

ITEM NO.19

COURT NO.1
SECTION XVII
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Civil Appeal No(s).2612/2016

BHUPESH SEHGAL AND ORS

Appellant(s)

VERSUS

DELHI DEVELOPMENT AUTHORITY AND ORS

Respondent(s)

(with appln. (s) for exemption from filing c/c of the impugned judgment and ex-parte stay and intervention and permission to place addl. documents on record)

WITH

W.P. (C) No.387/2016

(With appln.(s) for permission to file additional documents and appln.(s) for directions and Office Report)

W.P. (C) No.316/2016

(With appln.(s) for stay and Office Report)

Date : 03/10/2016 These appeals were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C. NAGAPPAN
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Appellant(s)

Mr. Prashant Bhusan, Adv.
Mr. Pranav Sachdeva, Adv.
Mr. A. Shukla, Adv.

Mr. Nivedita Sharma, Adv.
Ms. Suruchi Mittal, Adv.
Mr. Abhishek Gautam, Adv.

Ms. Vandana Sehgal, Adv.

Mr. Anand Daga, Adv.

For Respondent(s)

(Union of India
Dept.of Telcom)

Mr. P.S.Patwalia, ASG
Mr. Ajay Sharma, Adv.
Ms. Movita, Adv.
Mr. Shadman Ali, Adv.
Mr. D.S. Mahra, Adv.

Ms. Satya Siddiqui, Adv.
Mr. Sarfraz Ahmed Siddiqui, Adv.

Mr. Ramji Sreenivasan, Sr.Adv.
Mr. K.R. Sasiprabhu, Adv.
Mr. Ajay Kumar Jha, Adv.
Mr. Somiran Sharma, Adv.
Mr. Raghav Shankar, Adv.
Mr. Biju P. Raman, Adv.
Mr. Vishnu Sharma, Adv.
Mr. Himanshu Suman, Adv.
Mr. Raghu Reddy, Adv.

(For Intervenor) Mr. Navin Chawla, Adv.
Mr. Aditya Vaibhav Singh, Adv.

Mr. Nishant Menon, Adv.
Mr. Shafiq Ahmed, Adv.
Mr. Anup Jain, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Mr. Prashant Bhusan, learned counsel has drawn our attention to a Parliamentary Committee Report appearing as annexure P-26 to Writ Petition (C) No.316 of 2016 to submit that although the Parliamentary Committee had recommended a scientific study on impact of telecommunication/mobile towers and handsets on humans through some reputed government organization in a time bound programme, no such study or investigation has been undertaken despite lapse of nearly two and a half years. Mr.P.S.Patwalia, learned Additional Solicitor General shall therefore take instructions whether the recommendations made by the Parliamentary Committee has been considered and if so whether any steps as recommended have been taken. A copy of the report of the scientific study if any conducted shall be placed on record by him.

Mr. Bhushan next argued that even when the international standards prescribed in many developed countries are much higher than those prescribed by the Department of Telecommunications, the standards prescribed by the the DoT are not being enforced leave alone regularly monitored. He submits that a comparison of international standards with those prescribed by the DoT would show that the Indian populace is exposed to much higher emission of radiations on account of low standards fixed by DoT which too are not being strictly enforced. Mr. Patwalia disputes that position both in regard to the Indian standards being lower than the international standards as also the alleged lack of enforcement. He shall therefore place on record a comparative statement of standards prescribed internationally by other developed countries and those stipulated by the DoT and indicate how and by what process are the said standards being enforced.

Mr. Prashant Bhushan also argued that there is no agency currently monitoring the TERM cells which is a part and parcel of the DoT and which is supposed to be monitoring adherence to the standards prescribed by DoT. The TERM cells are according to him hardly monitoring the emission for enforcement of the standards and that Government have left adherence to the standards to the companies who are currently self certifying such adherence which is wholly unsatisfactory if not meaningless.

Mr. P.S. Patwalia disputes this assertion also and submits that the TERM cells are very much functional and are monitoring the enforcement of the standards prescribed by DoT both on a periodic basis and randomly. He submits that the TERM cells comprise officials of the DoT who are actively engaged in monitoring the enforcement of standards. Mr. Patwalia shall make good that submission by placing on record the composition of the TERM cells set up in the country and also indicate how many mobile towers are said to be within the supervisory jurisdiction of each such TERM cells and file a statement indicating the reports submitted by the TERM cells and the action if any taken in case the TERM cells have found violation of the prescribed standard by the telecommunication companies.

Reliance has also been placed by learned counsel for the appellant upon a report submitted by Comptroller and Auditor General (CAG) finding fault with the performance of the TERM cells and indicating that even 10% check which is the bare minimum of the requirement has not been carried out in respect of thousand of towers set up by the telecommunication companies through out the country.

Mr. Patwalia will do well to respond to the report of the CAG also and explain as to why the performance of the TERM cells has been found to be unsatisfactory and what remedial measures have been taken by the Government to plug the deficiencies. The

staffing pattern of the TERM cells may also be indicated to give an idea as to whether the TERM cells have the required manpower to carry out the random and regular checks for enforcing adherence to the emission standards and whether they have been equipped with the requisite gadgets required for carrying out such tests.

List again on 17th October, 2016.

Needful shall be done in the meantime.

(Ashok Raj Singh)
Court Master

(Veena Khera)
Court Master