

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL,
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 557 of 2022

IN THE MATTER OF:-

Gaur Atulyam Apartment
Owners Association

...Applicant

Versus

Greater Noida Industrial
Development Authority & Anr.

...Respondent

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PLACE: NEW DELHI

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**REPLY FOR AND ON BEHALF OF THE RESPONDENT
NO. 2- M/s INDUS TOWERS LTD. (FORMERLY BHARTI
INFRATEL LIMITED) TO THE APPLICATION FILED
UNDER SECTION 14 OF THE NATIONAL GREEN
TRIBUNAL ACT, 2010**

Most Respectfully Showeth:-

The present Original Application has been filed seeking quashing of Allotment Letter dated 05.07.2022 issued by the GNIDA to M/s Indus Towers Ltd. (hereinafter referred to as the 'Answering Respondent') to install mobile towers in the green belt in front of Gaur Atulyam Apartments, Plot No 78, Greater Noida Authority Area. That the said Allotment letter has been issued by the concerned Authority on an Application being made by the Answering Respondent for installation of Mobile Towers in the Green Belt situated outside the Applicant Apartment and after following all steps contemplated in regulatory regime, the contents of the application are denied, unless the same are a matter of record or are explicitly admitted hereinafter. The said application is not maintainable on accounts of several grounds taken hereinafter.

The respondent prays that the following preliminary objections be considered at the outset:-

PRELIMINARY OBJECTIONS:-

A. The subject matter jurisdiction qua the instant lis does not vest in the Hon'ble Tribunal.

1. That it is most humbly submitted that the subject matter jurisdiction to entertain the issue being agitated in the instant lis, does not vest in the Hon'ble Tribunal.
2. It is stated that the issue being raised in the instant lis is no more res integra as this Hon'ble Tribunal in the matter of ***Dr. Arvind Gupta v UOI & Ors.***¹, has already opined that the subject matter jurisdiction to entertain the said application does not vest in the Hon'ble Tribunal. The Hon'ble Tribunal has already held in the aforementioned matter that the issue pertaining to installation of telecom infrastructure and radiation etc., if any, is beyond the purview of the Act, 2010, and in consequence thereof falls outside the subject matter jurisdiction of the Hon'ble Tribunal.

A copy of the decision in the matter of ***Dr. Arvind Gupta (supra)*** is annexed herewith and marked as ***ANNEXURE R-1***.

B. The instant dispute falls within the jurisdiction of the authorities established under the Telegraph Act, 1885 and

¹ OA No. 61 of 2012, vide Judgement dated 10.12.2015

thus, by sequitur beyond the jurisdiction of this Hon'ble Tribunal.

1. In the instant Application, the Applicant Association alleges that installation of telecom towers in the vicinity of the Applicant's residential apartments is a cause of concern as according to the Applicant - the electromagnetic waves being emitted by the telecom towers are purportedly damaging to the health of the residents as well as allegedly detrimental to the environment. Therefore, the Applicant Association has sought quashing of the allotment letter issued by GNIDA dated 05.07.2022, vide which the GNIDA has granted permission to the answering Respondent to install telecom towers in the green belt adjacent to the project.
2. In the humble submission of the answering Respondent, the alleged concern does not constitute an environmental violation/ hazard and being an activity duly regulated by and under the provisions of Indian Telegraph Act 1885 and various Rules and norms made thereunder, thus, falls beyond the jurisdictional contours of this Hon'ble Tribunal.
3. It is submitted that the National Green Tribunal Act, 2010, of which this Hon'ble Tribunal is a creature, was established with an aim to expedite disposal of cases relating to environmental protection & conservation and for enforcement of any legal right relating to the environment. The Act, 2010, grants powers to this Hon'ble Tribunal to

grant relief in nature of restitution or direct imposition of compensation for the loss caused to the environment.

4. Chapter III of the Act of 2010 governs jurisdiction, powers and proceedings of this Hon'ble Tribunal. As per Section 14, this Hon'ble Tribunal is empowered to take cognizance of *all civil cases where a substantial question relation to environment* is involved. Such question must arise out of any of the enactments specified in Schedule I. The Act of 2010, further defines *substantial question relation to environment* to include a direct violation of a specific statutory environmental obligation affecting the community by its environmental consequences, causing grave damage to the environment or damaging public health.
5. A bare perusal of Schedule I read with Section 14 of the Act of 2010 establishes beyond certitude that it is the intention of the legislature to constrict the scope and ambit of the jurisdiction of this Hon'ble Tribunal to matters of environmental violation arising out of implementation of any of the enactments specified therein.
6. It is submitted that the alleged concern of the Applicant Association related to the purported harmful effects of the emissions of electro-magnetic waves being emitted from the telecom towers is neither covered nor regulated by any of the enactments specified in Schedule I.
7. Apart from the fact that the answering respondent objects to the very veracity of the suggestion that the electro-magnetic

radiations emitted from the telecom tower are harmful or concerning for the environment or to the health of the residents, the said objection is also reinforced and substantiated by the Act of 2010, which is the promulgation of the intention of the legislature.

8. It is patent that electromagnetic waves are an integral part of the spectrum allotted by the Government of India through a proper allotment process and can only be utilized by the telecom operators licensed by Government of India under section 4 of the Indian Telegraph Act 1885 and is a well regulated field. As such, EMF emissions from the telecom equipment installed at telecom towers cannot be termed to be a cause of concern or a source of environmental damage or a health hazard. As a result, such radiations are not regulated by the legislature either under the Act of 2010 or under any of the laws stipulated in Schedule I.
9. Apart from the other legislations, that deal specifically with concerns associated with water, air, forest, bio-diversity, it is the Environment (Protection) Act, 1986 (hereinafter referred to as the Act, 1986) that deals with environment in the widest sense. The definition of the term *environmental pollutant* and *environmental pollution* in the said Act, do not include electro-magnetic radiations as a cause for pollution. It is further pertinent to note that electro-magnetic radiations finds no mention in the definition of *hazardous substance* as well.

10. These definitions clause of the Act, 1986 reinforce the stand of the answering Respondent that the radiations emitted from operation and function of active telecom equipment installed by the Licensed Telecom Operators at the telecom towers are not harmful to humans or to the flora and fauna in the surrounding areas. It is thus established that the Mobile Towers are not regulated or monitored under the Environment (Protection) Act, 1986, and, thus, concerns pertaining to installation or functioning of the same, fall outside the ambit of the Act, 2010.
11. It warrants attention of the Hon'ble Tribunal, that the legislature has promulgated Indian Telegraph Act, 1885 (hereinafter referred to as the Act, 1885) to regulate 'telegraph' in India. Under the Act, 1885, the term 'telegraph' means any "*appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro -magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic.*" Therefore, the subject matter of the present dispute i.e. installation and operation of telecom towers falls squarely within the ambit of the Act ,1885.
12. The Act, 1885 grants the Central Government *exclusive privilege* of establishing, maintaining and working telegraphs. The Act, 1885 further empowers the Central Government to grant license subject to prescribed terms and conditions, to any person to establish, maintain or work a

telegraph, within any part of India. It is in exercise of this power, that the answering Respondent is registered as telecom Infrastructure Provider Category – I (IP-I) with Department of Telecommunication (DoT), Government of India to establish, inter alia, telegraph/cellular/telecom towers in the area in question.

13. It further merits mention that the Act of 1885 grants power to the Central Government to make rules regulating the conduct of all or any telegraphs established, maintained or worked by the Government or by a licensee including the IP-1 like the answering Respondent. These rules can be formulated on any subject concerning telegraphs including but not limited to conditions/restrictions subject to which *“telegraph line, appliance, or apparatus for telegraphic communication shall be established, maintained, worked, repaired, transferred, shifted, withdrawn or disconnected”* and matters incidental thereto.
14. It is in exercise of these powers that the Respondent No. 1 has formulated a Policy regarding installation, establishment and operation of telecom towers in the region of Greater Noida.
15. Nonetheless, for any dispute concerning the telegraph line, appliance, or apparatus arising between the telegraph authority and any person for whose benefit the telegraph line, appliance or apparatus is installed Section 7B of the Act of 1885 contemplates that such disputes will be adjudicated by an arbitrator appointed by the Central Government.

Therefore, the Act of 1885 also takes into consideration a procedure for resolution of any dispute.

C. The issue pertaining to installation of telecom towers and operation thereof is a regulated field, governed by, inter alia, Indian Telegraph Right of Way Rules, 2016 and or permissions granted by State Local Authorities, in instant case the Respondent no 1.

1. The GNIDA has formulated a policy being – GNIDA Policy, which stipulates mechanism / guideline for installation of telecom towers. The said policy suggests the field/area for installation of telecom towers and thus, there is no vacuum that can be filled by agitating the instant lis at this stage before this Hon’ble Tribunal.

A copy of the said policy is annexed herewith and marked as ***ANNEXURE- R-2.***

2. The said Policy contemplates that the Respondent No. 1 shall allot minimum area for installation of telecom towers in the green belt or in the site earmarked for community utilities in the layout plan. Said policy also contemplates that first preference for identifying the location for setting up communication sites has to be given to the Green Belt.
3. The said Policy lays down a comprehensive procedure for the infrastructure providers to install telecom towers/sites in the said region.

4. As per the procedure provided in the Policy, a proposal / application has to be made by the telecom service provider or by telecom infrastructure provider company to the Chief Executive Officer, Greater Noida for permission/ approval for installation of the telecom towers.
5. At the time of making the application, the applicant shall submit a proposed location of the tower alongwith its address and coordinates with regard to telecom tower.
6. The applicant company to start the work only after the issuance of permission/approval/allotment letter..
7. The Policy of Respondent No. 1 also states that the amounts to be paid for obtaining the permission/approval/allotment for installation of telecom towers
8. In the event, the conditions as mentioned in the permission/approval/allotment letter are not fulfilled, the said permission / allotment /approval will stand revoked. Thus, not only installation but continued operations of the telecom towers after installation are also monitored by the authority by way of the said policy.
9. It is further necessary that construction, establishment, installation, operation etc. of the telecom towers is to be done as per the standards laid down by the Government of India.

10. It is in compliance with the said Policy, that the answering Respondent was granted permission/ license / allotment letter by Respondent No. 1 and was allotted designated spaces for installation of the telecom towers. Therefore, the allegations levelled by the Applicants are ill-founded, unsubstantiated and the present application merits to be dismissed in *limine*.

D. Only statute to deal with radiations (as mentioned in the grounds set out in the OA) is the Atomic Energy act, 1962

1. It is further pertinent to mention that the only statute that regulates 'radiations' is the Atomic Energy Act, 1962. However, even a perusal of Clause (h) of Section 2 of the Act of 1962 does not incorporate within its ambit electromagnetic waves. Absence of inclusion of the electromagnetic waves in any of the statutes, establish unambiguously that the electro-magnetic waves have no harmful effects either to human bodies or to flora & fauna.
2. This being the case, the reference of the applicants to the electro-magnetic waves as 'radiation' is itself incorrect and sans basis. It may also merit mention that the judgment of this Hon'ble Tribunal in ***Dr. Arvind Gupta (supra)*** also deals with the said issue and holds that the Act, 2010 is not worded to include 'radiation' and thus the same is beyond the jurisdiction of the Hon'ble Tribunal. The concerns of the

Applicant Association are sans merit, ill-founded, and the original application merits rejection at the outset.

3. At this juncture it also merits mention that a perusal of the afore-stated submissions will establish beyond certitude that the field of telegraph and those concerning electro-magnetic radiations is adequately regulated. The statute and policy discussed hereinabove comprehensively deals with every aspect of the said field and thus to the aforementioned extent the same is '*occupied field*' not warranting any interference at the instance of any individual(s). For these reasons, this Hon'ble Tribunal, in the humble submission of the answering Respondent, may not take cognizance of the grievance raised before it.

E. It is now established that there is no conclusive scientific data to substantiate the apprehension that electro-magnetic waves are harmful to the health of human beings.

1. The Applicant, by way of the present Application alleges that the mobile towers, such as the subject tower sought to be installed in the Green Belt surrounding the Applicant Apartments, will make the air toxic and can harm people living in the near vicinity of the towers.
2. In the humble submission of the Respondent, said concern of the Applicant herein is mis founded and no more *res integra*. This Hon'ble Tribunal in the matter of ***Dr. Arvind Gupta (supra)*** has also considered in this regard that

several studies have been conducted in different countries, under the aegis of the World Health Organization ('WHO'). The WHO, after having placed reliance on 25,000 articles published around the world over the past 30 years, has concluded that the current evidence does not confirm the existence of any health consequences from exposure to EMF radiation.

3. Furthermore, apropos Electromagnetic Radiation emanating from active equipments installed at telecom towers, the WHO has reached the following conclusion noted in its Fact Sheet No. 304, May 2006 on Electromagnetic Fields and Public Health (Base Stations and Wireless Technologies):

“considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak Radio Frequency ('RF') Signals from base stations and wireless networks caused adverse health effects. From all evidence accumulated so far, no adverse short or long term health effects have been shown to occur from the RF signals produced by based stations.”

4. The International Commission on Non- Ionizing Radiation Protection (hereinafter referred to as 'ICNIRP'), based on the aforementioned studies of the WHO, has set Guidelines for Limiting Exposure to Electromagnetic Fields in the range of 100 kHz to 300 GHz.

5. In order to set safe exposure levels, ICNIRP first decided whether there was evidence that radiofrequency EMFs impair health, and for each adverse effect that was being agitated, both the mechanism of interaction and the minimum exposure required to cause harm were determined (wherever available). This information was obtained primarily from major international reviews of the literature on radiofrequency EMFs and health. This included an in-depth review from the World Health Organization on radiofrequency EMF exposure and health that was released as a draft Technical Document (WHO 2014), and reports by the Scientific Committee on Emerging and Newly Identified Health Risks (SCENIHR 2015) and the Swedish Radiation Safety Authority (SSM 2015, 2016, 2018). These reports have reviewed an extensive body of literature, ranging from experimental research to epidemiology, and include consideration of health in children and those individuals thought to be sensitive to radiofrequency EMFs. To complement those reports, ICNIRP also considered research published since those reviews.
6. The conclusion reached after conclusion of all the aforementioned research was that there is no evidence of adverse health effects at exposure levels below the restriction levels in the ICNIRP (1998) guidelines and no evidence of an interaction mechanism that would predict that adverse health effects could occur due to

radiofrequency EMF exposure restricted to below those levels.

7. It is submitted that ICNIRP, in its report of April 1998, has prescribed the following levels, limiting EMF emission from Base Transceiver Stations (BTSs) as safe for general public:

Frequency Range	Power Density (Watt/Sq. Meter)
400 MHz to 2000 MHz (2GHz)	$f/200$
2 GHz to 300 GHz	10

(f: is frequency of operation in MHz)

8. It is submitted that ICNIRP guidelines of April, 1998 state that, epidemiologic studies on exposed workers and the general public have shown no major health effect associated with typical exposure environments. The studies have yielded no convincing evidence that typical exposure levels lead to adverse reproductive outcomes or an increased cancer risk in exposed individuals.
9. The Government of India adopted the ICNIRP guidelines in the year 2008 for basic restriction and limiting reference levels of Electromagnetic radiation from Mobile towers and inserted the additional clause in the Access Service Licenses vide its amendment letter dated 04.11.2008.

A Copy of the Order dated 04.11.2008 is enclosed herewith as *ANNEXURE R-3*.

10. It is submitted that DoT vide letter dated 08.04.2010 directed all the CMTS / UAS licensees for compliance of the reference limits/ levels prescribed by ICNIRP by way of self certification of their Base Transmitting Stations (BTS) for meeting the radiations norms. As per the directions issued vide letter dated 08.04.2010, all BTSs should be ICNIRP guidelines compliant and all BTSs should be self certified as meeting the radiation norm. Self certification is required to be submitted to respective TERM Cells of DoT.

11. It is submitted that based on media reports and public concerns an Inter-Ministerial Committee (IMC) consisting of officers from DoT, Indian Council of Medical Research (Ministry of Health), Department of Biotechnology and Ministry of Environment and Forest was constituted on 24.08.2010 to examine the effect of EMF Radiation base stations and mobile phones. The Inter Ministerial Committee (IMC) in its report has examined the environmental and health related concerns and has indicated, that most of the laboratory studies were unable to find a direct link between exposure to radio frequency radiation and human health. These scientific studies have not been able to confirm a cause and effect relationship between radio frequency radiation and health.

The effect of emission from cell phone towers on human health not known yet with certainty.

12. Based on the recommendations by Inter-Ministerial Committee (IMC), these norms for exposure limit for the Radio Frequency Field (Base Station Emissions) have been further made stringent and reduced to 1/10th of the existing limits prescribed by ICNIRP. Directions in this regard have been issued to the Mobile Operators on 17.11.2011 and 30.12.2011. These revised norms were enforced vide order dated 10-04-2012.

Copy of the Orders dated 17.11.2011, 30.12.2011 and 10-04-2012 are enclosed herewith as ***ANNEXURE- R- 4 (Colly)***.

13. The present limits/levels for antennae (Base Station) EMF emissions for general public exposure are detail below:

Frequency Range	E-Field Strength (Volt/Meter (V/m))	H-Field Strength (Amp / Meter (A/m))	Power Density (Watt / Sq. Meter (W/Sq.m))
400MHz to 2000MHz	$0.434f^{1/2}$	$0.0011f^{1/2}$	$f/2000$
2GHz to 300GHz	19.29	0.05	1

(f is frequency in MHz)

14. It is submitted that by keeping the precautionary EMF safe exposure limits for the Radio Frequency Field (Base Station Emissions) as 1/10th of the safe limits prescribed by ICNIRP for all areas in India, the risk in areas such as residential premises, parks, playgrounds as in this instance is almost Nil.

