It was submitted that the fact that it has not been conclusively proved that the electro-magnetic radiation emanating from TCS/BS and Equipments for Telecommunication Network is harmful to human beings, plants and animals is not decisive. On account of the existence of material which alludes to the possibility of ill effects of electro-magnetic radiation for human beings, plants and animals, on the touchstone of “precautionary principle”, it is necessary to address the situation by denying the permission to erect TCS/BS and for installation of Equipments for Telecommunication Network, the potential environmental hazard.

47. It was submitted on behalf of the petitioners that in the analysis, referred to in the report on Possible Impacts of Communication Towers on Wildlife including Birds and Bees (extracted above), majority of studies have shown impact of electro-magnetic radiation on humans, and, therefore, the permission for erecting the TCS/BS and installation of Equipments for Telecommunication Network is required to be stalled.

48. We are unable to accede to this submission. The issue cannot be tested on the numerical strength of the reports without examining the nature of the scientific material and findings therein. It would be too simplistic way to deal with the issue. Unfounded and unsubstantiated claims do not command scientific weight. The mere fact that in majority of studies adverted to in the aforesaid Report some or other impact of the electro-magnetic waves was found on humans does not justify the conclusion that the electro-magnetic radiation emanating from TCS/BS has adverse and ill effects on human health and well-being.

49. The learned counsel for the petitioners placed reliance on a judgment of the Rajasthan High Court in case of Justice I.S. Israni (Retd.) v. Union of India., DB PIL Petition No. 2774/2012 wherein the Rajasthan High Court has upheld the validity of the bye-laws framed by the State Government to prohibit the installation of towers on play grounds, hospitals and

places within vicinity of 500 mtrs. from jail premises and also near ancient monuments and old heritage buildings, as being neither illegal nor arbitrary. The aforesaid ruling does not assist the case of the petitioner. In the said case, the situation was converse. The validity of the duly framed byelaws, which restricted the erection of the TCS/BS and installation of Equipments for Telecommunication Network, was under challenge therein. In the case at hand, the State Government has taken a policy decision to permit the erection of TCS/BS and installation of Equipments for Telecommunication Network with certain conditions. Thus, the aforesaid judgment will be of no assistance to the petitioners.

50. It would be contextually relevant to trace the development of the regulatory regime over a period of time based on orders passed by various High Courts as well as the reports submitted by the Expert Committees/Parliamentary Standing Committees on the possible threat of electro-magnetic radiation:—

- (i) In April 1998, the ICNIRP prescribed the safe levels of electromagnetic radiation from the Base Stations.
- (ii) In May 2006, the World Health Organization issued a Fact-Sheet wherein it was, inter-alia, observed that considering the very low exposure levels and research results collected till date, no convincing scientific evidence could be gathered to arrive at the conclusion that the weak RF signals from the base stations and wireless networks cause adverse impact on the health of the human beings.
- (iii) In the year-2008, the Government of India adopted the restrictions and limits recommended by the ICNIRP guidelines.
- (iv) Vide letter dated 4th November 2008, the DOT modified the terms of license agreement.
- (v) On 8th April 2008, the DOT directed all licensees to comply with prescribed limits/levels and also to issue self certification in respect of Base Stations. It was also directed to limit the radiation from the Cell Phone Towers to 1/10th of the limits prescribed by the ICNIRP guidelines.
- (vi) An Inter-Ministerial Committee was constituted to examine the effect of electro-magnetic radiation from the BTS and Mobile Phones, which submitted its report, inter alia, recommending that the RF Exposure limits in densely populated area may be lowered to 1/10th of the existing level.
- (vii) Based on the report of the Inter-Ministerial Committee, the Government adopted stricter norms on emission from the base stations being 1/10th of the limits prescribed by the ICNIRP.
- (viii) The Advisory Guidelines for State Government for issue of clearance for installation of mobile towers came to be issued by the Department of Telecommunications on 1st August 2013 and the following limit for radiation based transmission station, which is 1/10th of ICNRP, came to be prescribed:—

Frequency	ICNIRP Radiation Norms	Revised DOT Norms
900 MHz	4.5 Watt/Sqm.	0.45 Watt/m2.
1800 MHz	9 Watt/Sqm.	0.90 Watt/m2
2100 MHz and above	10.5 Watt/Sqm.	1 Watt/m2.

