

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
Original Application No. 232/2022**

In the matter of:

Gautam Nagar Residents Association Regd. ...Applicant

Versus

Commissioner SDMC & Ors. ...Respondents

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New Delhi:

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**STATUS REPORT ON BEHALF OF DELHI POLLUTION CONTROL
COMMITTEE WITH RESPECT TO ORDER DATED 19.07.2022.**

IT IS MOST RESPECTFULLY SHOWETH:

1. That this Hon'ble Tribunal took up the above referred matter on 19.07.2022. After considering the action taken report of DPCC dated 18.05.2022, This Hon'ble Tribunal pleased to direct DPCC to take further action for compliance of environmental norms. Apart from DPCC, the Commissioner, Municipal Corporation, Delhi has also to take remedial action in the matter to ensure that the park is not used for any non-conforming purposes.
2. That the grievance in the OA is related to permission by South Delhi Municipal Corporation for installation of mobile tower in "Sadbhawna Park", Opposite Gulmohar Enclave, Gautam Nagar.
3. That as per the "awareness note on mobile tower radiation and its impacts on environment", as published by the Central Pollution Control Board, The Air (Prevention and Control of Pollution) Act, 1981 and Environment (Protection) Act, 1986 defines 'air pollutant' as:
' any solid, liquid or gaseous substance (including noise) present in the atmosphere in such concentration as may be or tend to be injurious to

human beings or other living creatures or plants or property or environment'

This definition clearly shows that 'radiation' is not covered under the provision of Act and thus not a pollutant.

The only issue of direct concern with Pollution Control Boards is the noise/ air emission control from the DG set(s) attached to the mobile tower, if any. In this case, no DG set has been found attached during joint inspection.

4. In India, Mobile Tower Radiation testing and monitoring is regulated by Telecom Enforcement Resource & Monitoring (TERM) cell of Department of Telecommunications (Ministry of Communications & Information Technology).
5. This Hon'ble Tribunal in the case of "*Arvind Gupta v Union of India*, {MANU/GT/0202/2015} observed that "it is clear beyond doubt that the radiation from electromagnetic waves resulting from the mobile towers is not explicitly covered in any of the scheduled acts to the NGT Act, 2010. In fact, even under the NGT Act, 2010, relevant definition under provisions do not refer to the radiation specifically." Further, this Hon'ble Tribunal held that the issue of radiation i.e. emission of electromagnetic waves from the towers constructed by the respective respondents does not fall within the ambit, scope and jurisdiction vested with the NGT under the provisions of the NGT Act with reference to the Environment (Protection) Act, 1986.
6. In the case of "*Reliance Infocomm Ltd. v Chemanchery Grama Panchayat*" {AIR2007Ker33} it was held that Right to Life enshrined under Article 21 includes all those aspects of life which make life meaningful, complex and worth living. Development of technology has its own ill-effects on human beings, but, at times people will have to put up with that at the cost of their advantages.
7. That there is no clarity yet as to whether mobile towers actually cause harm to human health and environment. Be it the guidelines issued by the CPCB or the various orders passed by the Hon'ble Supreme Court or Hon'ble National Green Tribunal and the Various Hon'ble High Courts, it is yet to be decided as

to whether there is any impact of mobile radiations on human health and environment. The awareness note published by CPCB doesn't mention that mobile tower radiations in India cause any harm to human health, the note refers to a report by the 'Expert Committee to study the possible impacts of Communication Towers on Wildlife including Birds and Bees', constituted by the Ministry of Environment & Forests, Government of India on 30th August 2010. The Expert Committee on the basis of its review of the available scientific information, in its Report indicates that the Electro-Magnetic Radiations (EMR) interfere with the biological systems besides impact on human beings.

8. That in compliance to the order passed by Hon'ble National Green Tribunal above mentioned matter, MCD has submitted the action taken report before the Hon'ble Tribunal stating that the permission given to M/s Indus Tower Limited has been withdrawn and the service provider has been directed to remove the Mobile Tower from "Sadbhawna park", Opposite Gulmohar Enclave Gate No. 4, Gautam Nagar, Word No. 62/S, New Delhi and to shift the same to the other permissible site.
9. That, there were no environmental standards/ norms prescribed for radiation from mobile Towers under Environmental Laws and in fact the matter of radiation from mobile towers does not fall in the ambit of Environment (Protection) Act-1986.
10. That However, as MCD already directed to remove the mobile tower from the site in dispute and asked the compliance report from M/s Indus Tower Ltd. Thus, MCD may be directed to take effective steps to remove the Mobile tower at the earliest.

The present status report may kindly be taken on record.


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Sr. Environmental Engineer