15. DoT has also issued specific guidelines (which been revised on 01.08.2013) for facilitating installation of mobile communications and to ensure that IP-1 companies/ operators (like Answering Respondent herein) are able to install the towers under the prescribed guidelines. The same has been forwarded to chief secretaries of States and Union Territories vide letter dated 08.08.2013. These guidelines are technology agnostics and are applicable to all technologies including 4G.

F. Telecom Enforcement Resource and Monitoring Cell (TERM) Cells of Department of Telecommunications (DoT) is only authorized to deal with compliance of EMF norms.

1. It is submitted that the Government has constituted an authority named Telecom Enforcement, Resource and Monitoring (TERM) Cells, formerly known as Vigilance Telecom Monitoring (VTM). TERM Cell is made up of 34 Cells in India's 24 telecom circles and 10 large telecom districts, each headed by a Senior Administrative Grade

(SAG) level officer, termed as Deputy Director General (DDG). The main functions of TERM Cell include vigilance, monitoring and security of the network. Apart from this, TERM Cell also operate the Central Monitoring System (CMS), a clandestine mass electronic surveillance program, and carry out other functions.

2. The TERM Cells function as the subordinate office of the DoT in the field. These Cells represent the Telegraph Authority and the Licensor. The TERM Cells analyse and resolve complaints received through the Public Grievance (PG) portal or from other sources. TERM Cells were given the task of checking the compliance of EMF radiation norms, as prescribed by Government. Thus, all matters relating to the installation of mobile towers, the public grievances, violation of any statutory provisions and even a claim for request for police assistance can be considered by the TERM Cell itself. When such a supervisory body / Vigilance has been put in place by the Government, there is no reason for the Applicant to approach this Hon'ble Court without exhausting the remedy provided by the Government.
3. It is pertinent to mention here that, EMF is a highly technical subject and as such TERM Cell of DoT has been entrusted with the task to deal with radiation / EMF issues or complaints. Further, it is submitted that, in terms of the circulars issued by DoT, Telecom Service Providers are

obligated to do self -certification regarding the compliance of EMF norms and submit the same to the local TERM cell. In the event of non-compliance of the same and violation of the prescribed EMF norms, telecom service providers are subjected to a penalty upto INR 10 Lac per Base Transceiver Station (BTS) and in the event of continued non- compliance, the BTS can be shut down permanently. In this regard, DoT vide letter dated 20.11.2013 has issued a scheme of penalty in case of violation of terms and contentions of the license and related instruction on the issues relating of volition of EMF norms.

4. DoT in its Guidelines for installation of mobile towers across India has clearly mentioned that in respect of any issue relating to EMF are to be dealt with by TERM cell of DoT only. Sealing of mobile towers/disconnection of electricity may not be resorted to without consent of respective TERM Cell of DoT. DoT, in its Guidelines has not put any restrictions on tower installations in residential areas or on educational institutions, hospitals, etc. as the concerns related to EMF have already been adequately addressed by very stringent regulations of DoT. This highly technical subject for whom TERM Cell, which is an expert body, has been entrusted the task to deal with radiation issues or complaints.

5. Initiation of EMF Web portal: It is submitted that the Telecommunication Engineering Center (TEC), a wing of DoT, is carrying out a pilot project on EMF web portal for implementation of online database for EMR of BTS towers. The pilot trial of web portal is being conducted in three circles Mumbai, Haryana, Karnataka and the city of Hyderabad. The portal is envisaged to provide a public interface for viewing the EMF compliance status of mobile towers, anywhere in India.

6. Furthermore, several studies have been conducted in India to this effect and the same are set out as under:
 - **Report of the Committee constituted as per direction of Hon'ble High Court of Allahabad, Lucknow Bench in W.P. No. 11275 (M/B) of 2010.**
 - i. The Hon'ble High Court of Judicature at Allahabad, Lucknow Bench in a matter titled *Ram Singh Jauhari v Union of India & Ors.*, W.P. No. 11275 (M/B) of 2010 while deciding the said matter pertaining to similar issues directed constitution of a committee of five members of Electrical Engineering Department of the IITs of Mumbai, Kharagpur, Kanpur, Delhi, Roorkee including Prof. (Dr.) Girish Kumar and four other prominent persons of other scientific institution of the Country like AIIMS (Delhi), Indian Council of Medical Research etc. to

submit a report to allow the Government of India to take necessary precaution while, *inter alia*, granting permission for establishment of cellular mobile towers.

- ii. Pursuant to and in compliance with the directions of the Hon'ble Court, a committee was constituted vide DoT letter No. 17-63/2011-CS-III dated 20.08.2013. Based on the nomination received from IIT Mumbai, IIT Delhi, Kharagpur, IIT Roorkee, AIIMS Delhi, Indian Council of Medical Research, New Delhi, Indian Institute of Technology Research Lucknow, Science & Technology (DST), members were included in the Committee alongwith four other members from the Department of Telecommunications.

A copy of the Report of the Committee set up in the matter of *Ram Singh Jauhari v Union of India & Ors.*, W.P. No. 11275 (M/B) of 2010 is annexed herewith and marked as *ANNEXURE R- 5*.

- **TRAI- Fact Sheet- EMF Radiation from Mobile Towers**

- i. The Chairman, Telecom Regulatory Authority of India ('TRAI') has in a Fact Sheet on Electromagnetic Field Radiation from Cellular Mobile Towers has stated that the radiation (although incorrectly termed) emitting from cellular Mobile

Towers are essentially very weak electromagnetic waves which are unable to cause any disruptions in any other form of life. Therefore, they can at best be termed as radio waves or a very weak kind of emission of the waves.

- ii. It was further explained that when communication occurs through electronic devices, such as in mobile communications, the voice is translated into electronic signals, which are transmitted through the antennae as radio waves, otherwise referred to as Electromagnetic Field Radiation. These are very low in intensity radiations and they do not have any adverse health effects.

A copy of the Fact Sheet on Electromagnetic Field Radiation from Telecom Towers of the Telecom Regulatory Authority of India ('TRAI') is annexed herewith and marked as *ANNEXURE R-6*.

- **IMA, Mumbai West Branch- Press Release- Mobile Tower Radiation, Health Hazard- A MYTH**

- i. While addressing the growing concern (albeit sans merit) of cell tower radiation and the impact of the same on public health, the Indian Medical Association- Mumbai West announced that cell tower radiation to be five times lower as compared to RF emissions from radio FM and television and declared

that the same is not hazardous to human health as was being perceived by some quarters.

- ii. Further, the energy inside an oven or microwave generated in one second is multiple times stronger than the energy released by telecom towers.

A copy of the Press Release by the Indian Medical Association- Mumbai West is annexed herewith and marked as *ANNEXURE R- 7*.

- **Department of Telecommunication- A Journey of EMF**

- i. The Department of Telecommunications under the Ministry of Communications and Information Technology, Government of India has researched that EMF radiations from a telecom mobile tower, which are within and even below the safe limits prescribed by ICNIRP and recommended by WHO, have no convincing scientific evidence of causing adverse health effects. Department of Telecommunications have prescribed stricter precautionary norms for exposure limit for the Radio Frequency Field (Base Station Emissions) which is 1/10th of the existing limits prescribed by ICNIRP and recommended by WHO. Further, Government of India has taken adequate steps to ensure that Telecommunications Service Providers strictly adhere to these prescribed norms.

- ii. The Department has set out specific guidelines apropos installations of such telecom mobile towers and the procedure that needs to be followed while carrying out such installation. In the humble submission of the Respondent, all requisite procedures have been duly followed and all necessary precautions/ permissions have been duly taken by the Respondent for installation of the subject Tower.

A copy of the research published by the Department of Telecommunications is annexed herewith and marked as ***ANNEXURE R- 8***.

A perusal of the aforestated studies and research establish beyond certitude that there is no conclusive and cogent evidence to establish that the Electromagnetic Waves emitted from a telecom tower has any adverse effect on health or the human body. The concerns of the Applicant are unsubstantiated. Furthermore, the regulations as promulgated by the legislature regulate emission of the Electromagnetic Waves in order to ensure than no negative impact of the same is caused to the environment as well as the human body. Therefore, it can be concluded that the averments as made by the Applicant by way of the present Application are devoid of any merit.

G. The present Application being filed in anticipation of installation of Telecom Towers Matter and fictional

detrimental health concerns from the said tower, is no more res integra

1. In the humble submission of the Respondent, the Hon'ble Supreme Court of India, the Hon'ble High Courts and this Hon'ble Tribunal have already concluded that the emission of Electro-Magnetic Waves from the Telecom Towers is not a health hazard and therefore, is beyond the jurisdiction of this Hon'ble Tribunal to take cognizance of.
2. It is submitted that the Hon'ble National Green Tribunal has in the matter of *Dr. Arvind Gupta (supra)*, in similar facts and circumstances been pleased to hold that the Hon'ble Tribunal does not have jurisdiction to entertain and decide on the issue of Electro-Magnetic Field. The Hon'ble Supreme Court in *Bhupesh Sehgal & Ors. v DDA & Ors.*² is considering the same issue.
3. Furthermore, the Hon'ble High Court of Allahabad while deciding an identical issue in *Smt. Asha Mishra v State of U.P. & Ors.*³, whereby the Hon'ble Division Bench while also, *inter alia*, placing reliance on the report of the committee in the matter of *Ram Singh Jauharla (supra)* was pleased to dismiss the Public Interest Litigation holding, *inter alia*, as thus:

“The primary contention of the petitioners as noted above is based upon a perceived present and imminent danger to human health and safety caused by EMF radiation. The

² Civil Appeal No. 2612 of 2016

³ PIL No. 48084 of 2015

*report of Prof. Girish Kumar forms the fundamental bedrock upon which these submissions are based. We however find that this is not the first time that this report has been utilized or pressed into service for laying a challenge to the roll out and establishment of mobile towers. In fact this very report was noted by the Division Bench of the Court at Lucknow in **Shriram Singh Jauharia** when taking note of the said report the Bench constituted a committee to examine the conclusions and undertake a comprehensive review on the subject of EMF radiation and the ill effects of mobile telephony on human health. As the record would reveal and as would be evident from the findings of the committee that we have extracted above, the conclusion arrived at was that there was no material which justified the conclusions arrived at by Prof. Kumar. The Committee, in fact went to the extent of characterizing the perceived threats as voiced by Prof. Kumar as being a misrepresentation. Once that be the state of the record we find that the report of Prof. Kumar does not advance the case of the petitioners any further.*

However since the issue raised in the petitions related to public health and safety and bearing in mind the command of Article 21 we delved even further to consider whether there was any material, which justified the invocation of our constitutional powers to injunct the seventh respondent from establishing the mobile towers or BTS's.

We felt constrained to burden this judgment with various extracts of the findings and recommendations of DOT, the Parliamentary Standing Committee as well as the WHO in order to establish that a plethora of material gathered by experts clearly negatives the perceived and alleged imminent threat and danger to health as was sought to be canvassed before us. All the experts have unanimously voiced their opinion that the present body of scientific research does not justify the threat to health and life as is sought to be portrayed by some quarters including the petitioners before us.

On the above state of the record we find no merit in the challenge raised by the petitioners on this score. Bearing in

mind the present conclusions and findings on the subject as expressed by experts across the board we find that there exists no justification for the submission of a present and imminent danger or threat to human health from the radiation emitted by mobile towers and BTS's. We further note that the studies undertaken both in India as well as by other international organizations have unanimously opined that the emissions from these equipments are minuscule and do not warrant the anxiety or fear which is sought to be generated in this batch of petitions. Our conclusion so recorded is of course not intended to relieve DOT or the Union Government from its obligation of continuing a scientific review of the subject. However in light of what we have found above, we rule against the petitioners insofar as Issue No. 1 is concerned.

...

The present policy regime as approved by the Union Government grants authority to the seventh respondent to establish a 4G mobile telephony and data network in accordance with the license issued to it. Mobile telephony is an enterprise which is duly permitted and has the sanction of the State. The subject of the so called and alleged effects of its usage on public health is a debate which continues both at the national as well as the international level. The fact however remains that as on date there is no conclusive material or scientific study which may justify or be read as conclusive proof of the canvassed ill effects of EMF radiation on human health. We are also mindful of the fact that DOT has adopted and put in place national standards which peg the maximum emission levels at 1/10th of the international norm prescribed by ICNIRP. This in our opinion should have been sufficient to allay the fears and anxieties of the petitioners. Moreover the scientific experts in the field have found no justification in the findings recorded by Prof. Girish Kumar. The report of the Committee comprised of eminent persons who are experts in their field is liable to be accorded judicial deference. We accordingly find no ground which would warrant the issuance of the writs as prayed for.

(emphasis supplied)

A copy of the decision of the Hon'ble High Court of Allahabad in ***Smt. Asha Mishra (supra)*** is annexed herewith and marked as ***ANNEXURE R-9***.

4. It is further pertinent to bring the attention of the Hon'ble Tribunal to the decision of the Hon'ble High Court of Delhi in the matter of ***Indus Tower Ltd. v North Delhi Municipal Corporation⁴***, whereby the Hon'ble Court was pleased to stay the operation of the work stop notice issued by the NDMC solely on the ground of the complaints received from residents, as unsustainable, while making the following observations:

“10. Further, it may be noticed that the objection raised by the residents that the tower is likely to cause harm to children, old people and pregnant women is no longer res integra as by judgment dated 26.04.2016 a Division Bench of this Court in W.P. (C) No. 5550/2015 titled Kapil Chaudhary & Anr. Vs. Union of India & Ors. has categorically held that there is no scientific data available to show that installation of mobile phone tower and emission of waves by the said tower is in anyway harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect.

11. The Division Bench in Kapil Chaudhary (supra) was considering a public interest petition seeking removal of the mobile towers installed in residential area. The ground raised in the petition inter alia was that the presence of the towers will cause diseases on account of radiation that is emitted. The Union of India had filed a Counter Affidavit therein stating that “many studies have been conducted on the health hazard of radiations of mobile phone

⁴ W.P. (C) No. 11831/ 2021 decided on 23rd February, 2022

towers/networks. These studies have been conducted under the aegis of WHO. The studies have concluded that there is no conclusive scientific evidence of adverse health effects due to low level of RF emission from mobile phone towers”

12. The Division Bench after considering several Judgments of various High Courts wherein similar pleas had been rejected held as under:

“12. In view of the above, it is clear that there is no scientific data available to show that installation of mobile phone towers and the emission of the waves by the said towers is in any way harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect. The petitioner has not been able to produce any data whatsoever showing any such harmful effects on the health of human beings. The petitioner has also not been able to show violation of any norms by the respondent.”

(emphasis supplied)

A copy of the decision of the Hon’ble High Court of Delhi in *Indus Towers Ltd. (supra)* is annexed herewith and marked as *ANNEXURE R- 10*.

H. Location of Mobile Towers is not a matter of choice but is based on technical including other factors:

1. It is pertinent to mention here that for the purpose of providing mobile telephony networks, the tower companies being passive infrastructure service providers have installed a number of towers which is an essential prerequisite for providing telecommunication services by the Cellular Operators. Furthermore, the technical

requirement for ensuring connectivity to the cellular mobile consumers is contingent upon various factors like:-

- (i) frequency allocation by the Government of India,
- (ii) scarcity of spectrum,
- (iii) the density of the subscribers/users of the mobile services at a given location,
- (iv) requirement of the strength of signal,
- (v) obstructions in the dispensation of signal viz. hills, trees, high rises buildings, interferences of other signal(s),
- (vi) the topography of the area (e.g. if there are many basements in the area, more mobile towers may be required to provide adequate signal or if there are many buildings at close distance, more mobile towers may be required to provide signals in the area).

2. The BTSs (Base Trans receiver Stations) installed by the Cellular Operators at the mobile towers receive and transmit signals by means of electromagnetic waves, which are transmitted without any line connection from and to cellular mobile phones and the basic telephone exchanges and thus, establish a network for mobile cellular communication. Without such cell sites, the cellular mobile telephone system cannot function/operate. Hence, for the purpose of establishing the mobile towers, sites are

identified based on the technical feasibility and limited choice of location and an agreement is executed with the land/building owner for the said purpose.

3. This is essential to create a Cellular Architecture which is explained herein below:

Cellular Architecture: In order to offer cellular mobile services, the service providers need to set up a cellular network comprising of chain of contiguous cells, each served by a Cellular tower. It is through these towers that the cellular signal is transmitted from cell-to cell till the mobile subscriber is located and the call is terminated.

Adverse Impact on Cellular Service due to lack of non-operation of Mobile Towers:

It may be appreciated that if for any reason the chain is broken, it creates a “Dark Spot”, where not only calls cannot be made or received, but also call handover cannot take place, thus affecting mobile service even in nearby areas which are served by these towers. Therefore, if any tower in between is switched off or becomes non-functional due to any reason whatsoever, including sealing or demolition or similar coercive actions by local bodies

including Municipal Corporations/Council/Panchayats, then not only the traffic of that tower but even the traffic pertaining to nearby towers connected through that tower will also get disrupted resulting in a vast population getting disconnected and being deprived of mobile communication services. Thus, in order to provide seamless, uninterrupted service and to cover the entire geographical area of any city/town, Telecom Towers are technically required to be installed in residential and non-residential / commercial areas. Hence, the very success and growth of a cellular network depends upon the availability of contiguous cells to ensure seamless coverage and service in the area.