- (ix) Additional Guidelines to TERM Cells for auditing BTS for EMF radiation issued, with effect from 1st August 2013, and safe distance from the mobile towers came to be prescribed, which are as under:

Number of antenna(e) pointed in the same direction	Building/Structure safe distance from the antenna(e) at the same height (in Meters)
1	20
2	35
4	45
6	55

- (x) The latest advisory on health risk associated with mobile phones and BTS of the World Health Organisation (WHO) reads as under:

—
 “Studies to date provide no indication that environmental exposure to RF (radio-frequency) fields, such as from base stations increases the risk of cancer or any other disease ”

- (xi) The Regulations dated 4th March 2014 issued by the Government of Maharashtra incorporates all these precautions and safeguards envisaged by the Advisory Guidelines of Department of Telecommunication, Government of India. The issue of electro-magnetic radiation norms has been specifically dealt with in Clause 7 of the said Regulations. The safe distance requirement is provided in the table below sub-clause (d) of clause (6) of the said Regulations.

51. In the backdrop of the aforesaid regulatory regime, we are inclined to hold that the field is not left unregulated and un-canalized. On the other hand, the standards which are prescribed in the matter of radiation norms are 1/10th of the International norms. There are adequate regulations to ensure that the installation of TCS/BS and Equipments for Telecommunication Network do not cause unwarranted intrusion and adverse impact upon human health and well-being.

55. Having examined the matters on the anvil of special burden of proof in environmental cases, as expounded by the Supreme Court, in the case of A.P. Pollution Control Board (supra), we find that the scientific material, as of today, does not indicate any identifiable risk of serious harm on account of non-ionized radiation emanating from TCS/BS and Equipments for Telecommunication Network. Thus, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of India on the basis of apprehensions which are not rooted in the facts and supported by reliable scientific material.

14) Thus, the issue of telecommunication towers causing any health hazard to the residents has been conclusively decided by the Division Bench in *Biju K. Balan*. The judgment of Rajasthan High Court in *Justice I.S. Israni (Retd.)* (supra) has been considered by the Division Bench in paragraph 49 of the judgment in *Biju K. Balan* (supra) and the same has been distinguished. Therefore, reliance of the Petitioners on the said judgment of Rajasthan High Court in respect of their contentions is clearly misplaced.

15) In *Vijay Verma* (supra), the Division Bench of Himachal Pradesh High Court has also considered the objection of adverse impact on health of citizens due to radio frequency radiations of telecommunication towers. The Himachal Pradesh High Court took into consideration the entire material placed on record by the Petitioners in respect of contention of adverse impact of electromagnetic radiations emanating from mobile towers and concluded in paragraphs 20, 21 and 23 are as under :-

“20. We in view of the overwhelming material are of the considered view that as of now there is no cause of alarm with regard to the possible ill-effect on human health by electromagnetic Field (EMF radiation) from mobile phone towers and mobile phones because the limits adopted In India cannot have any biological effect on human. In fact, the limits set by India are much lower than the Internationally adopted recommendations of the International Commission of Non-Ionizing Radiation Protection (ICNIRP) which account for thermal and non thermal effect.

21. There is no conclusive evidence as on date which may have found any adverse health effect by EMF radiation from the mobile tower or mobile hand set by the WHO or SCENIHR and so long as EMP radiation power level In vicinity of Mobile Base Stations is below the prescribed limits, there should not be any cause or concern for adverse thermal effect on human beings living close to Mobile Base Station or in the nearby vicinity.

23. In view of the aforesaid discussion, we find no merit in these petitions and the same are accordingly dismissed, leaving the parties to bear their costs.”

16) The judgment of the Division Bench in *Biju K. Balan* has been followed by this Court in numerous cases. In *Indus Towers Limited Versus. Grampanchayat* (supra) in which Grampanchayat had adopted a resolution for stoppage of work of erection of mobile tower on the ground of harmful effect of the mobile tower on health of the residents and possibility of cause of cancer. The Division Bench of this Court held in paragraph 7 are as under :-

7. These observations would suffice us to say that the fear expressed by the villagers is without any basis. We may add here that today also, there is no change in the fact situation with regard to the absence of relevant scientific material, after the position which obtained on the date of rendering of the judgment in January 2019 in the aforesaid case of Biju K. Balan (Supra). The respondent no. 1, which has passed the impugned resolution, Resolution No. 7, based upon the apprehension that radiation emitted by a mobile tower has harmful and carcinogenic effect, is not based upon any scientific material. It is well settled law that any agency or institution or person which seeks to deny a benefit or right to another on a special ground like the ground of mobile tower radiation being harmful to the health of the citizens, such agency or institution or person has a special burden of proof to establish the soundness of such a ground. But, in the present case, the respondent-Grampanchayat has failed to discharge the special burden of proof which was on its shoulders.

