

THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

ON THE 15TH DAY OF JANUARY, 2021

BEFORE:

HON'BLE SHRI JUSTICE RAGHVENDRA SINGH
CHAUHAN, C.J.

AND

HON'BLE SHRI JUSTICE MANOJ KUMAR TIWARI, J.

WRIT PETITION (PIL) NO. 14 OF 2021

BETWEEN:

Samay Sharma, (Male) aged about 52 years, S/o
Shri Veer Sharma, R/o Shivlok Colony, Ramnagar,
Raipur, Dehradun. 248008.

.....Petitioner

(By Mr. Ravi Bisht, Advocate)

AND:

1. State of Uttarakhand through its Secretary,
Urban Development, Secretariat, Dehradun.
2. District Magistrate, Dehradun
3. Dehradun Smart City Limited, 777, Ground Floor,
Saatvik Tower, Kaulagarh Road, Dehradun,
through its Deputy General Manager
4. Mussoorie Dehradun Development Authority,
Transport Nagar, Saharanpur road, Near ISBT,
Dehradun-248001, through its Vice Chairman
5. Indus Towers Ltd., Building no. 10, Tower A, 4th
Floor, DLF Cyber City, Gurgaon, Haryana,
through its Chief Managing Director.
6. Nagar Nigam, Dehradun, through its Mukhya
Nagar Adhikari

.....Respondents.

(By Mr. Anil K. Bisht, learned Standing Counsel for the State of Uttarakhand, Mr. Rahul Consul, Advocate for respondent no. 4 - MDDA and Mr. Ashish Joshi, Advocate for respondent no. 6)

This writ petition coming on for hearing this day, Hon'ble Shri Justice Raghvendra Singh Chauhan, C.J. delivered the following order:

JUDGMENT

The petitioner is aggrieved by the fact that the Indus Towers Ltd. – respondent no. 5 is permitted to erect a Mobile Tower in Aaganwadi Campus, Shivlok Colony, Ramnagar, Raipur, Dehradun.

2. The learned counsel for the petitioner submits that since the Mobile Tower may adversely affect, not only the children, who will be attending the Aaganwadi Campus, but also others, who resides in the residential area of the colony, the respondent nos. 1, 2, 3, 4 and 6 should be directed to move the Mobile Tower to some other place.

3. This Court has asked the learned counsel for the petitioner, if there is any bar, in the law, which prevents a Mobile Tower from being erected and which have been permitted by the respondents to be erected? To this query, the learned counsel has frankly conceded that there is no bar in the law.

4. It is neither the responsibility, nor the duty of this Court to run the administration. Where a Mobile Tower should be erected is a decision that needs to be taken by the respondents themselves. Therefore, no mandamus can be issued to the

respondents for shifting the Mobile Tower to another place.

5. At best, if the petitioner were to file a representation before the respondent nos. 1, 2, 3, 4 & 6, they are directed to decide the representation, after giving an opportunity of hearing to the petitioner, and after hearing all his grievances with regard to the erection of the Tower, and shall pass a reasoned order thereafter. Such exercise shall be carried out by the said respondents within three weeks, after receiving of the representation to be filed by the petitioner.

6. With the above direction, the writ petition is, hereby, disposed of.

(Raghvendra Singh Chauhan, C.J.)

(Manoj Kumar Tiwari, J.)