4. It is further submitted that each Base Trans-receiver Station installed by Cellular Operators at Telecommunication Towers has a specific band/ weight ratio which is directly proportionate to the number of users of the network. Thus more mobile towers are required to be installed in the residential areas as the number of subscribers is more in the residential areas. It is submitted that placing of towers to provide telephony service in areas away from the residential buildings would obviously mean poor or no network in the residential buildings.

I. Instant dispute of installation of telecom tower, no tree has been uprooted or damaged caused to green field.

1. It has further been contended by the Applicant that the installation of the telecom-tower would lead to uprooting of the trees in the green belt.
2. It merits mention that before initiating the process of setting up of the tower, the answering Respondent is required to submit an application to the Authority with proposed location of the communication site. The Application / proposal then passes through various departments in the authority including Commercial, Planning, Project Department and Institutional Department and a ground survey is done by the designated department of authority. On the basis of the survey report of the authority officials from ground that a clear area is available and no trees or any other damage will be done to the green belt, the location is allotted for installation of the communication site. The allottee has to duly adhere to the set procedure and take all requisite steps at its end in order to ensure that no such damage is caused to the green belt by conducting its due diligence throughout the complete green belt area where the said tower was sought to be set up. As per set procedure, post allotment, ground survey is conducted by the answering respondent company alongwith Telecom Operator which is based on the earlier technical survey of Network Planning Team of the Telecom Operator. Thereafter, the work is initiated at the allotted location- Communication Site.

3. In view of the above and in humble submission of the Answering Respondent, it is stated that no damage has been caused or ought to be caused to any tree in the area where the said tower is sought to be installed. All such requisite steps in accordance with the procedure laid down were duly adhered to by the answering Respondent to ensure no damage is caused to any tree and resultantly the answering Respondent was granted permission by the Concerned Authority vide Allotment Letter dated 05.07.2022. the assertions made by the applicants are completely false and are baseless and do not merit and consideration being false and baseless.

A copy of the photographs depicting the area allotted to the Respondent for carrying out the installation of the Telecom Tower are annexed herewith and marked as *ANNEXURE R-11 (Colly)*.

J. Relevance of installation of telecom towers for telecommunication and internet services

1. In the humble submission of the Respondent, during the prevalent Pandemic times, the entire Country was essentially brought to a stop still. Movement amongst people restricted, and norms encouraging social distancing brought into operation. Citizens of the Country as well as across the world, were unable to stay within physical reach showed pattern of increased dependency on the digital connectivity including Mobile Phones as well as Internet Services to

conduct day to day functions. The Telecommunication is an Essential Public Service and telecom towers have been categorized as lifeline installation and critical infrastructure to cater telecom network in the areas for the benefit of general public at large including government authorities, health services, education system, banking and etc. During this unprecedented Covid-19 pandemic, communication network has played a very vital role across the globe when people are mandated to maintain social distancing and do work from home. During this critical time, telecom network has helped people in diverse manner including operations of the courts, government offices/authorities to perform their works effectively, students to get their education through online, financial transactions have done through digital platforms, all in all entire economy of the globe including our country has been running through telecommunication and its infrastructure. In view, thereof, need for telecom towers providing services of mobile network fell under the purview of essential services and therefore deemed crucial for carrying out of day to day activities.

2. It is pertinent to mention that Telecom Towers have been installed at three nearby sites but the same fall at a distance and are thus insufficient to provide network coverage to the area including the residents and commuters to Apartments of applicant society. It is pertinent to mention that due to such towers being unable to cover the area where the Applicant Apartments are located, installation of a communication

network site near the periphery of the Applicant Apartments is essential in order to provide proper signal coverage to the residents of the Apartments.

3. Furthermore, more than approximately seven lac towers have been installed across India and around 20000+ communication sites have been installed in Delhi, thus far. Communication sites are inevitable for the economic growth and sustainable development of the Nation as we head towards the Digitalization.
4. Each tower requires a space of 25 sqm (5mts x 5mts) for installation, permission regarding the same was duly granted to the Respondent herein by the Greater Noida Industrial Development Authority (GNIDA) vide Allotment Letter dated 05.07.2022.

A copy of the said Allotment Letter is annexed herewith and marked as *ANNEXURE R- 12*.

Preliminary Submissions:

1. At the outset, the Respondent No. 2 (hereinafter referred to as the 'Answering Respondent') i.e. Indus Towers Limited (Formerly Bharti Infratel Ltd.), denies, disputes and objects to each and every submission and averment made by the Applicant.

2. That the answering Respondent is a Company incorporated under the provisions of The Companies Act, 1956, limited by shares, having its registered office at 4th Floor, Building No. 10-A, DLF Cyber City, Phase- II, Gurugram, Haryana- 122002 and Delhi Circle office at 4th Floor Building No. 10-B, DLF Cyber City, Phase- II, Gurugram, Haryana- 122002. The answering Respondent Company is a registered infrastructure provider category-1 (IP-1) by virtue of registration granted by the Department of Telecommunication (DoT), Ministry of Communications and I.T., Government of India. The answering Respondent Company is *inter-alia* engaged in the establishment, Installation, maintenance, operation and provision of passive telecommunication infrastructure, towers and allied equipment to provide round the clock Cellular Mobile Telephone Services to the public at large through respective telecom service providers on sharing basis to ensure optimum utilization of telecom towers to several telecom operators, who are issued licensed by the Government of India under Section 4 of the Indian Telegraph Act, 1885 to provide mobile telephony services.
3. That the present reply is being filed by the answering Respondent through Mr. Vikram Singh, who is working with the Company in the capacity of Circle Legal Head and is authorized by the answering Respondent by way of Power of Attorney dated 05-01-2021 in accordance with Board Resolution dated 19-11-2020. It is stated that he is well

acquainted with the facts of the matter on the basis of knowledge derived from the records maintained by the answering Respondent and departmental inputs received from the officials concerned.

A True Copy of the Power of Attorney dated 05-01-2021 and Board Resolution dated 19-11-2020 are annexed herewith and marked as *ANNEXURE R- 13 and R- 14* respectively.

Para- wise Reply

1. The contents of Para 1 are not denied to the extent that they form part of the record, anything inconsistent with the record is vehemently denied.
2. The contents of Para 2 are false and incorrect and hence denied in toto. It is most respectfully submitted that the Applicant has filed the present Application based on an ill-founded and misplaced understanding of the effect of installation of Mobile Towers and the same emits electromagnetic radiation which will make the air toxic and can harm people.

Para-wise Reply to Facts in brief

- i. The contents of sub-para (i) are denied for want of knowledge as no such document is annexed by the applicant society with OA.
- ii. The contents of sub-para (ii) are not denied being a matter of record.

- iii. The contents of sub-para (iii) are not denied.
- iv. The contents of sub-para (iv) are denied for being false and misconstrued. It is denied that the GNIDA arbitrarily issued an allotment letter on 05.06.2022 with ref. GRENO/Vanijyik/2022/2047 for establishment of mobile towers in the green belts overseeing prominent densely populated residential premises which includes the Applicant Apartments. It is submitted that the Allotment Letter is dated 05-07-2022 (not 05-06-2022) and has been issued by the Authority in compliance to the relevant policy order in this regard and after the Respondent took all requisite steps according to the prescribed procedure regarding installation of the subject communication site.
- v. The contents of sub-para (v) are not denied to the extent that form a part of the record. However, it is submitted that the application date mentioned in the para is wrong, which infact is 08-06-2021 (and not 08-06-2022).
- vi. The contents of sub-para (vi) are denied for being false and misconstrued. It is denied for want of knowledge that the Applicant Apartments comprises of a population of about 6500 people including children, senior citizens and is one among the most densely populated residential societies of Greater Noida. It is also vehemently denied that the GNIDA overlooking directions of this Hon'ble Tribunal and Hon'ble Supreme Court went ahead to issue an arbitrary allotment letter to favouring destruction of greenery of greater Noida.

It is submitted that the Allotment letter granted in favour of the answering Respondent was issued while following due process of law and prescribed procedure. It is further submitted that the same was in conformity with and not in violation of the precedent set out by the Hon'ble Courts. It is submitted that even taking the assertions of the applicants if there are 6500 people residing in the applicant apartment, they all being Mobile users have a right to enjoy seamless communication network connectivity and for the same it is necessary to provide a source of network connectivity near to the apartment, which is only possible through installation of a communication site nearby the applicant society.

- vii. The contents of sub-para (vii) are denied for want of knowledge.
- viii. The contents of sub-para (viii) are denied for being false and misconstrued.
- ix. The contents of sub-para (ix) are denied for want of knowledge. However, it is submitted that no damage has been caused to any tree or green belt due to installation of the communication site. Applicants have made false assertions in this para.

Reply to Grounds

- A) The contents of Ground A are vague and baseless. The averments made are solely formed on the basis of myth,

assumptions and conjecture since there is no scientific evidence brought forth by the Applicant to substantiate said averments. The contents of the Reply and preliminary objections hereinabove are reiterated and reaffirmed.

B) The contents of Ground B are denied for being misconstrued. It is denied that radiation level of 600 milli watts per meter square (mw/m. sq.) is considered to be safe but mobile phone towers emit electromagnetic radius above this limit which is harmful for residents of Applicant Apartment. It is submitted that as already submitted herein above, Government of India, Department of Telecommunication has already prescribed the EMF norms to be complied by the concerned Telecom Operators and same is being strictly complied with by the concerned Telecom Operators and monitored by the Department of Telecommunication through its Vigilance Wing named Telecom Enforcement Resource and Monitoring (TERM) Cell.

C-D) The contents of Ground C are denied for being false. It is specifically denied that telecommunication companies ignore the safety norms while setting mobile tower which leads to the creation of danger for the people living nearby. It is also specifically denied that electromagnetic radiation emitted by the network equipment installed by the concerned telecom operator at towers have many health risks which include loss of memory, lack of concentration and digestive problems. It is submitted that the several studies have been conducted with regard to negative ramifications, as alleged herein, however

it has been concluded that no conclusive scientific evidence has been found to depict that there is an adverse effect on the health from the electromagnetic radiation emitted by the mobile towers, as contended. Detailed submissions in this regard are already made herein above.

- E) The contents of Ground E are denied for being false and misconstrued. It is denied that the Hon'ble Supreme Court while taking into consideration over the issue of health hazards has issued clear guidelines and restricted any such installations in the near vicinity of residential premises, schools etc. and has noted that the same must be strictly adhered to. The petitioner has not placed on record any such guidelines and has made only false assertions to mislead this Hon'ble Tribunal. It is further denied that in similar circumstances, the NGT has taken cognizance of the matter and issued show cause to authorities in State (N.C.T. of Delhi).
- F) The contents of Ground F are denied for being wrong. It is denied that as per rules it is necessary to give structural stability certificate and drawings, building owners' agreement copy, no objection certificate from neighbours and surrounding areas. It is submitted that the Greater Noida Authority being the owner, has duly allotted the space to answering respondent for installation of a communication site. No NOC of any local resident is required and same is already clarified by the Government of Uttar Pradesh vide its letter dated 25-11-2020 that NOC from any local residents or

RWA is not required for setting up the communication site. Further, the communication site being installed at the location is a Cell on Wheel (COW) Site which is a completely temporary structure placed at the location on a pre casted platform and is movable on wheels if required to be removed at any point of time.

- G) The contents of Ground G are denied for being misconstrued and false. It is, with utmost humility denied that this Hon'ble Tribunal is vested with the jurisdiction to adjudicate upon the instant application in terms of Section 14 of the National Green Tribunal Act, 2010 wherein the applicant is seeking directions to the respondents for quashing the allotment letter issued by GNIDA dated 05.07.2022 with ref. GRENO/VANIJYIK/2022/2047 for construction of Mobile Tower in Green Belt in front of Gaur Atulyam and stay on other directives in consonance with the said allotment letter.
- H) The contents of Para H are denied for being false. It is specifically and strongly denied that the installation of the tower will lead to uprooting of the trees in the green belt.
- I) The contents of Para I are denied for want of knowledge.

The Prayer Clause is denied in *toto*.

PRAYER

In view of the above, it is therefore most respectfully prayed that this Hon'ble Tribunal may be pleased to dismiss the present application of the Applicant with levy of exemplary cost.

FILED BY:-



**KANIKA AGNIHOTRI
VAIBHAV AGNIHOTRI
SKV ASSOCIATES
A-118, THRID FLOOR
DEFENCE COLONY
NEW DELHI- 110024**

**DATE: 17.10.2022
PLACE: NEW DELHI**

**BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH AT NEW DELHI**

Original Application No. 557 of 2022

IN THE MATTER OF:-

Gaur Atulyam Apartment
Owners Association

...Applicant

Versus

Greater Noida Industrial
Development Authority & Anr.

...Respondent

AFFIDAVIT

I, Vikram Singh, aged about 46 years, s/o S. Balwinder Singh, Authorized Representative of the Respondent No. 2- M/s Indus Towers Ltd. having its registered office at 4th Floor, Building No. 10-A, DLF Cyber City, Phase- II, Gurugram, Haryana- 122002 and Delhi Circle office at 4th Floor Building No. 10-B, DLF Cyber City, Phase- II, Gurugram, Haryana- 122002, do hereby solemnly affirm and state on oath as under:

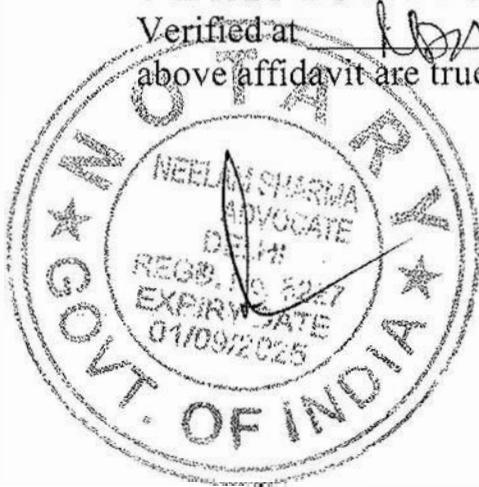
1. That I am the Authorized Representative of the Respondent No. 2 - M/s Indus Towers Ltd. in the captioned matter herein and as such am fully conversant with the facts and circumstances of the case and competent to swear the present Affidavit.
2. That I have read and understood the accompanying Reply and I state that the contents thereof are true and correct to the best of my knowledge as per records maintained by the Company and nothing material has been suppressed thereof.

3 OCT 2022

DEPONENT

VERIFICATION

Verified at on this day of August 2022 that the contents of my above affidavit are true and correct to my knowledge and no part of it is false.



ATTESTED

NOTARY (Govt. of India)
Neelam Sharma
Advocate
Ch. No. 155A, Gate No. No. 15,
Patiata House Courts,
New Delhi-110001
Ph: 9899408301

DEPONENT

3 OCT 2022

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

.....

**ORIGINAL APPLICATION NO. 61 OF 2012
(M.A. NO. 6 OF 2013)
AND
ORIGINAL APPLICATION NO. 78 OF 2014
(M. A. NO. 193 OF 2014 & M. A. NO. 279 OF 2015)
AND
ORIGINAL APPLICATION NO. 129 OF 2015
(M.A. NO. 367 OF 2015) AND
ORIGINAL APPLICATION NO. 147 OF 2015
(M.A. NO. 522 OF 2015) AND
ORIGINAL APPLICATION NO. 247 OF 2015
(M.A. NO. 617/2015) AND
ORIGINAL APPLICATION NO. 379 OF 2015
(M.A. NO. 1095 OF 2015)
AND
ORIGINAL APPLICATION NO. 383 OF 2015
(M.A. NO. 913 OF 2015)**

IN THE MATTER OF:

Dr. Arvind Gupta
K-60, Sector-25
Jal Vayu Vihar,
NOIDA-201301

....Applicant

Versus

1. Union of India, represented through its Secretary, Ministry of Communications & IT, Department of Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi, Pin-110001
2. Union of India, represented through its Secretary, Ministry of Environment and Forests, CGO Complex, Lodhi Road, New Delhi, Pin-110510
3. Union of India, represented thorough its Secretary, Ministry of Health and Family Welfare, Niranman Bhawan, C-Wing, New Delhi, Pin-110011

4. Security and Exchange Board of India
Represented through its Chairman
Plot No. C4-A, 'G' Block,
Bandra Kurla Complex Bandra(East)
Mumbai, Pin-400051
 5. Bharti Infratel Limited represented through it's
Company Secretary, Bharti Crescent,
1, Nelson Mandela Road,
Vasant Kunj, Phase-II, New Delhi, Pin-110070
 6. Bharti Airtel Ltd. represented through it's
Company Secretary, Bharti Crescent,
1, Nelson Mandela Road,
Vasant Kunj, Phase-II, New Delhi, Pin-110070
 7. Idea Cellular Ltd. Represented through it's
Company Secretary, 5th Floor,
Endsors CST Road, Kalina,
Santa Cruz (E), Mumbai, Pin-400098
 8. Vodafone India Limited represented through it's
Company Secretary, 2nd Floor,
Skyline Icon, 86/92, Andheri Kurla Road,
Marol Naka, Near Mittal Industrial Estate,
Andheri East, Mumbai, Pin-400059
 9. Reliance Communication Lts. Represented through it's
Company Secretary,
Dhirubhai Ambani Knowledge City,
Kopar Khairane, Navi Mumbai, Pin- 400710.
 10. Tata Teleservices Limited Represented through it's
Company Secretary, Jeevan Bharti Tower I,
10th Floor, 124, Connaught Circus,
New Delhi, Pin- 110001.
 11. Bharat Sanchar Nigam Limited represented through it's
Chairman, Bharat Sanchar Bhavan,
Harish Chandra Mathur Lane,
Janpath, New Delhi, Pin- 110001
-Respondents

AND

Senior Citizen Welfare Association (Regd.)
Regd. Office:-
RZF-765/11, Street No. 6,
Raj Nagar, Part-II,
Palam Colony,
New Delhi-110077

Through its Secretary
Sh. Shankar Bharti

....Applicant

Versus

1. Govt. of India,
Ministry of Environment & Forests,
New Delhi
Through Secretary,
2. The Commissioner
South Delhi Municipal Corporation,
SPM Civic Center,
Minto Road,
New Delhi.
3. The Dy. Commissioner,
South Delhi Municipal Corporation,
Najafgarh,
New Delhi – 1100043.
4. The Environment Engineer,
Delhi Pollution Control Committee,
Department of Environment,
Govt. of NCT Delhi,
4th Floor, ISBT Building,
Kashmere Gate,
Delhi- 110006.
5. The Sub Divisional Magistrate
HQ Dwarka,
Old Terminal Tax Building,
New Delhi – 110037.
6. The SHO,
P.S. Palam Village,
New Delhi – 110045.
7. Department of Telecommunications
105, Ist Floor, Sanchar Bhawan,
New Delhi – 110011.