17) More recently, in *Indus Tower Limited Vs. Gram Panchayat Tanang* (supra) the Division Bench has held in paragraphs 49 and 50 are as under :-

“49. All of the above decisions clearly do not accept the contentions similar to the one as canvassed by the complainants in the present case and throw much needed light on the vexed issue of potential health risks of radiation from mobile towers, which is also raised in the given case.

The above, decisions in our view, are squarely applicable to the given facts and circumstances in hand.

50. Before parting we may observe that in the modern age the inescapable reality is that mobile phones are no longer a luxury but an inevitable necessity, it be in the urban areas or in the remotest part of the country. In order to facilitate seamless communication throughout the country and to ensure that citizens of the remote areas are not deprived of revolution in technology which manifest itself in the form of mobile phones, mobile towers cannot be summarily dispensed with on misplaced information. The judgments of various Courts cited supra makes the position clear in this regard, leaving no room for ambiguity or uncertainty, for the present.”

18) Thus, the issue appears to be squarely covered by several judgments of various High Courts, including of this Court, which have repeatedly repelled the apprehension expressed about the cause of health hazards due to electromagnetic radiations emanating out of mobile phone towers. Petitioners have not placed any independent conclusive material for this Court to take a different view than the one consistently taken by various High Courts. We are, therefore, not inclined to accept Petitioners’ prayer for removal of any mobile tower on account of apprehension expressed by them about ill effects of electromagnetic radiations emanating out of mobile phone towers.

19) Coming to the second grievance of the Petitioners about installation of telecommunication towers without securing permissions from the local authorities, Respondent No. 6-Association has raised a plea that development permission from local authorities, as envisaged under the provisions of MRTP Act, is not required to be secured for the purpose of setting up telecommunication towers on properties other than public properties. It is contended that the installation of telecommunication towers can be undertaken by

merely giving an intimation in writing to the local authority and by paying the prescribed fees. Respondent No. 6-Association has placed on record the entire regulatory framework dealing with installation of telecommunication towers. It has relied on the advisory guidelines issued by DoT in the year 2013 under which guidelines were issued to the State Governments for issuance of clearance for installation of mobile towers. The guidelines appear to have been issued with a view to streamline the issuance of permissions by local authorities on charging of one-time administrative fees through a single window clearance system in a time bound manner. Towards compliance with advisory guidelines of 2013, the State of Maharashtra issued notification dated 4 March 2014 and formulated Regulations for setting up telecommunication cell sites/base stations and installation of equipment for telecommunication network in State of Maharashtra.

20) In the year 2016, Indian Telegraph Right of Way Rules, 2016 were formulated in exercise of powers under the Indian Telegraph Act, 1885. The Right of Way Rules, 2016 provided for payment of one-time administrative fees of Rs. 10,000/- for installation of telecommunication tower. The State Government, thereafter, brought in new policy on 17 February 2018 titled “Telecom Infrastructure Policy” in alignment with Right of Way Rules, 2016. A Supplementary Policy dated 8 July 2019 was also formulated by the State Government.

21) The Right of way Rules, 2016 were amended in the year 2022 and under newly inserted Rule 10B, the requirement of seeking permission from the appropriate authority for establishment of

overground telegraph infrastructure over any private property was dispensed with. To bring its policy in tune with the amended Right of way Rules, 2016, new Telecom Infrastructure Policy dated 4 November 2022 was introduced by the DoT.

22) In the meantime, the Telecommunications Act, 2023 was enacted to govern *inter alia* establishment, operation and maintenance of telecommunication towers and telecommunication networks both on public as well as private properties. Sections 14 (3) of the Telecommunications Act, 2023 provides that a telecommunication network installed on any property shall not be treated as part of such property, including for the purposes of any transactions relating to that property, or any property tax levy, cess, fees or duties as may be applicable on that property. Section 14 of the Act of 2023 provides thus :-

14. Telecommunication network distinct from property on which it is installed.

(1) A facility provider shall not have any right, title or interest in the property on which telecommunication network is established, except the right to use the property as provided under section 11 or section 12.

