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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 1615 OF 2018

(Arti w/o Rahul Domkulwar Vaidya & Ors. Vs. State of Maharashtra & Ors.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. A.G. Baheti h/f Mr. V.V. Bhangde, Counsel for the
petitioners.

Mr. A.J. Gohokar, A.G.P for respondent no.1/State.

Mr. S.V. Sohoni, Counsel for respondent no.2.

Mr. P.A. Abhyankar, Counsel for respondent no.3.

Mr. S.S. Sanyal, Counsel for respondent no.9.

Mr. S.D. Umredkar, Counsel for respondent nos. 10 to 16.

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CORAM : ANIL L. PANSARE AND
NIVEDITA P. MEHTA, JJ.
APRIL 1, 2026

Mr. S.D. Umredkar, learned Counsel,
appears on behalf of respondent nos. 10 to 16, and seeks
time to file reply. Granted.

2] In response to order dated 23/3/2026,
respondent no.2 has tendered across the bar a Pursis and
with it is annexed the Government Resolution dated
19/12/2022.

3] The respondent no.2 had in his reply taken
a stand that Clause 19(4) of the Government Resolution
would require prior approval of the Principal Secretary,
Information and Technology.

4] We have, accordingly, gone through Clause
19, which reads thus :

"19. Penalties :-

*Any other violation apart from
Electromagnetic Field (EMF) radiation being*

deemed by the appropriate authority as a violation on part of the licensee, the same shall be dealt with by issuing a notice to the licensee. The duration to respond to the notice shall not be less than 7 working days. In case the appropriate authority is not satisfied with the response, the licensee shall have an opportunity to be heard by the District Level Telecom Committee. In case the District Level Telecom Committee concurs with the appropriate authority's decision then appropriate action shall be initiated by the appropriate authority against the licensee.

1) The permission holder shall be responsible for restoration of any damages caused to any public or private property during the course of erection of telecommunication infrastructure tower or over ground cable infrastructure. In addition, the commissioner/chief officer/appropriate authority may levy penalty of 2 times of regular charges per meter per year or per unit as applicable.

2) In case of any untoward incidences or accidents arising due to negligence on the part of permission holder during erection of telecom infrastructure tower or over ground cable infrastructure due to failure in structural stability of the building on which the telecom infrastructure tower is erected, the commissioner/chief officer/appropriate authority shall initiate criminal proceedings against the permission holder and take necessary action as per law, in addition to levy of penalty.

3) Punitive Action in case of Violation of EMF radiation limit set by Central Govt. shall be addressed to Central Govt. or DoT as per provisions of Central Govt. Guidelines.

4) Principal Secretary (IT) will be the Final Authority for dispute resolution."

5] As could be seen, Clause 19 provides for penalties, and provides that any other violation apart from Electromagnetic Field (EMF) radiation being deemed by the appropriate authority as a violation on

part of the licensee, the same shall be dealt with by issuing notice to the licensee.

6] Thus, it appears that any other violation apart from Electromagnetic Field radiation, the appropriate authority (in the present case respondent no.2) is empowered to take action. The Counsel for respondent no.2, however, submits that the letter dated 31/1/2024 issued by the State Government would require respondent no.2 to take prior permission.

7] This aspect, in our view, travels beyond the scope of the Government Resolution.

8] The learned A.G.P. shall, accordingly, take instructions, and make submissions. He shall also apprise us of the status of permission, as sought by respondent no.2, and if the same is not granted, the reasons thereof.

9] List on 7/4/2026.

(JUDGE)

(JUDGE)

Sumit