....Respondents

AND

Rohan Yadav
R/o B-1/1180, Vasant Kunj,
Delhi-110070

Also at:

A-4, Defence Colony,
New Delhi-110024

....Applicant

Versus

1. Delhi Development Authority
Vikas Sadan, INA
New Delhi-110023
Through its Vice Chairman
2. Ministry of Environment & Forests
Through its Secretary
Govt. of India
India Paryavaran Bhavan
Jor Bagh Road
New Delhi-110003

....Respondents

AND

Vivekanand Apartments Residents Welfare Association
Through its President
B-5/164, Sector-08,
Rohini,
Delhi- 110085.

....Applicant

Versus

1. Delhi Development Authority,
Through its Vice Chairman
Vikas Sadan
New Delhi – 110023.
2. M/s Indus Tower Limited,
Building – 10,
Tower – B, 9th Floor, Delhi Cyber City,
Gurgaon.
3. Ministry of Environment & Forests
Through its Secretary
Govt. of India
India Paryavaran Bhavan
Jor Bagh Road
New Delhi-110003

....Respondents

AND

The Management Committee of the Aggarwal Co-operative
Group Housing Society Ltd.
Through its President
Plot No. 16, Sector-12, Dwarka,
New Delhi.

....Applicant

Versus

1. Delhi Development Authority,
Through its Vice Chairman
Vikas Sadan
New Delhi – 110023
2. Chief Engineer
Delhi Development Authority
Dwarka Circle,
New Delhi.
3. Deputy Director
Horticulture Department
Dwarka,
New Delhi.
4. South Delhi Municipal Corporation
Through Commissioner,
Civic Centre, New Delhi.
5. Deputy Director (Horticulture),
South Delhi Municipal Corporation
Najafgarh Zone, New Delhi.
6. Indus Tower Ltd.
Having its registered office at
Aravali Crescent 1, Nelson Mandela Road,
Vasant Kunj, Phase-II,
New Delhi- 110070.

....Respondents

AND

1. Bhupesh Sehgal
C-6/6591, Vasant Kunj,
New Delhi-110023.
2. RWA, C2 Vasant Kunj,
Through Mr. P.D. Vashisht,
President, RWA C2/2047,
Vasant Kunj,
New Delhi-110023

3. RWA, C1 Vasant Kunj
Through Mr. Anil Agarwal
President, RWA C1/1561,
Vasant Kunj,
New Delhi-110023.

4. RWA C8 Vasant Kunj
Through Mrs. Savita Soni,
President, RWA C8/8603,
Vasant Kunj,
New Delhi-110070.

....Applicant

Versus

1. Delhi Development Authority (DDA)
Through its Vice Chairman,
Vikas Sadan, INA
New Delhi-110023.

2. M/s Reliance JLO Infocomm Ltd.
3rd Floor RK Square Building No. 4,
Cyber City, Next to Cyber Hub,
DLF-II, Gurgaon.

3. M/s Indus Tower Ltd.,
Building No. 10, Tower B,
9th Floor, DLF Cyber city,
Gurgaon-122003, Harayana

4. Delhi Police
Through the SHO
Vasant Kunj Police Station
Vasant Kunj,
New Delhi-110070

5. South Delhi Municipal Corporation
Through its Deputy Commissioner
MCD Civic Centre,
Minto Road, New Delhi-110002

6. Ministry of Environment and Forests
Through its Secretary
Govt. of India
India Paryavaran Bhavan
Jor Bagh Road
New Delhi-110003

7. Department of Telecommunications
Through its Chairman,
Ministry of Communication and IT,
Sanchar Bhawan,
20, Ashok Road, New Delhi-110001.

8. Central Pollution Control Board,
Through its Chairman,
Parivesh Bhawan,
CBD-cum-Office Complex,
East Arjun Nagar,
Delhi-110032

....Respondents

AND

Sh. Bhagwan Dass Girdhar
Son of Late Sh. Ram Dayal
R/o H.No. 60, II Floor,
Priya Darshini Vihar Part- I
Model Town, Delhi- 110009.

....Applicant

Versus

1. Krishan Lal Sachdeva, and his daughter
Km. Pooja, R/O H.No. 698, Sector-5 Urban Estate
Kurukshetra, Haryana.
2. The Deputy Commissioner
North Delhi Municipal Corporation
16, Rajpura Road, Civil Lines Zone,
Delhi-110054.
3. The Director
Delhi State Pollution Department
Vikas Bhawan, I.P. Estate, New Delhi.
4. Idea Mobile Company
New Delhi.
5. Vodafone Mobile Telephone Company
New Delhi.
6. The Airtel Mobile Telephone Company
All these three companies provided mobilr tower
Through Indus Tower
Aravali Crescent, Nelson Mandela Road,
Vasant Kunj, Phase- II, New Delhi- 110070.
Customer care No. 1800-1021-666
Circle Head-ch.delhi@industowers.com

7. Smt. Rashmi Anand W/O Sh Ashok Anand
R/o H. No. 272, Kalyan Vihar, Rana Pratap Bagh
Delhi-110009.

....Respondents

COUNSEL FOR APPELLANT (OA 61/2012):

Mr. Raj Panjwani, Sr. Advocate, & Ms. Maneka Kuar, Advocates.

COUNSEL FOR RESPONDENTS:

Mr. Ardhendumauli Kumar Prasad, Ms. Priyanka Swami and Mr. Jigdal G. Chankapa, Advocates, for Respondent No. 1.

Mr. Divyangana Singh, Advocate for Respondent No. 3

Mr. Sandeep Gupta and Mr. Tushar Gupta, Advocates for Respondent No. 4.

Mr. Ramjit Srinivasan, Sr. Advocate and Mr. Navin Chawla, Advocate for Respondent No. 6 to 8.

Mr. Paras Anand and Mr. Raghav Pandey, Advocates for respondent no. 9&10

Mr. Piyush Sharma and Mr. Aditya N. Prasad, Advocates, Mr. Vikas Malhotra and Mr. M.P. Sahay, Advocates for respondent no. 12

JUDGMENT

PRESENT:

Hon'ble Mr. Justice Swatanter Kumar (Chairperson)

Hon'ble Mr. Justice M.S. Nambiar (Judicial Member)

Hon'ble Dr. D.K. Agrawal (Expert Member)

Hon'ble Mr. Bikram Singh Sajwan (Expert Member)

Reserved on: 28th October, 2015

Pronounced on: 10th December, 2015

1. Whether the judgment is allowed to be published on the net?
2. Whether the judgment is allowed to be published in the NGT Reporter?

JUSTICE SWATANTER KUMAR, (CHAIRPERSON)

By this common judgment we will dispose of all the above seven applications as a common question of law comes up for consideration of this Tribunal though on somewhat different facts in these cases.

2. The applicant in the Main Application has preferred this application under Section 18 (1) read with Section 14 (1) of the National Green Tribunal Act, 2010 (for short 'NGT Act'). Challenging on the one hand inaction on the part of the respondents in not devising proper Rules/guidelines and on the other, in not implementing the existing regulations pertaining to installation of mobile towers in accordance with the Office Memorandum dated 9th August, 2012 issued by the Ministry of Environment, Forest and Climate Change (for short MoEF & CC), reproduce hereby as under:-

“Paryavaran Bhawan
CGO Complex, Lodhi Road
New Delhi-110003
Date: 9th August 2012

F.No. 15-11/2010/WL-I

OFFICE MEMORANDUM

Sub: Advisory on the use of Mobile Towers to minimize their impact on Wildlife including Birds and Bees-conveyed.

In pursuance to the report submitted by the Expert Committee constituted by the Ministry of Environment and Forests to study the possible impacts of communication towers on wildlife including birds and bees and subsequent consultations held with the stakeholders, an advisory containing the actions to be undertaken by various agencies involved in providing, regulating and dealing in any other manner with the EMR based services has been prepared by the Ministry with the objective to avoid and mitigate the impacts of EMR on such species.

A copy of the aforesaid advisory is enclosed for information, record and requisite action on the part of concerned stakeholders.

(Vivek Saxena)
Deputy Inspector General (WL)”

The basic grievance of the applicant is that the exposure to Electromagnetic Radiation (EMR) or electromagnetic field needs to be

minimised since the radiations are creating adverse impact on both Flora and Fauna of urban and rural environmental setup. The applicant challenges the illegal and questionable action of the respondent companies, more particularly respondent no. 5 for not complying with the legal requirements.

The applicant, a conscious public spirited person has also raised issue in relation to respondent no. 5 issuing and mobilising public money for private profits in the field of construction of telecom towers. According to the Telecom Policy, 2012 the number of telephone connections, at the end of February, 2012, was 943 million as compared to 41 million at the end of December, 2001. This phenomenal growth has been fuelled by the cellular segment which alone accounted for 911 million connections at the end of February, 2012. The telecom industry is growing continuously with the active support of the Government. The installed base of telecommunication towers is expected to increase from 3,76,000 at the end of March 2012 to 4,20,000 at the end of March, 2017. The radio frequency sources in India are the transmitting towers such as AM, FM radio towers, TV Towers, Cell Phone towers, etc. and are emitting radio frequency/ microwave radiations continuously. The level of EMF from sources has risen exponentially. The radio frequency radiation creates irreversible health hazards due to harmful exposures to electromagnetic radiation. The telecommunication tower radiation in India is governed by guidelines drawn from the recommendations of the International Commission on Non-Ionizing Radiation Protection. All service providers were asked to get their BTSs self-certified. The self-

certification details were to be submitted to respective TERM cells of Department of Telecommunication (for short 'DoT') by November, 2010. Further, the private sector has flouted these norms. According to the applicant WHO International Agency for Research on Cancer has classified the Electromagnetic radiation from mobile phones and other sources possibly carcinogenic to human and advised the public to adopt safety measures to reduce exposure. The Government of India adopted the guidelines developed by the International commission on Non-Ionizing Radiation Protection for Electromagnetic Radiation from mobile towers, which are reproduced as hereunder:-

Frequency Range	Power Density (Watt/sq. Meter)
400MHz to 2000MHz	f/200

Since, the cellular GSM services are being operated at 900 MHz and 1800 MHz frequency band in India, wherein the permissible Power Density is 4.5 W/Sqm for 900 MHz and 9 W/Sqm. for 1800 MHz.

3. Based on public grievance, the Inter Ministerial Committee consisting of officers from DoT, Indian Council of Medical Research, Department of Biotechnology and MoEF&CC was constituted on 24th August, 2010 to examine the effect of EMF radiation from base stations and mobile phones. The Committee after studying 90 international and national studies and papers recommended for lowering the mobile towers EMF exposure limits to 1/10th of the existing prescribed limit as a matter of abundant precautions. It recommended the frequency range of 400-2000 MHz and power density of f/2000. According to the DoT guidelines safeguarding public health and steps to be taken for

regulating radiation from base tower were also recommended. The Expert Group studied the Possible Impacts of Communication Towers on Wildlife Birds and Bees which was constituted by Ministry of Environment and Forest on 30th August, 2010 and report was submitted, which amongst others suggested possible mitigating measures to be taken and to formulate guidelines for regulating the large scale installation of Mobile Towers in the country. The applicant also refers to various other reports in support of his contention that these mobile towers leads to adverse effects of electromagnetic radiation on environment and human health.

4. The applicant also relied upon the PILs filed in various High Courts like High Court Rajasthan, Delhi, Panjab and Haryana, Tamil Nadu, which was in relation to health hazardous from mobile towers. PIL was filed in Rajasthan High Court in which the Court passed the final Judgment giving certain directions. The promoters of the private sector just for commercial benefits are indiscriminately installing towers anywhere and everywhere, irrespective of whether it is a ground area, densely populated area or open area. For having the site of a mobile tower tested, a person has to pay a fee of Rs. 4,000 which is not affordable and is not reasonable. The growing public concern of adverse health effects due to EMF radiation has noticed various health hazards in India and abroad. The applicant has referred to a report, Spanish (2004), Israel (2004), Germany (2004), Austria (2005) which indicates the ill-effects of radiation from mobile towers that can be fatigue, sleeping disorder, cardiovascular problems, breathlessness and

respiratory problems and even cancer. In some countries according to him the distance has been specified and these cases were higher in the patients who lived closer or even 400 meter to the towers. Further, according to the applicant, keeping in view the Article 19 (1)(g), Article 21 of the Constitution there should be a Regulatory Regime in place and if a telecom and cell phone tower are not banned, atleast there has to be complete guidelines in consonance with the scientific data to protect environment, human health and Ecology On the above facts the applicant has made the following prayers before the Tribunal:-

1. Implementing the guidelines and regulations pertaining to installation of Telecom Towers (Base Section) in accordance to Office Memorandum No. F. No. 15-11/2010/WL-I dtd. 09/08/2012 of the Ministry of Environment and Forest.
2. Directing the SEBI not to Clear any DRHP/IPO offering Prospectus filled by the Respondent Companies to the gullible investors for raising public money for private gains causing irreversible environmental and health hazard due to adverse radiation effect on human lives, birds, bees and environment until the final disposal of this appeal;
3. Direction may be issued to the respondents for implementing the Inter-Ministerial Committee recommendation to relating to the EMF exposure limits;
4. Direction may be issued for widely publicizing the complaint handling system of TERM for Electro Magnetic Field Radiation from Mobile Tower;
5. Putting place the complaint handling system of TERM throughout India within stipulated time period;
6. Issue an appropriate direction to all the High Courts for the transfer of all matters related to the radiation from mobile tower to Hon'ble National Green Tribunal for speedier and expeditious disposal of cases;
7. Direct the respondent no. 1,2,3 and 4 to constitute a High Power Committee of Experts to lay guidelines for limiting cell phone radiation norms before for installing any new Cell Phone Towers in urban and rural India;

8. Any other reliefs/ order/ directions as this Hon'ble Tribunal may deem fit and proper in the interest of larger public for meaningful environmental justice.

5. MoEF&CC, Respondent no. 2 filed a reply wherein it has stated that the present application is misconceived, mis-narrated and an abuse of the process of law and it raises no substantial question of law within the provisions of NGT Act and therefore is not maintainable. Further, it is stated that the Office Memorandum dated 9th August, 2012 issued by the Ministry is an advisory issue to the concerned authorities / department involved in providing regulations and delay in any manner of DMR based services, including the installation of mobile towers. The Ministry had prepared the order as an advisory document with the objective of sensitising the various agencies on impact of EMR on life forms so that the concerned agencies, while adopting the norms for regulation and fixing standards for safe limits of EMR's, will take into consideration the impacts on the living beings. The DoT has recently lowered the permissible limit of mobile tower to 1/10th of the impacts from 12th September, 2012. This is based upon international commission on Non-Ionising Radiation Protection Guidelines.

Other private respondent nos. 5 to 9 have filed their respective replies. Objection in regard to maintainability of the application being beyond the jurisdiction of the Tribunal has been taken by all of them. It is contended that the present application is beyond the scope and purview of Section 14 and Schedule I of the NGT Act. In fact the application is even barred by time.

Objections has also been taken in regard to the applicant not claiming any relief against SEBI and the matters connected thereto. Such money disputes cannot lie before the Tribunal. The allegations that these private players are not complying with the norms setup by the Central Government with respect to Electromagnetic field radiation from mobile towers are specifically denied. The establishment of Telecommunication towers is a case for ruling out a licensed environment for providing Cellular mobile telephone services. Telecom towers are required to be erected which ultimately allow usage from one subscriber to another. Under the United Access License granted to the service provider, an obligation is imposed on the licensee to ensure the quality of service while providing telecom services. If the construction of tower has started, the service provider would have or they are called upon to take all requisite permissions and sanctions. Then the service provider would have various hindrances whenever a new tower is erected. If the service provider does not erect a cell phone tower then the same would have effect on their obligation under UASL for which they are liable. They even pray that the interim order granted by the Tribunal should be related where they had been directed that no construction of cell phone towers shall be made without following the mandatory provisions of law and without obtaining necessary permissions from the concerned authorities. It is of course stated by each one of them that there is no Regulatory Regime directly dealing with the towers as of now. However, one of the private respondents have taken up the plea that the subject matter of the present

application is clearly governed under the provisions of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997. Under Section 7 of the Telegraph Act 1885, the Central Government have the authority to make rules consistent with the Act. For the conduct of the Telegraph Act, 1885, the Central Government has also issued guidelines in respect of electromagnetic radiation. The provisions of Environment Protection Act, 1986 (for short 'Act of 1986), which in any case do not have any concern with electromagnetic emissions, loud ways and hertz ways galvic electric and magnetic means do not get covered under the Act of 1986. The applicant has substantially prayed for issuance of Writ of Mandamus, the power of which is vested in the Constitutional Courts. An obligation has also been taken in relation to the Locus Standi of the applicant to file the application.