(2) The telecommunication network installed on any property, shall not be subject to any claims, encumbrances, liquidation or the like, relating to such property.

(3) The telecommunication network installed on any property, shall not be considered as part of such property, including for the purposes of any transaction related to that property, or any property tax, levy, cess, fees or duties as may be applicable on that property.

(4) Notwithstanding anything contained in any other law for the time being in force, no public entity, except with the permission of an officer authorised by the Central Government for this purpose, shall have the authority to take any coercive action, such as sealing, preventing access, or forcible shutdown of the telecommunication network established by an authorised entity, except where such actions may be necessary to deal with any natural disaster or public emergency.

(emphasis added)

23) The Telecommunications (Right of Way) Rules, 2024 (**Right of Way Rules, 2024**) have been notified in exercise of powers under the Telecommunications Act, 2023. Under Rule 15 (4) of the Right of Way Rules, 2024 for establishment operations and maintenance of mobile tower on any property other than public property, an information in writing in the prescribed form is required to be submitted to the concerned public entity together with a copy of certification by structure as authorized by the public entity attesting to the structural safety of the building where the mobile tower is proposed to be established. Rule 15 of the Right of Way Rules, 2024 provides thus :-

15. Establishment of telecommunication network in property other than public property. –

(1) Any facility provider desiring to enter any immovable property other than public property, for the purposes specified under sub- section (2) of section 12 of the Act, shall do so with the prior consent and enter into an agreement with the person who has ownership, control, or management over such property:

Provided that such person and the facility provider may mutually decide whether to get the agreement registered under the provisions of the Registration Act, 1908 (16 of 1908), pursuant to sub-section (3) of section 14 of the Act.

An agreement under sub-rule (1) shall provide for matters relating to-

- (a) the time and manner of entry of the facility provider into the property, and advance notice, if any, to be provided for such entry;
- (b) the consideration to be payable by the facility provider;
- (c) the steps to be taken in the event of any damage to the property, including restoration of the property to its state as it existed prior to the undertaking of such activities, failing which, the facility provider shall pay compensation for such damage as may be mutually agreed; and
- (d) specify other conditions including measures to mitigate any inconvenience and enhance safety, including structural safety, as well as measures relating to maintenance of the telecommunication network so established.

A public entity shall not levy any fees, charges, rent, annuity, compensation, or require any bank guarantee or any other financial contribution, for the

establishment, operation and maintenance of telecommunication network in property other than public property.

(4) In the case of establishment, operation and maintenance of mobile tower or pole over such property, the facility provider shall, prior to commencement of such establishment, submit information in writing, in the form provided for this purpose on the portal, to the concerned public entity along with details of the building or structure where the establishment of the mobile tower or pole is proposed, and a copy of certification by a structural engineer authorised by a public entity, attesting to the structural safety of the building or structure where the mobile tower or pole is proposed to be established.

24) The State of Maharashtra has issued GR dated 17 April 2025 and 5 February 2025 making applicable the provisions of Telecommunications Act, 2003 with effect from 26 June 2024 and Right of Way Rules, 2024 with effect from 1 January 2025 in State of Maharashtra. By circular dated 2 May 2025, the Government of Maharashtra has directed all Municipal Corporations, Municipal Councils, etc to scrupulously follow the provisions for the Telecommunications Act, 2023 and Right of Way Rules, 2024.

25) We have noted the above statutory framework governing installation operation and maintenance of telecommunications towers which apparently do not require permissions from local authorities in the manner envisaged under the provisions of MRTP Act. We are dealing with public interest litigation filed complaining about erection of telecommunication towers before coming into effect of Telecommunications Act, 2023 and Right of Way Rules, 2024. The provisions of Telecommunications Act, 2023 and Right of Way Rules, 2024 now govern the area of installation, operation and maintenance of telecommunication services. After noting the aforementioned statutory framework governing installation of telecommunication towers, we are not inclined to grant the relief of

removal of any telecommunication tower site complained of by the Petitioners.

26) The PIL petition is accordingly **dismissed**. Considering the facts and circumstances of the case, there shall be no order as to costs.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

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