6. Delhi Development Authority (DDA), respondent no. 1 has also filed its separate reply. In some of the above cases, from amongst the afore-noticed cases, the allegations beside the ones made in O.A. No. 61 of 2013 are that the towers are being erected in the green belt, public parks, district parks and number of such towers are being erected within a very close vicinity of each other. This, besides being contrary to the master and zonal plan of the area and in complete violation of the guidelines, they are also very seriously hazardous to the human health and environment. It is also contended in the case that on some of the erected towers there are many antennas which is again not permissible. The DDA has responded thereto that the current evidence does not

conform the existence of any health hazards from exposure of EMF radiation. As an abundant precautionary measure and to lower the harmful effects of EMF radiation exposure in February, 2004 the limit was reduced by the committee and norms were reduced to one tenth of the existing limits prescribed by ICNRIP. No restriction has been imposed in the advisory guidelines on installation of towers on specific building such as schools, hospital and play grounds. Whenever antenna are mounted on the wall of the building on pole on the road, their height should be 5 meters above the ground level. The master and the zonal plan of Delhi does not prescribe construction of tower in any area, particularly green belt. We may also notice that parties have referred to various judgments of the High Courts in some of which the High Courts have interfered and even issued certain directions while in other, the High Courts have chosen not to issue specific directions.

7. The parties appearing in the case were primarily heard by the Tribunal on the question of maintainability of the present application and other preliminary objections as raised by the respondents. We had made it clear to the parties appearing in the case that the Tribunal would not proceed with the detailed hearing on merits except touching thereupon issues limited to the extent it is necessary for determining the preliminary issues raised by the respondents. The following preliminary issues arise for consideration of the Tribunal.

- a. Whether the applicant has *locus standi* to file the present application.
- b. Whether the present application is barred by limitation.

c. Whether the application as framed is maintainable and is covered under any of the Scheduled Acts, to the NGT Act, 2010.

8. For the purpose of discussion, we will take up the first 2 issues together. It is not the submission of all respondents that the applicant does not have a locus standi to file the present application. Section 14 of the NGT Act gives jurisdiction to the Tribunal over all civil cases, where a substantial question relating to the environment, more importantly, including enforcement of any legal right relating to environment is involved. Such question should arise out of the implementation of the enactments specified under Schedule I. Section 14 does not define or states as to who can be an applicant. It is only sub section 3 and proviso thereto that uses the word applicant. This is not in contra distinction to the functioning of Section 16 of the NGT Act, where any person aggrieved has to file appeal as contemplated. Section 18 then provides for the application under Section 14 and 16 has to contain the particulars as accompanied by such facts as prescribed. As prescribed in terms of Section 18 (2) without approach to the provisions contained under Section 16, an application for grant of relevant compensation or settlement of dispute to be made to the Tribunal by the person who is aggrieved, who has sustained injury, whose property has been damaged, legal representative of a deceased and the Government as stated. Under Rule 2(c) of the NGT (Practice and Procedure) Rules, 2011 provides that any person who files the application before the Tribunal would be an applicant. Section 14 has intentionally been worded by the legislature to cover all cases which

falls under any of the specific category i.e. where substantial question relating to environment arises or where enforcement of any legal right relating to environment arises. In these circumstances, if the case falls under either of these categories then the locus of the applicant can hardly be questioned. Furthermore, the object of the NGT Act is to make environmental justice easily accessible and for expeditious disposal of environmental cases. According to the applicant, he has a legal right arising under Article 21 of the Constitution of India, so as to ensure that he receives a decent and clean environment and any activity which is affecting them or is a threat to environment and public health would be actionable under the NGT Act. Whether the applicant would succeed on merit or fail, even on some issues preliminary or otherwise, would be a different matter. But the applicant cannot be denied the consideration of the application at the threshold on the ground of locus standi. The applicant may not have suffered a personal injury thus he may not personally aggrieved. Still he will have a right to approach the tribunal for a precautionary relief. If the matters are covered under any of the Scheduled Acts, the applicant has a right to invoke the jurisdiction of the Tribunal and make appropriate prayers.

9. The main consideration before the Tribunal would be a substantial question relating to environment or any issue arising from implementation of the Scheduled Acts. A person can approach the Tribunal even when he claims enforcement of a legal right in relation to environment.

We may refer to the judgment of the Tribunal in the case of *Goa Foundation v. Union of India*, 2013, All India (NGT) Reporter (New Delhi) 234 where on the question of locus standi, the Tribunal held as under:

25. The very significant expression that has been used by the legislature in Section 18 is 'any person aggrieved'. Such a person has a right to appeal to the Tribunal against any order, decision or direction issued by the authority concerned. 'Aggrieved person' in common parlance would be a person who has a legal right or a legal cause of action and is affected by such order, decision or direction. The word 'aggrieved person' thus cannot be confined within the bounds of a rigid formula. Its scope and meaning depends upon diverse facts and circumstances of each case, nature and extent of the applicant's interest and the nature and extent of prejudice or injury suffered by him. P. Ramanatha Aiyar's *The Law Lexicon supra* describes this expression as 'when a person is given a right to raise a contest in a certain manner and his contention is negative, he is a person aggrieved' [*Ebrahim Aboodbakar v. Custodian General of Evacue Property [AIR 1952 SC 319]*]. It also explains this expression as 'a person who has got a legal grievance i.e. a person wrongfully deprived of anything to which he is legally entitled to and not merely a person who has suffered some sort of disappointment'.

41. The implication of jurisdiction is, of course, not at the discretion of the judge but is relatable to the legislative intent and may be expanded within the framework of the statute. Once the legislature has intended to include 'all civil cases' in contradistinction to criminal cases, then it is not desirable for the Tribunal to carve out another class of cases which are to be excluded from the jurisdiction of the Tribunal. This will amount to adding words to a statute which are not provided otherwise. In a civil case which raises a question relating to environment, the Tribunal shall have jurisdiction to decide disputes arising out of such a question. Therefore, there is no need to carve out any exception for exclusion which is not spelt out by the legislature itself.

42. Under the scheme of the Act, an anticipated action will also fall within the ambit of the

jurisdiction of the Tribunal. Section 20 of the NGT Act provides that, while deciding cases before it, the Tribunal shall take into consideration the three principles -- principle of sustainable development, precautionary principle and the polluter pays principle. The precautionary principle would operate where actual injury has not occurred as on the date of institution of an application. In other words, an anticipated or likely injury to environment can be a sufficient cause of action, partially or wholly, for invoking the jurisdiction of the Tribunal in terms of Sub-sections (1) and (2) of Section 14 of the NGT Act. The language of Section 20 is referable to the jurisdiction of the Tribunal in terms of Sections 14 and 15 of the Act. The precautionary principle is permissible and is opposed to actual injury or damage. On the cogent reading of Section 14 with Section 2(m) and Section 20 of the NGT Act, likely damage to environment would be covered under the precautionary principle, and therefore, provide jurisdiction to the Tribunal to entertain such a question. The applicability of precautionary principle is a statutory command to the Tribunal while deciding or settling disputes arising out of substantial questions relating to environment. Thus, any violation or even an apprehended violation of this principle would be actionable by any person before the Tribunal. Inaction in the facts and circumstances of a given case could itself be a violation of the precautionary principle, and therefore, bring it within the ambit of jurisdiction of the Tribunal, as defined under the NGT Act. By inaction, naturally, there will be violation of the precautionary principle and therefore, the Tribunal will have jurisdiction to entertain all civil cases raising such questions of environment. Such approach is further substantiated by the fact that Section 2(c), while defining environment, covers everything. Section 2(m) brings into play a direct violation of a specific statutory environmental obligation as contemplated under Section 5 of the Environment Act as being substantial question relating to environment. These provisions, read with Section 3(1) and Section 5 of the Environment Act, which place statutory obligation and require the Government to issue appropriate directions to prevent and control pollution, clearly show that the legislature intended to provide wide jurisdiction to the Tribunal to deal with and cover all civil cases relating to environment, as stated by the Supreme Court in the case of S.A.L. Narayan Row & Anr. v.

Ishwarlal Bhagwandas & Anr. [AIR 1965 SC 1818]. The character of the proceedings is normally not with reference to the relief that the Tribunal can grant but upon the nature of the right violated and the appropriate relief which can be claimed.

10. In view of the above stated principle, facts and circumstance of the present case, we are of the view that the applicant has a locus standi to file the present application.

11. Coming to the second limb of the contention that the application is barred by time. We are again of the stated view that the application is not barred by limitation in terms of the Section 14 of the NGT Act. In the connected matters the applicants are personally aggrieved by conversion of the Green Belt, Public Park and district parks for erection and construction of mobile towers etc. which according to them is a violation of Master Plan, which itself would be part and parcel of environment and ecology which these authorities have a right to protect. It is true that the application has to be filed within a period of 6 months from the date when the Cause of Action first arose. The Tribunal is vested with the power to condone the delay in terms of proviso to Section 14 if the application is filed beyond 6 months. This power can be exercised for condoning the delay but under and not in excess of 60 days. The term 'cause of action' has been used in contra distinction to continuing cause of action. In case of a continuing cause of action, 'cause of action first arose' has completely a distinct and different role while computing the period of limitation. However, it is not equally applicable and does not have the same consequences in a case where the cause of action is recurring complete cause of action.

In other words, whenever subsequent act or subsequent breach is a complete cause in itself and its consequences are different, then such cause of action would enable an applicant to bring action before the Tribunal on the strength of the subsequent act. The limitation would be computed from the date of the subsequent breach or act. In this regard, we may refer to the judgment of the Tribunal in the case of *The Forward Foundation V. State of Karnataka*, 2015 ALL (I) NGT Reporter (2) (DELHI) 81 where the similar question of adherence arose. After hearing the law in detail the Tribunal held as under:

23. 'Cause of Action' as understood in legal parlance is a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed. It is the foundation of a suit or an action. 'Cause of Action' is stated to be entire set of facts that give rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment. In other words, it is a bundle of facts which when taken with the law applicable to them gives the plaintiff, the right to relief against defendants. It must contain facts or acts done by the defendants to prove 'cause of action'. While construing or understanding the cause of action, it must be kept in mind that the pleadings must be read as a whole to ascertain its true import. It is not permissible to cull out a sentence or passage and to read it out of the context, in isolation. Although, it is the substance and not merely the form that has to be looked into, the pleading has to be construed as it stands without addition or subtraction of words, or change of its apparent grammatical sense. The intention of the party concerned is to be gathered, from the pleading taken as a whole. [Ref. *Shri Udhav Singh v. Madhav Rao Scindia*, (1977) 1 SCC 511, *A.B.C Laminart Pvt. Ltd. v. A.P. Agencies*, [AIR 1989 SC 1239].

27. Whenever a wrong or offence is committed and ingredients are satisfied and repeated, it evidently would be a case of 'continuing wrong or offence'. For instance, using the factory without registration and licence was an offence committed every time the

premises were used as a factory. The Hon'ble Supreme Court in the case of *Maya Rani Punj v. Commissioner of Income Tax, Delhi*, (1986) 1 SCC 445, was considering, if not filing return within prescribed time and without reasonable cause, was a continuing wrong or not, the Court held that continued default is obviously on the footing that non-compliance with the obligation of making a return is an infraction as long as the default continued. The penalty is imposable as long as the default continues and as long as the assessee does not comply with the requirements of law he continues to be guilty of the infraction and exposes himself to the penalty provided by law. Hon'ble High Court of Delhi in the case of *Mahavir Spinning Mills Ltd. v. Hb Leasing And Finances Co. Ltd.*, 199 (2013) DLT 227, while explaining Section 22 of the Limitation Act took the view that in the case of a continuing breach, or of a continuing tort, a fresh period of limitation begins to run at every moment of time during which the breach or the tort, as the case may be, continues. Therefore, continuing the breach, act or wrong would culminate into the 'continuing cause of action' once all the ingredients are satisfied. Continuing cause of action thus, becomes relevant for even the determination of period of limitation with reference to the facts and circumstances of a given case. The very essence of continuous cause of action is continuing source of injury which renders the doer of the act responsible and liable for consequence in law.

12. The applicant has only prayed for the implementation of the Office Memorandum dated 9th August, 2012. The application was filed on 12th November, 2012 before the Tribunal well within the period of 6 months. Consequently the violation claimed by the applicant in this application relates to lack of regulatory regime, statutory or otherwise and violation of the prescribed guidelines while constructing/erecting towers every day. Construction of every new tower in a different colony in a different place public park, district centre or Green area would be an independent cause of action. In other connected matters, the cause of

action is very recent, for instance where the towers are under construction and application have been brought before the Tribunal. These are the cases which will consequently fall within the prescribed period of limitation but as each illegal construction would be an independent cause of action in itself and the period of limitation would have to be counted therefrom. Thus these applications are not barred by time. We may refer to the Judgment of the Tribunal in the case of Forward Foundation (Supra)

ISSUE NO. 3: Whether the application as framed is maintainable and is covered under any of the Scheduled Acts, to the NGT Act.

13. All the emphasis have been laid down by the learned Counsel appearing for the respondents on the question of maintainability of the present applications. The submission is that the Radiations of Electromagnetic Waves from Mobile Towers or other Towers does not fall directly or indirectly under any of the scheduled acts to the NGT Act. Radiation from towers does not cause any pollution. It does not fall under the expression 'environmental pollution' under Section 2(b) of the Act of 1986 or for that matter under the provisions of any of the scheduled acts. Radio electromagnetic waves are not the 'hazardous substance' in terms of Section 2(e) of the Act of 1986. On the true construction of Section 14 read with Section 2 (c) and 2(f) of the NGT Act, to which the Rule of strict construction has to be applied, the radiation would neither be covered under the definition of environment nor under the definition of hazardous substance and, therefore, would not fall within the ambit and scope of Section 14 of the NGT Act. It is

not a pollutant as it is not a solid, liquid or gaseous substance which is present in such concentration which may or tend to be injurious to the environment. Even if the definitions afore-referred are given liberal construction, then also radiation would not be covered under any of the scheduled acts. Under the Act of 1986, the legislature wherever intended to add or expand the scope of any term or expression particularly pollution, it has so stated under the provisions of the said Act. It is contended that for instance, Section 3 empowers the Central Government to take measures to protect and improve environment. These measures could relate to the matters or any one of them specified under sub Section 2(iii) inter-alia it could also related to laying down standards in relation to quality of environment in its various aspects. Similarly, Section 5 empowers the Central Government to issue directions subject to the provisions of the Act of 1986 but notwithstanding anything contained in any other law in force. These directions could relate to the closure, prohibition or regulation of any industry, operation or process amongst others. Section 6 vests the Central Government with the power of issuing notification in the official gazette and to make rules in respect of all or any of the matters referred to in Section 3 of the Act. Amongst others, the rules could relate to the standards of quality of Air, Water and Soil for various areas and purposes. Section 6(2)(b) empowers the government to frame rules and issue notification as to the maximum allowable limits of concentration of various environmental pollutants (including noise) for different areas. Section 6(2)(b), thus, shows that the legislature wherever intended have incorporated the words specifically. Inclusion of the word 'noise' shows

that the legislature unambiguously wanted the rule making authority to prescribe noise standards. Unlike this, in any of the provisions of the Act of 1986, reference have not been made to radiation by cellular towers or other towers directly or even impliedly, which shows that the framers of law did not desired to extend the jurisdiction of the Tribunal over such matters.

14. It is also contended on behalf of the respondents that the subject matter of the present applications is specifically covered under the Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997, and under these acts, license is required by the private stakeholders and such licenses are incorporated with all conditions and standards which the service providers are expected to perform or meet because there is a specific legislation covering this field. There is no occasion for the Tribunal to exercise jurisdiction by expanding the definition of words and expression under these laws as well as the provision relating to jurisdiction of the Tribunal in terms of Section 14 of the NGT Act.

15. It is also a contention on behalf of the respondents that after recommendations of the Committee constituted by the Government, the terms and conditions of the license were amended and consequently amended licenses with more details and specific conditions were issued by the DOT to which all the service providers particularly, the respondents should comply with. Firstly, this subject is beyond the jurisdiction of the Tribunal. Secondly, no legal right of the applicants has been violated. The field is squarely covered by the guidelines issued

by the DOT and the Tribunal would not issue directions for providing statutory or other regulatory regime which does not fall within its jurisdiction. Therefore, submission is that the application should be dismissed as not maintainable.

16. Sharply responded to the above contentions on behalf of the respondents, the applicants have argued that on the co-joint reading of object of the Act, definition under Section 2(a) of the Act of 1986 in light of the provisions of NGT Act, it is evident that the present application is maintainable. Radiation might not have been specifically provided under the Act of 1986 but it is a hazardous substance, an environment pollutant and has adverse impacts on human health. It is contended while relying upon the judgment of the Rajasthan High Court in the case of '*Justice I.S. Israni (Retd.) & Anr. v. Union of India & Ors.*, D.B. Writ Petition No. 2774/2012 that it is a hazardous substance and injurious to human health and it requires that a proper regulatory regime should be in place in the interest of environment and human health. It is also contended on behalf of the applicants that Section 3 of the Act of 1986 empowers the Central Government to take measures to protect and improve the environment. Under Section 3(2)(iii) and (xiv) the Central Government has to lay down standards for quality of environment in its various aspects and even in relation to such other matters as the government deem necessary or expedient for the purpose of securing effective implementation of the provisions of the Act. This would clearly imply that there is an obligation on the part of the Central Government to protect the environment and human health from the ill

effects of radiation and thus to specify a regulatory regime and standards in that regard. Act of 1986 is an Umbrella Act of environment and the legal right of the applicants read with Article 21 of the Constitution is being violated.

17. The other acts like Air (Prevention and Control of Pollution) Act, 1981, were enacted much prior to coming into operation of these activities of mobile towers, therefore, mere fact that they have not specifically been provided therein should not act as an impediment in the way of the Tribunal to give proper meaning and compliance to the provisions of 1986 Act. Thus, the Tribunal should exercise jurisdiction and the present case is maintainable.

18. It is also the contention of the applicants that Section 5 of the Act of 1986 opens with a non-obstante clause. Even if the contention of the respondents that the subject matter is covered under other Act is accepted, still because of the non-obstante clause the provision of the Act of 1986, has to prevail. However, it is contended that Tribunal has wide jurisdiction to deal with all environmental aspects in terms of the provisions of the NGT Act. In any case, if there is no proper policy in place for installation of towers and there are no guidelines then the matter would be squarely covered under the provisions of the Act of 1986, particularly, when the entire concept of construction and installation of towers is being dealt with arbitrarily. The arbitrariness is evident from the fact that in some places one tower is being constructed while in near to that site in another place, 15 towers are being constructed or have been constructed. In the Master Plan of Delhi, only

limited activity is permissible in the green areas and installation of towers being hazardous cannot be permitted in that area. Operationalization of such towers in those areas is violation of the advisory caution issued by MoEF&CC vide its letter dated 9th August, 2012 as well as Master Plan. Thus applicants can enforce their legal right before the Tribunal to prevent such construction.

19. At the cost of repetition, we make it clear that we are only deliberating upon the preliminary objections raised as to the maintainability of the application and the jurisdiction of the Tribunal to entertain this application. We are neither noticing the factual controversies raised in this application nor other legal issues indicated therewith. Suffice it to say that if we take the view that the present application is not maintainable or the Tribunal has no jurisdiction to entertain this application, it will be futile to discuss or deliberate upon other factual or legal aspects of this case. Different studies/reports have also been placed on record by the respective parties in support of their contentions as to whether electromagnetic radiation waves emitting from the towers are hazardous substance and have adverse impacts for human health and environment. We may also notice that no study has been placed on record which concludes in definite terms either way based on research.

20. It is also true that the various High Courts in the country have taken different views in relation to the regulatory regime, statutory or otherwise, need or requirement of such regime and issuance of directions but including prohibitory directions in relation to erection of

towers and their impact on human health. The Madhya Pradesh High Court in writ petition no. 866 of 2015 had declined to interfere and rejected the prayers vide judgment dated 9th September, 2015. The Gujarat High Court in the case of *Mukti Park Cooperative Society vs. Ahmedabad Municipal Corporation & Ors.* Special Civil Application No. 5548 of 2014 and other matters, while disposing of the writ petition, the court had even made observations that there is no reason for people to fear the erection of Base Transceiver Station, known as Wi-Fi mobile towers. There was an impression in mind of common man that the Wi-Fi Mobile Towers erected all over the state has the potential to cause health hazard due to the emission of radioactive waves from the said towers.

21. The Rajasthan High Court in the case of *Justice I.S. Israni (Retd.)* (Supra) by a detailed judgment had dealt with a direct question of radiation waves causing health hazards and being a hazardous substance. It also noticed that the Inter Ministerial Committee afore referred had made certain recommendations which were not disagreed by the DoT and had taken precautionary approach. There was a recommendation that multiple antennas should not be there on towers. The Bench of Rajasthan High Court had then proceeded to hold that the Expert Report of Inter-Ministerial Committee was being considered by the Court which was based on overwhelming material and various reports have been referred there. The Court further said 'even if the report of Professor Girish Kumar is discarded, there was ample material available on record in case of EMF radiation is processed then

prescribed, it would cause health hazardous and various disease. The reports are not conclusive as to the ill effects of EMF radiations. If it is kept at the prescribed level, it may still be dangerous for human beings. With these observations, the High Court hold the policy decision of the State Government, passed various directions and disposed of the petition. Based upon the judgment of the Rajasthan High Court, the Bhopal Bench of the Tribunal in Original Application No. 320/2014 vide its judgment dated 13th August, 2015 had even directed removal of towers from certain places including the schools. The judgment of the Bhopal Bench of the Tribunal was challenged in the statutory appeal preferred by the *Cellular Operators Association of India vs. Parveen Patkar* Civil Appeal No. 85 of 2015 upon which the Hon'ble Supreme Court of India vide its order dated 16th October, 2015 issued notice and granted stay of the judgment of the Tribunal. Special leave petition against judgment of the High Court of Rajasthan has also been filed before the Supreme Court which is stated to be pending. An interim order has been passed by the Hon'ble Supreme Court of India even in that case.

22. Delhi High Court in the case of *Resident Welfare Association vs. Union of India & Ors.*, Writ Petition No. 866/2015 had dismissed the writ petition wherein the resident association had raised a grievance of construction of towers in Sector-C, Pocket-4, Vasant Kunj Colony Delhi and had also stated that there should be proper advisory guidelines prepared by the authorities and challenge was also raised to the

standing committee accepting some other recommendations contended in the report of the Inter-Ministerial Committee.

23. We have noticed these various judgments of the High Courts and the Tribunal and orders of the Hon'ble Supreme Court, just as preface to deal with the main issue of jurisdiction before the Tribunal. These judgements clearly show that the controversy in the present case has been a subject matter of adjudication before higher judiciary in different cases and now is pending for final determination before the Hon'ble Supreme Court of India. Now, we must refer to the various provisions of the Environment (Protection) Act, 1986, Atomic Energy Act, 1962 and the National Green Tribunal Act, 2010 which are the statutes primarily related upon by the learned counsel appearing for the respective parties for advancing their submissions on the question of maintainability of the application and the jurisdiction of this Tribunal. First and foremost, we must refer to the provisions of the NGT Act, which have been referred to by the respective parties. The NGT Act while defines environment there, for definition of hazardous substance, it refers to the definition of the expression in the Act of 1986. The Act also deals with what is substantial question relating to environment as Section 14 gives jurisdiction to the Tribunal only in relation to civil cases which raise a substantial question relating to environment including enforcement of legal right relating to environment and in relation to implementation of the enactments specified in the schedule. Thus, the jurisdiction under Section 14 is controlled upon by these provisions of the Act. We may now refer to these provisions:

“2.(c). “environment” includes water, air and land and the inter-relationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property;

(f). “hazardous substance” means any substance or preparation which is defined as hazardous substance in the Environment (Protection) Act, 1986 (29 of 1986, and exceeding such quantity as specified or may be specified or may be specified by the Central Government under the Public Liability Insurance Act, 1991 (6 of 1991);

(m). “substantial question relating to environment” shall include an instance where, -

(i). there is a direct violation of a specific statutory environmental obligation by a person by which, -

(A). the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B). the gravity of damage to the environment or property is substantial; or

(C). the damage to public health is broadly measurable;

(ii). the environmental consequences relate to a specific activity or a point source of pollution;”

24. We may also notice that in terms of sub-section (ii) of Section 2 the word/expression used in the Act but not defined are to have meaning and reference as given to them under the other scheduled acts or the acts specified in the section.

While referring to the provisions of the Atomic Energy Act, 1962, the applicants have particularly contended that the radiation finds a specific exclusion under the provisions of this Act and therefore it would be automatically covered under the Act of 1986. Of course, according to other respondents the subject matter is not specifically dealt with under this Act of 1962 but is controlled by the other three Acts namely Indian Telegraphy Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 and the jurisdiction of

the Tribunal is ousted. Thus, we must refer to the following Acts i.e.

Atomic Energy Act, 1962:

- 2.(1) (a). “atomic energy” means energy released from atomic nuclei as a result of any process, including the fission and fusion processes;
- (g). “prescribed substance” means any substance including any mineral which the Central Government may, by notification, being a substance which in its opinion is or may be used for the production or use of atomic energy or research into matters connected therewith and includes uranium, plutonium, thorium, beryllium, deuterium or any of their respective derivatives or compounds or any other materials containing any of the aforesaid substances;
- (h). “radiation” means Gamma rays, X-rays, and rays consisting of alpha particles, beta particles, neutrons, protons and other nuclear and sub-atomic particles, but not sound or radio waves, or visible, infrared or ultraviolet light;
- (i). “radioactive substance” or “radioactive material” means any substance or material which spontaneously emits radiation in excess of the levels prescribed by notification by the Central Government.”

25. Now, we may come to the relevant provisions of the Environment (Protection) Act, 1986 which according to the applicant is an Umbrella Act in relation to environmental laws and would thus cover all matters which are not otherwise specifically provided in other scheduled acts or even under the said act by necessary implications. According to the respondents, Act of 1986 cannot be given a sweeping operation so as to include everything in the atmosphere or in the environment which has been specifically stipulated therein or not and which is otherwise covered by other statutes or not. According to them, Act of 1986 has to

be given a proper and limited operation. The relevant provisions of this Act which we would prefer to refer at this stage are as follows:

2.(a) “environment” includes water, air and land and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants micro-organism and property;

(b) “environmental pollution” means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment;

(e) “hazardous substance” means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plants micro-organism, or the environment.

(g) “prescribed” means prescribed by rules made under this Act.

3. POWER OF CENTRAL GOVERNMENT TO TAKE MEASURES TO PROTECT AND IMPROVE ENVIRONMENT

(1) Subject to the provisions of this Act, the Central Government, shall have the power to take all such measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing controlling and abating environmental pollution.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include measures with respect to all or any of the following matters, namely:--

(i) co-ordination of actions by the State Governments, officers and other authorities--

(a) under this Act, or the rules made thereunder, or

(b) under any other law for the time being in force which is relatable to the objects of this Act;

(ii) planning and execution of a nation-wide programme for the prevention, control and abatement of environmental pollution;

(iii) laying down standards for the quality of environment in its various aspects;

(iv) laying down standards for emission or discharge of environmental pollutants from various sources whatsoever:

Provided that different standards for emission or discharge may be laid down under this clause from different sources having regard to the quality or

composition of the emission or discharge of environmental pollutants from such sources;

(v) restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall not be carried out or shall be carried out subject to certain safeguards;

(vi) laying down procedures and safeguards for the prevention of accidents which may cause environmental pollution and remedial measures for such accidents;

(vii) laying down procedures and safeguards for the handling of hazardous substances;

(viii) examination of such manufacturing processes, materials and substances as are likely to cause environmental pollution;

(ix) carrying out and sponsoring investigations and research relating to problems of environmental pollution;

(x) inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances and giving, by order, of such directions to such authorities, officers or persons as it may consider necessary to take steps for the prevention, control and abatement of environmental pollution;

(xi) establishment or recognition of environmental laboratories and institutes to carry out the functions entrusted to such environmental laboratories and institutes under this Act;

(xii) collection and dissemination of information in respect of matters relating to environmental pollution;

(xiii) preparation of manuals, codes or guides relating to the prevention, control and abatement of environmental pollution;

(xiv) such other matters as the Central Government deems necessary or expedient for the purpose of securing the effective implementation of the provisions of this Act.

(3) The Central Government may, if it considers it necessary or expedient so to do for the purpose of this Act, by order, published in the Official Gazette, constitute an authority or authorities by such name or names as may be specified in the order for the purpose of exercising and performing such of the powers and functions (including the power to issue directions under section 5) of the Central Government under this Act and for taking measures with respect to such of the matters referred to in sub-section (2) as may be mentioned in the order and subject to the supervision and control of the Central Government and the

provisions of such order, such authority or authorities may exercise and powers or perform the functions or take the measures so mentioned in the order as if such authority or authorities had been empowered by this Act to exercise those powers or perform those functions or take such measures.

5. POWER TO GIVE DIRECTIONS

Notwithstanding anything contained in any other law but subject to the provisions of this Act, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions.³

Explanation--For the avoidance of doubts, it is hereby declared that the power to issue directions under this section includes the power to direct--

- (a) the closure, prohibition or regulation of any industry, operation or process; or
- (b) stoppage or regulation of the supply of electricity or water or any other service.

24. EFFECT OF OTHER LAWS

(1) Subject to the provisions of sub-section (2), the provisions of this Act and the rules or orders made therein shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

(2) Where any act or omission constitutes an offence punishable under this Act and also under any other Act then the offender found guilty of such offence shall be liable to be punished under the other Act and not under this Act.

25. POWER TO MAKE RULES

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely--

- (a) the standards in excess of which environmental pollutants shall not be discharged or emitted under section 7;²¹

- (b) the procedure in accordance with and the safeguards in compliance with which hazardous substances shall be handled or caused to be handled under section 8;²²

- (c) the authorities or agencies to which intimation of the fact of occurrence or apprehension of occurrence of the discharge of any environmental pollutant in

excess of the prescribed standards shall be given and to whom all assistance shall be bound to be rendered under sub-section (1) of section 9;²³

(d) the manner in which samples of air, water, soil or other substance for the purpose of analysis shall be taken under sub-section (1) of section 11;²⁴

(e) the form in which notice of intention to have a sample analysed shall be served under clause (a) of sub section (3) of section 11;²⁵

(f) the functions of the environmental laboratories,²⁶ the procedure for the submission to such laboratories of samples of air, water, soil and other substances for analysis or test;²⁷ the form of laboratory report; the fees payable for such report and other matters to enable such laboratories to carry out their functions under sub-section (2) of section 12;

(g) the qualifications of Government Analyst appointed or recognised for the purpose of analysis of samples of air, water, soil or other substances under section 13;²⁸

(h) the manner in which notice of the offence and of the intention to make a complaint to the Central Government shall be given under clause (b) of section 19;²⁹

(i) the authority of officer to whom any reports, returns, statistics, accounts and other information shall be furnished under section 20;

(j) any other matter which is required to be, or may be, prescribed.”

26. It is a settled principle of law that while dealing with the interpretation of statutory provisions, the Tribunal would apply the rule of plain construction. The interpretation to be given to the provisions particularly relating to jurisdiction has necessarily not to be unduly liberal and unduly strict. The Tribunal is a creation of a statute and therefore it would exercise jurisdiction within the four-corners of the statute. There would be no occasion for the Tribunal, particularly in the fact and circumstances of this case, to extend its jurisdiction if it otherwise falls beyond the statutory jurisdiction vested in the Tribunal. It is also a settled principle of law that where jurisdiction of civil court is

excluded and the jurisdiction is conferred upon the authorities or the Tribunals then such provisions are to be construed strictly. The Tribunal will exercise its jurisdiction which is vested in it by the legislature. More often than not, difficulties had arisen in applying these principles because there is no clear cut demarcation between the jurisdictional and non-jurisdictional question of fact and law. The Tribunal would also have jurisdiction to decide finally, even apparently jurisdictional fact and such a determination is not liable to be questioned on the ground that it has wrongly decided the jurisdiction fact, as was stated in case of *Rai Brij Raj Krishna and Another vs S.K. Shaw And Brothers* 1951 SCR 145. The principle of nullity could be brought into aid where the Tribunal has decided a matter without jurisdiction. In other words decision is completely beyond the provisions of the Act. In this regard, we may refer to some judgments on the issue of jurisdiction as passed by the larger benches of the Tribunal in the recent past in the case of *Kalpavriksh Vagholkar v. Union of India*, (2014) ALL (I) NGT Reporter(2) (Delhi) 282:

23.1. The ambit and scope of Section 14 and its features came to be discussed by the Tribunal in its judgment in the case of *Goa Foundation v. Union of India*, (2013) 1 All India NGT Reporter 234, wherein the Tribunal held as under:

“19. The Preamble may not strictly be an instrument for controlling or restricting the provisions of a statute but it certainly acts as a precept to gather the legislative intention and how the object of the Act can be achieved. It is an instrument that helps in giving a prudent legislative interpretation to a provision.

In light of this language of the Preamble of the NGT Act, now let us refer to some of the relevant provisions. Section 14 of the NGT Act outlines the jurisdiction that is vested in the Tribunal. In terms of this Section, the Tribunal

will have jurisdiction over all civil cases where a substantial question relating to environment arises. The Tribunal will also have jurisdiction where a person approaches the Tribunal for enforcement of any legal right relating to environment. Of course, in either of these events, a substantial question arises out of the implementation of the enactments specified in Schedule I to the NGT Act. Section 15 of the NGT Act provides for awarding of relief and compensation to the victims of pollution and other environmental damage, restitution of property damaged and restitution of the environment for such area(s) as the Tribunal may think fit, in addition to the provisions of Section 14(2) supra. Section 16 provides for the orders, decisions or directions that are appealable before the Tribunal. Any person aggrieved has the right to appeal against such order, decision or direction, as the case may be. This Tribunal, thus, has original as well as appellate jurisdiction. This wide jurisdiction is expected to be exercised by the Tribunal in relation to substantial question relating to environment or where enforcement of a legal right relating to environment is the foundation of an application. In terms of Section 14(2) of the NGT Act, the Tribunal shall hear disputes relating to the above matters and settle such disputes and pass orders thereupon.

20. The expression 'civil cases' used under Section 14(1) of the NGT Act has to be understood in contradistinction to 'criminal cases'. This expression has to be construed liberally as a variety of cases of civil nature could arise which would be raising a substantial question of environment and thus would be triable by the Tribunal. P. Ramanatha Aiyar's *The Law Lexicon*, 3rd ed. 2012, explains 'civil cases' as below: "In the short sense, the term 'civil case' means cases governed by the Civil Procedure Code (5 of 1908). It is used in a large sense so as to include proceedings in income-tax matters..."

21. The word 'case' in ordinary usage means, 'event', 'happening', 'situation', and 'circumstance'. The expression 'case' in legal sense means a 'case', 'suit', or 'proceedings' in the Court or Tribunal. Civil case, therefore, would be an expression that would take in its ambit all legal proceedings except criminal

cases which are governed by the provisions of the Criminal Procedure Code. The legislature has specifically used the expression 'all civil cases'. Reference to Section 15 of the NGT Act at this juncture would be appropriate. The legislature has specifically vested the Tribunal with the powers of granting reliefs like compensation to the victims of pollution and other environmental damage, for restitution of property damaged and for restitution of the environment for such area or areas. Once Section 14 is read with the provisions of Section 15, it can, without doubt, be concluded that the expression 'all civil cases' is an expression of wide magnitude and would take within its ambit cases where a substantial question or prayer relating to environment is raised before the Tribunal.

22. The contents of the application and the prayer thus should firstly satisfy the ingredients of it being in the nature of a civil case and secondly, it must relate to a substantial question of environment. It could even be an anticipated action substantially relating to environment. Such cases would squarely fall within the ambit of Section 14(1). Next, in the light of the language of Section 14(1), now we have to examine what is a substantial question relating to 'environment'. Section 2(1)(c) of the NGT Act explains the word 'environment' as follows:

“‘environment’ includes water, air and land and the interrelationship, which exists among and between water, air and land and human beings, other living creatures, plants, micro-organism and property.”

23.2. Section 2(m) defines the term 'substantial question relating to environment' as follows:

“It shall include an instance where, -

(i) there is a direct violation of a specific statutory environmental obligation by a person by which, -

(A) the community at large other than an individual or group of individuals is affected or likely to be affected by the environmental consequences; or

(B) the gravity of damage to the environment or property is substantial; or

(C) the damage to public health is broadly measurable; 28 (ii) the environmental

consequences relate to a specific activity or a point source of pollution”.”

24. The jurisdiction vested in the Tribunal under Section 14, which is a very wide jurisdiction, is in addition to the appellate jurisdiction under Section 16 and the special jurisdiction under Section 15 of the NGT Act. Under Section 14, it is not only that Tribunal can try all civil cases where a substantial question relates to environment and arises out of the implementation of the enactments specified in Schedule I of the Act but also where enforcement of any legal right relating to environment arises. Section 14 specifically refers to a substantial question relating to environment which itself has been defined and accepted in Section 2(m) of the NGT Act. The definition under Section 2(m) is an inclusive definition and thus, it has to be construed in a liberal manner in order to give it a wider connotation. In the case of Reserve Bank of India v. Peerless General Finance and Investment Co. Ltd. and Ors. 1987 1 SCC 424, the Supreme Court while dealing with the expression ‘includes’ stated that:

“All that is necessary for us to say is this: Legislatures resort to inclusive definitions (1) to enlarge the meaning of words or phrases so as to take in the ordinary, popular and natural sense of the words and also the sense which the statute wishes to attribute to it, (2) to include meanings about which there might be some dispute, or, (3) to bring under one nomenclature all transactions possessing certain similar features but going under different names. Depending on the context in the process of enlarging, the definition may even become exhaustive.”

24.1. Touching upon the liberal construction of Sections 14 and 2(m) of the NGT Act, the Tribunal in the case of *Kehar Singh v 29 State of Haryana*, (2013) ALL (I) NGT REPORTER (Delhi) 556, stated:

“13. The NGT Act has been enacted with the object of providing for establishment of this Tribunal for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and for giving other contemplated reliefs and even dealing with matters incidental thereto. The Tribunal thus, has original jurisdiction in terms of Section 14 of the NGT Act. This wide jurisdiction is expected to be exercised by the Tribunal in relation to substantial questions

relating to environment or enforcement of legal rights relating to environment, when it arises from the implementation of one or more of the Acts specified in Schedule I to the NGT Act. The pre-requisite for the applicant to invoke original jurisdiction of the Tribunal, subject to other limitations stated in Section 14 of the NGT Act, is that the application must raise substantial question relating to environment. This Tribunal, in the case of Goa Foundation & Anr. v. Union of India & Ors., pronounced on 18th July, 2013, on the scope of the expressions 'substantial question relating to environment' as well as 'dispute', as referred to in Section 14 of the NGT Act, held as follows:

“24. Section 2(m) of the NGT Act classifies 'substantial question relating to environment' under different heads and states it to include the cases where there is a direct violation of a specific statutory environmental obligation as a result of which the community at large, other than an individual or group of individuals, is affected or is likely to be affected by the environmental consequences; or the gravity of damage to the environment or property is substantial; or the damage to public health is broadly measurable. The other kind of cases are where the environmental consequences relate to a specific activity or a point source of pollution. In other words, where there is a direct violation of a statutory duty or obligation which is likely to affect the community, it will be a substantial question relating to environment covered under Section 14(1) providing jurisdiction to the Tribunal. When we talk about the jurisdiction being inclusive, that would mean that a question which is substantial, debatable and relates to environment, would itself be a class of cases that would squarely fall under Section 14(1) of the NGT Act. Thus, disputes must relate to implementation of the enactments specified in Schedule I to the NGT Act. At this stage, reference to one of the scheduled Acts i.e. Environment Protection Act, 1986 may be appropriate. The object and reason for enacting that law was primarily to address the concern over the state of environment that had grown the world over. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological

diversity, excessive concentrations of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environmental accidents and threats to life support systems. These were the considerations that weighed with the legislature to ensure implementation of the UN Conference on the Human Environment held at Stockholm in June, 1972 to take appropriate steps for protection and improvement of human environment. The essence of the legislation, like the NGT Act, is to attain the object of prevention and protection of environmental pollution and to provide administration of environmental justice and make it easily accessible within the framework of the statute. The objects and reasons of the scheduled Acts would have to be read as an integral part of the object, reason and purposes of enacting the NGT Act. It is imperative for the Tribunal to provide an interpretation to Sections 14 to 16 read with Section 2(m) of the NGT Act which would further the cause of the Act and not give an interpretation which would disentitle an aggrieved person from raising a substantial question of environment from the jurisdiction of the Tribunal.

35. The expression 'disputes' arising from the questions referred to in sub-section (1) of Section 14 of the NGT Act, is required to be examined by us to finally deal with and answer the contentions raised by the parties before us. The expression used in sub-section (1) supra is the expression of wide magnitude. The expression 'question' used in subsection (1) in comparison to the expression 'dispute' used in sub-section (2) of section 14 is of much wider ambit and connotation. The disputes must arise from a question that is substantial and relates to environment. This question will obviously include the disputes referred to in Section 14(2). It is those disputes which would then be settled and decided by the Tribunal. These expressions are inter- 31 connected and dependent upon each other. They cannot be given meaning in isolation or de hors to each other. The meaning of the word 'dispute', as stated by the Supreme Court in *Canara Bank v. National Thermal Power Corporation* (2001)1 SCC 43 is "a controversy having both positive and negative aspects. It postulates the

assertion of a claim by one party and its denial by the other". The term dispute, again, is a generic term. It necessarily need not always be a result of a legal injury but could cover the entire range between genuine differences of opinion to fierce controversy. Conflicts between parties arising out of any transaction entered between them is covered by the term 'dispute'.

36. The counsel appearing for the respondents, while referring to this expression, relied upon the judgment of the Supreme Court in the case of *Inder Singh Rekhi v. DDA*, (1988) 2 SCC 338 to support the contention that the dispute, as referred under the Arbitration Act, 1940 arises where there is a claim and there is a denial and repudiation of such claim.

37. The judgment relied upon by the respondents is not of much help to them inasmuch as the Arbitration Act, 1940 operates in a different field and the meaning to the expression dispute appearing in that Act has to be understood with reference to the provisions of that Act specifically. The said Act is only intended to resolve the disputes between two individuals arising out of a transaction under the Arbitration law. However, the present case, the NGT which relates to environment as such. It is not individual or a person centric but is socio-centric, as any person can raise a question relating to environment, which will have to be decided by the Tribunal with reference to the dispute arising from such a question. It is not necessary that such a question must essentially be controverted by other person or even the authority. The essence of environmental law is not essentially adversarial litigation. To give an example, could any authority or person deny the question relating to cleanliness of river Yamuna? Any person could approach the Tribunal to claim that the pollution of Yamuna should be controlled, checked and even prevented. None of the parties or authorities may be able to dispute such a fact may even contend that steps are required to be taken to control, prevent and ensure restoration of clean water of Yamuna. 32 Thus, dispute as understood to be raising a claim and being controverted by the other party is not apparently the sine qua non to invocation of Tribunal's jurisdiction under the scheme of Sections 14 to 16 of the

NGT Act. This approach is further substantiated from the use of the expressions 'cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto' used in the preamble of the Act 14. In the present case, the applicant has invoked the jurisdiction of the Tribunal under Section 14 of the NGT Act with regard to establishment of STP on a location which, according to the applicant, is bound to create environmental problems and would adversely affect the public health. It will result in pollution of underground water besides causing emission of obnoxious gases and creating public nuisance, owing to being adjacent to residential colony and religious places. Thus, it would certainly involve a question relating to environment arising from the implementation of Acts specified in Schedule I to the NGT Act. Thus, the present case indisputably falls within the jurisdiction of the Tribunal, of course, subject to the plea of limitation."

25. We have to examine the jurisdiction of the Tribunal with reference to prevalent law of the land that right to clean and decent environment is a fundamental right. Dimensions of environmental jurisprudence and jurisdiction of this Tribunal, thus, should essentially be examined in the backdrop that the protection of environment and ecology has been raised to the pedestal of the Fundamental Rights. Right to clean and decent environment is a Fundamental Right under Article 21 of the Constitution of India. The Supreme Court in the cases of *Virender Gaur and Ors v State of Haryana and Ors*, (1995) 2 SCC 577 and *N.D. Jayal and Anr. v. Union of 33 India (UOI) and Ors*, (2004) 9 SCC 362, has held that enjoyment of life and its attainment, including, their right to live with human dignity encompasses within its ambit the protection and preservation of environment and ecological balance free from pollution of air and water. Clean and healthy environment itself is a fundamental right.

27. The jurisdiction of the Tribunal thus, would extend to all civil cases which raise the substantial question of environment and arise from the implementation of the Acts stated in Schedule I of

the NGT Act. There has to be thus, a direct nexus between the cases brought before the Tribunal and a substantial question relating to environment. The 'cause of action' as contemplated under the provisions of the NGT Act would be complete only when the stated three ingredients, i.e. firstly, civil cases, secondly, concerns or raises a substantial question of environment or an enforcement of a legal right relating to environment and lastly that 38 such question arises in regard to implementation of the Schedule Acts, are fulfilled. In the case of Kehar Singh (supra), the Tribunal unambiguously stated the principle that there has to be a direct nexus or link between the case advanced by the applicant and the substantial question relating to environment. It has to be a civil dispute raising an environmental issue and arising from any/or all of the Scheduled Acts.

28. However, the Tribunal may not have jurisdiction to entertain and decide such proceedings even when above nexus is established, as there is still another sine qua non for exercise of the jurisdiction by the Tribunal, that is, it must arise or be relatable to the implementation of the Acts specified in Schedule I of the NGT Act. Thus the most significant expression in this entire gamut of law is the expression 'implementation'. The legislature in its wisdom has specified different class of civil cases that would fall within the jurisdiction of the Tribunal. The first class of cases may per se raise a substantial question relating to environment while others may relate to enforcement of legal right relating to environment. These classes of cases must arise out of implementation of enactment specified in Schedule I. Thus, now we should examine the meaning of the word 'implementation'. The expression 'implementation' appears under different Acts even under environmental laws. The Preamble as well as Section 22A of the Air (Prevention and Control of Pollution) Act, 1981 uses the word 'implement'. In the Preamble, it is stated that, 'whereas it is 39 considered necessary to implement the decisions' while Section 22A states, 'where the Board is competent to direct the person to implement the direction in such a manner as may be specified by the Court'. The Environmental (Protection) Act, 1986, in its Preamble as well as Section 3 (2) (xiv) uses the word 'implement' and 'implementation' respectively. The expression 'implement' has been used in the Preamble while 'implementation' in Section 3 (2) (xiv) relates to

whether the Central Government vested with the power to take such measures in relation to matters as the Central Government deems necessary or expedient for the purpose of securing effective implementation of the provisions of the Act under Article 243G(b) of the Constitution of India which vests powers in the Panchayats and Authorities in relation to various matters. The State can vest the Panchayat with the power to exercise the Authority to implement the schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule.

31. 'Implementation', therefore, within the provisions of Section 14 of the NGT Act would relate to implementation of the various provisions, rules, regulations and the notifications issued in exercise of subordinate or delegated legislation with regard to any or all of the Acts stated in Schedule I of the NGT Act. It is not only implementation of the enactments, but even the questions which arise out of such implementation that would clearly fall within the ambit of Section 14 of the NGT Act. 'Implementation', would therefore cover all questions relating to application, enforcement and regulations under these enactments. There should be a nexus between the pleaded cause of action and the environment, making it a substantial question of environment. This may be in relation to environment or even enforcement of any legal right relating to environment. The word 'implementation' thus, has to be understood in its wider perspective and connotation. The interpretation should be one which would further the cause of effective implementation of the provisions of the Scheduled Acts. Any matter in relation thereto would squarely fall within the jurisdiction of the Tribunal. The nexus with environment could be direct or even indirect. The present case is one, which would fall in the latter category. It will be obligatory to constitute appropriate expert committees in consonance with the provisions of the scheduled Acts and the Notifications issued thereunder otherwise this is bound to have adverse effects on effective prevention and control of pollution."

27. In light of the above principle, it can be safely stated that a case raising a substantial question of environment which is civil in nature must essentially fall within the scope and implementation of the

scheduled acts to the NGT Act, 2010. Implementation should have a direct nexus and must directly arise from such acts and a mere remote connection thereto would not be sufficient for invoking the jurisdiction of the Tribunal particularly when they are actually or are required to be covered under other laws in force.

28. From the provisions of the various acts that we have reproduced above, it is clear beyond doubt that the radiation from electromagnetic waves resulting from such towers is not explicitly covered in any of the scheduled acts to the NGT Act. In fact, even under the NGT Act, relevant definition under provisions do not refer to the radiation specifically. The only act which refers to radiation per se is the Atomic Energy Act, 1962. Section 2(a) defines atomic energy while section 2(g) defines prescribed substance which means any substance including any mineral which the Central Government may prescribe. Further substance may be used for the production or use of atomic energy or research into the matters connected therewith. Various metals and substance have been referred in this very section. It does not specify radiation as a substance or for that matter the process covered under the definition of atomic energy. Section 2(h) is the relevant provision which defines radiation as Gamma rays, X-rays, and rays consisting of alpha particles, beta particles, neutrons, protons and other nuclear and sub-atomic particles. But this definition specifically excludes sound or radiation waves or feasible infra or ultraviolet lines. Once the provision itself by a specific language excludes radiation or radio waves, then it is not permissible to read such expression. Thus it is impermissible to read the same in any

settled norms of interpretation. Radioactive substance or radioactive material has specifically been defined under Section 2(i) of the Atomic Energy Act. This clearly shows the intent of law framers that they did not wish to include radio waves as part of this act. Possibly there can be no difficulty in our way to come on to conclusion that radioactive waves are not covered under the Atomic Energy Act, 1962.

29. In light of the principle that we have afore-noticed, now we will refer to the Act of 1986 and the NGT Act collectively. It is clear that that Section 14 of the NGT Act would vest jurisdiction in the Tribunal in relation to the following: (i) all civil cases (ii) where a substantial question in relation to environment is raised (iii) enforcement of a legal right relating to environment (iv) it should arise out of the implementation of the enactments specified in schedule-I to the NGT Act, 2010.

30. All these conditions have to be cumulatively satisfied in cases falling under either of the categories under head (ii) and (iii). We have already noticed that it is not covered under any of the provisions of the 7 scheduled acts. The Act of 1986 is certainly paramount legislation of the present day's environmental jurisprudence in India. The definition of environment under Section 2(a) has very wide meaning and would practically cover everything in relation to environment. Section 2(b) defines environmental pollutant as solid, liquid or gaseous substances present in such concentration as may be or did not injurious to environment. The radioactive waves would not fall under any of these categories as it is neither a solid nor a liquid or a gaseous substance.

Section 2(e) defines hazardous substance. Section 2 (f) of the NGT Act, for defining hazardous substance only relies upon the definition provided under 1986 Act. It defines hazardous substance means any substance or preparation which by reason of its chemical or physio-chemical properties or handling, is likely to cause harm to human beings, other living creatures, plants, micro-organisms, property or the environment. To cover it under Section 2(e) of Act of 1986, it has to be any substance or preparation which by reason of its chemical or physio-chemical properties is liable to cause harm to human beings, other living creatures or plants etc. The radioactive waves are neither a substance nor a preparation. It is not even a radiation as defined under the Atomic Energy Act, 1962 and the ingredients stated therein do not fit in with the framework of hazardous substance or an environmental pollutant.

31. Section 3 of the Act of 1986, empowers the Central Government to take measures to protect and improve the environment. In terms of section 3(1) it can take measures in relation to all or any of the categories specified under Section 3(2). Section 3(2) (iii) and (xiv) have been read together by the learned Counsel appearing for the Applicant to contend that it is obligatory upon the Central Government to laydown standards in relation to all aspects including radiation. This is more so because of the residual clause contained under section 3(2)(xiv). Radiation results in adverse impacts on the environment. It is true that there is an obligation on the part of the Central Government to take measures as well as prescribe requisite standards. The residual clause

contained under Section 3(2)(xiv) cannot go beyond what is specifically provided. If the subject is not otherwise covered under the substantive provisions of the Act of 1986, by implication it cannot fall under general clause. Furthermore, the general clause has to operate only for the purpose of securing effective implementation of the provisions of this Act. The non-obstante clause appearing in section 5 has been made subject to the provisions of the act by legislature itself. The power to issue directions under the act cannot travel beyond the provisions of the act. If a subject is not specifically covered under the field and provisions of the scheduled acts, then the Central Government would obviously have no powers to issue directions in exercise of powers vested in it under section 5 of the act. The purpose of Section 5 of the Act is to give overriding effect to the directions issued by the Central Government in relation to closure, prohibition or regulation of a non-operation or process to overcome a given situation and to achieve the object of the Act of 1986. Similarly Sections 24 and 25 of the Act of 1986 have been construed and understood on the same principles. None of the statutory provisions of the act can have application de-hors or beyond the purview of the act of which it is a part. While interpreting any provision of the act, the language of section in eventuality, scheme of the act, purpose and object of the act are to be taken into consideration. The Tribunal would give an interpretation which would be more tilted in the interest of environment and ecology, keeping in view the object and reasons and preamble of the Act of 1986. But still the Tribunal would not be able to provide of such wide dimensions to these statutory provisions so as to practically travel beyond the scope of the jurisdiction

vested in the Tribunal. The wide jurisdiction vested in the Tribunal has to be within the four corners of the law that constitutes the Tribunal. The other aspect that we must notice here is that all the service providers are subject to and can only operate, provided they are granted license for that purpose by DoT. As it appears from the record that after the reports submitted by the Inter Ministerial Committee, licenses were issued containing more specific and rigorous conditions in relation to conduct of service providers. The provisions of the Indian Telegraph Act, 1885 and Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997, do cover these fields to some extent, but may be their object and purpose is different and is only to regulate the actual activity of transmission by service providers. They ex-facie do not appear to be dealing with the environmental and human health aspects. We do not consider it necessary to deliberate this issue any further.

32. The contention of the respondents that the applicant has no legal right do not appear to be correct. There is violation of legal right which would arise in failing of the applicant from mandate of Article 48(a), 51(a)(g) and 21 of the Constitution of India. If carrying on all these activities is injurious to human health and environment, it would be an apparent violation of constitution, of the legal right of the applicant and they would have a right to invoke the remedy available to them in accordance with law. What we are concerned with is that the remedy available to such applicants does not fall within the ambit and scope of the Act of 1986 and Section 14 of the NGT Act, 2010.

33. In view of the above discussion, we are of the considered view that 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 in this Tribunal under the provisions of the NGT Act with reference Environment (Protection) Act, 1986.

34. While holding the above, we make it clear that we have not recorded any finding in regard to whether radiation is a pollutant generally or under any other specific law. We have also not dealt with the question whether it is an environmental pollutant, generally or under other laws in force. We have also not dealt with the question whether the Central Government or other State Governments are liable to be directed to frame statutory or other regulatory regime covering the construction, its specification, sites and operation of mobile towers and other towers. We have also not rejected any finding as to whether radiation is above prescribed limits and the guidelines and/or beyond them is actually injurious to human health and environment. The present judgment relates only to the issue whether this Tribunal has jurisdiction to entertain this application under the laws afore-stated.

35. We leave all the contentions open and the present judgment is without prejudice to the rights and contentions of the respective parties. We may also notice here that the various High Courts have taken divergent views on this subject and now the matter is pending before

the Hon'ble Supreme Court of India and that is another aspect which has persuaded us to take the view that we are taking in this case.

36. Thus, we dismiss all these applications while holding that the Tribunal has no jurisdiction to entertain these applications. We dismiss all the applications, however, without any order as to costs.



New Delhi
10th December, 2015

NGT

ANNEXURE R-2

सद संख्या 95 / 2 जी एवं 3 जी सेल्यूलर मोबाइल टावरों की स्थापना हेतु संशोधित नीति के सम्बन्ध में।

मोबाइल टावर लगाने हेतु नीति प्राधिकरण की 75वीं बार्ड बैठक में अनुमोदित कराई गयी थी तदोपरान्त नीति में कतिपय संशोधन प्राधिकरण की 94वीं बार्ड बैठक दिनांक 11.01.2013 में अनुमोदित कराये गये थे। मोबाइल टावर के भूखण्ड आवंटन के सम्बन्ध में सम्बन्धित विभाग द्वारा कतिपय व्यवहारिक कठिनाईयाँ एवं स्पष्टीकरण के सम्बन्ध में अवगत कराया गया है। तात्काल में मोबाइल टावर की स्थापना सम्बन्धी नीति का पुनरीक्षण करने हेतु प्राधिकरण स्तर पर समिति का गठन किया गया। उक्त समिति द्वारा समयक विचारोपरान्त मोबाइल टावर स्थापना हेतु एवं अनुमोदित नीति को संशोधित करते हुए पुनरीक्षित नीति निम्नानुसार प्रस्तावित की गयी है—

1. मानक एवं स्थल चिन्हकन:-

1.1 मोबाइल सेवा ऑपरेटरो/मोबाइल इन्फ्रास्ट्रक्चर कंपनियों को टावर स्थापित करने हेतु न्यूनतम क्षेत्रफल का आवश्यकतानुसार भूखण्ड आवंटित किया जायेगा जो ग्रीन बेल्ट व ग्रा ले आउट में निर्धारित सामुदायिक सुविधाओं हेतु स्थल में विन्धित किया जायेगा। यदि प्राधिकरण द्वारा स्थल आवंटन सम्भव न हो तो टावर लगाने की अनुमति सेक्टरों में प्राधिकरण द्वारा सामुदायिक केंद्र अथवा शायिम सेंटर भवनों तथा व्यवसायिक / सस्थागत / औद्योगिक सेक्टर में निर्मित भवनों की छत जिनमें स्कूल, हास्पिटल, चरिंग होम जैसी अन्य सार्वजनिक सुविधायें सम्मिलित नहीं होंगी पर मुख्य कार्यपालक अधिकारी के अनुमोदनोपरान्त प्रयुक्त की जायेगी।

1.2 उपरोक्त प्रस्तर के अनुरूप स्थल न उपलब्ध होने की दशा में निम्न वरीयता के क्रम में टावर स्थापित करने की अनुमति प्रदान की जायेगी -

(1) नियोजन की दृष्टि से प्राविधानित किये गये ग्रीन बेल्ट में।

(2) सेक्टरों में प्राधिकरण द्वारा सामुदायिक केंद्र अथवा शायिम सेंटर के भवनों पर।

(3) व्यवसायिक / सस्थागत / औद्योगिक सेक्टर में निर्मित भवनों की छत जिनमें स्कूल, हास्पिटल, चरिंग होम जैसी अन्य सार्वजनिक सुविधायें सम्मिलित नहीं होंगी।

1.3 टावर लगाने की अनुमति आवासीय भवनों / भूखण्डों पर अनुमन्य नहीं की जायेगी।

2. दरें (Tariff)

2.1 निर्माण से पूर्व टावर स्थापित करने हेतु आवेदन-पत्र के साथ आवेदन शुल्क रुपये 1,00,000/- एक मुश्त देय होंगे। यदि अनुमति आवेदन से पूर्व से ही टावर स्थापित हो तो आवेदन शुल्क रुपये 1,50,000/- देय होगा। एक टावर का प्रयोग एक से अधिक कंपनियों द्वारा किये जाने पर प्रति कंपनी शुल्क रुपये 50,000/- अतिरिक्त देय होगा। उक्त आवेदन शुल्क non-refundable होगा तथा किसी भी अन्य शुल्क में समायोजित नहीं किया जायेगा।

2.2 भूखण्ड आवंटन की दशा में भूखण्ड का प्रीमियम आफिस फार सेल्यूलर श्रेणी के भूखण्डों के लिए निर्धारित दरों के आधार पर आगणित किया जायेगा।

2.3 भूखण्ड के सापेक्ष कुल प्रीमियम का भूगतान एक मुश्त आवंटन पत्र निर्गत होने से 90 दिन के अन्दर देय होगा अन्यथा आवंटन विरस्त कर दिया जायेगा तथा आवेदक को मुल आवेदन शुल्क के साथ आवेदन करना होगा।

2.4 आवंटन की लीज रेंट 15 वर्ष का एक मुश्त जमा कराना होगा जो कि भूखण्ड के सापेक्ष दिखे जाने वाले कुल प्रीमियम का 27.5 प्रतिशत देय होगा। टावर लगाने हेतु भूखण्ड की लीज की अधिकतम अवधि 30 वर्ष की जायेगी। 15 वर्ष उपरान्त लीजरेंट में वृद्धि के साथ मुख्य कार्यपालक अधिकारी के अनुमोदनोपरान्त लीज का नवीनीकरण किया जायेगा।

2.5 आवंटित भूखण्ड पर केवल उतना ही निर्मित क्षेत्रफल अनुमन्य होगा जितना टावर, गार्डरूम, डी0जी0 सेट एवं अन्य उपकरण लगाने हेतु न्यूनतम आवश्यकता होगी। मोबाइल टावर के संचालन हेतु न्यूनतम आवश्यक निर्माण के अतिरिक्त किसी प्रकार का निर्माण अनुमन्य नहीं होगा।

- 2.6 यदि प्राधिकरण द्वारा निर्मित सामुदायिक केन्द्र अथवा अन्य भवनों पर टॉवर लगाने की अनुमति प्रदान की जाती है तो लाइसेंस फीस रू० 25,000/- प्रति माह की दर से देय होगी तथा स्वतः दर में प्रति वर्ष पाँच प्रतिशत की वृद्धि देय होगी। लाइसेंस फीस हेतु देय वार्षिक धनराशि प्रत्येक वर्ष के प्रथम माह में अग्रिम देय होगा।
- 2.7 प्रस्ताव 1.2 में अनुमन्य भवनों की छत पर अथवा निजी परिसरों पर लाइसेंस देने की दशा में आवेदक द्वारा बैंक गारण्टी प्राधिकरण के पक्ष में न्यूनतम तीन वर्ष की अवधि के लिए रू० 3.00 लाख (तीन लाख रू०) की देनी होगी। लाइसेंस अवधि समाप्त होने के उपरान्त यदि लाइसेंस का नवीनीकरण नहीं होता है तो बैंक गारण्टी वापस कर दी जायेगी। नवीनीकरण की दशा में बैंक गारण्टी भी पुनः देना अनिवार्य होगा।
- 2.8 प्राधिकरण को देय लाइसेंस फीस का भुगतान, निर्धारित समयावधि में नहीं किया जाता है, तो इस प्रकार विलम्ब अवधि के लिए समय विस्तारण विशेष परिस्थितियों में लाइसेंस अवधि में केवल दो बार ही अनुमन्य होगा। विस्तारण की दशा में 16 प्रतिशत वार्षिक ब्याज (जिसका औकलन सिमाही चक्रवृद्धि ब्याज के आधार पर किया जाएगा) की दर से बकाया धनराशि पर देय होगा एक वर्ष के उपरान्त अदेयता की स्थिति में लाइसेंस निरस्त कर दिया जायेगा।
- 2.9 एक वर्ष के उपरान्त लाइसेंस फीस डिफाल्ट होने की दशा में टॉवर लगाने की अनुमति स्वतः ही निरस्त की जायेगी एवं बैंक गारण्टी प्राधिकरण के पक्ष में जफ्त कर ली जायेगी।
- 2.10 आवेदी/पट्टाधारक द्वारा जमा की गयी लाइसेंस फीस की धनराशि सर्वप्रथम देय ब्याज में समायोजित की जायेगी तदुपरान्त शेष धनराशि देय वार्षिक फीस में समायोजित की जायेगी।
- 2.11 प्राधिकरण द्वारा टॉवर लगाने हेतु अनुमति पत्र जारी होने के उपरान्त एक त्रय हफ्ते अन्दर आवेदनकर्ता द्वारा भूखण्ड का पट्टा प्रलेख निष्पादित कराया जायेगा अन्यथा टॉवर लगाने की अनुमति निरस्त कर दी जायेगी।

3. सवाम प्राधिकारी

- 3.1 टॉवर सीमित करने हेतु अनुमति मुख्य कार्यपालक अधिकारी ग्रेटर नोएडा द्वारा प्रदान की जायेगी। प्रदान की गई अनुमति अनिश्चित में किसी भी समय निरस्त की जा सकती है। अनुमति निरस्त करने की दशा में प्राधिकरण द्वारा कोई भी वित्तीय क्षति देय नहीं होगी। कम्पनी/पट्टाधारक को अनुमति निरस्त करने हेतु जारी पत्र के दिनांक से 30 दिन के अन्दर कम्पनी के समस्त उपकरण शील्ड से ढकाना अनिवार्य होगा।

4. आवेदन

- 4.1 क. सेल्यूलर मोबाइल सेवा ऑपरेटर कम्पनी/मोबाइल इन्फ्रास्ट्रक्चर कम्पनी द्वारा मुख्य कार्यपालक अधिकारी, ग्रेटर नोएडा औद्योगिक विकास प्राधिकरण को निर्धारित प्रारूप पर आवेदन करना होगा।
यदि प्रस्ताव 1.2(3) में उल्लिखित भवनों/परिसर पर लाइसेंस वांछित हो तो केवल सेल्यूलर मोबाइल सेवा ऑपरेटर कम्पनी/मोबाइल इन्फ्रास्ट्रक्चर कम्पनी तथा पट्टाधारक की ओर से संयुक्त रूप से आवेदन किया जायेगा।
- 4.2 प्रस्ताव 1.2(3) में उल्लिखित भवनों/परिसर पर लाइसेंस वांछित हो तो आवेदन के साथ मोबाइल सेवा प्रदाता कम्पनी/मोबाइल इन्फ्रास्ट्रक्चर कम्पनी को भवन स्वामी की इस आशय का रू० 100/- के स्थाय्य पेपर पर शपथ-पत्र प्रस्तुत करना होगा जिसमें भवन स्वामी/पट्टाधारक द्वारा अपने भवन की छत पर टॉवर स्थापित करने की स्पष्ट सहमति व्यक्त की गयी हो।
- 4.3 आवेदन के साथ मोबाइल सेवा प्रदाता कम्पनी/मोबाइल इन्फ्रास्ट्रक्चर कम्पनी को रू० 100/- के स्थाय्य पेपर पर indemnity bond जमा कराना होगा कि किसी प्रकार की क्षति होने पर उस क्षति की पूर्ति उनके द्वारा की जायेगी। आवेदक द्वारा न्यूनतम तीन वर्ष की वैधता के साथ प्राधिकरण के पक्ष में तीन लाख की बैंक गारण्टी क्षतिपूर्ति के विरुद्ध प्राधिकरण के पक्ष में देय होगी तथा अवधि समाप्त होने से पूर्व आवेदक द्वारा बैंक गारण्टी का नवीनीकरण कराना होगा।
- 4.4 लाइसेंस हेतु आवेदन करते समय आवेदक तीन प्रतियों में साईट प्लान जिसमें टॉवर की लोकेशन उसकी अधिकतम ऊँचाई, आकार हाई टेन्शन विद्युत लाइने आदि इंगित करेगा।

- मुख्य अड्डे आवंटन की दशा में पट्टा प्रलेख निव्यादित होने के उपरान्त नियमानुसार मोबाईल सेवा ऑपरेटरी/मोबाईल इन्फ्रास्ट्रक्चर कम्पनी द्वारा मानचित्र स्वीकृत कराना होगा।
- 4.5 प्रस्तर 1.2(3) के अनुसार लाइसेंस वांछित हो तो आवेदक द्वारा निम्नलिखित संस्थाओं के स्ट्रक्चरल इंजीनियर द्वारा प्रमाणित प्रमाण पत्र आवेदन के साथ प्रस्तुत करना होगा कि उक्त टॉवर की दृढ़ता एवं उससे भवन की स्ट्रक्चरल स्टेबिलिटी पर कोई विपरीत प्रभाव नहीं पड़ेगा।
- आई.आई.टी. दिल्ली
 - सेन्ट्रल बिल्डिंग रिसर्च इंस्टीट्यूट रुड़की
 - रेल इंजिनियरिंग टेक्नीकल एण्ड इकोनॉमिक सर्विसेज लि० दिल्ली
 - नेशनल काउंसिल ऑफ बिल्डिंग मेटेरियल फरीदाबाद
 - आई.आई.टी. रुड़की
- 4.6 भारत सरकार द्वारा अनुमत्य विकीकरण के मानक पूर्ण करना होगा अथवा आवंटन/लाइसेंस बिना किसी कंडिशन के विरस्त कर दिया जायेगा।
- 4.7 सेल्यूलर टॉवर हेतु लगाने वाले जनरेटर का अनापत्ति प्रमाण पत्र यदि आवश्यक हो तो राष्ट्रीय प्रदूषण नियंत्रण बोर्ड से प्राप्त करना अनिवार्य होगा तथा समान स्वीकृत करने हेतु कोई अनापत्ति वांछित है तो आवेदक द्वारा प्राप्त की जायेगी।
5. अन्य नियम एवं शर्तें
- 5.1 आवेदन पत्र के साथ उक्त प्रस्तर 2 में वर्णित आवेदन शुल्क तथा एक वर्ष का अधिम मासिक शुल्क का भुगतान डिमाण्ड ड्राफ्ट/पे-ऑर्डर के माध्यम से करना अनिवार्य होगा। डिमाण्ड ड्राफ्ट/पे-ऑर्डर ग्रेटर नोएडा औद्योगिक विकास प्राधिकरण के नाम में गौरेवा/विन्सी की शाखा पर देय होना आवश्यक है।
- 5.2 मुख्य कार्यपालक अधिकारी अथवा अन्य प्राधिकृत अधिकारी को पूर्ण अधिकार होगा कि उसके द्वारा न्यायसंगत तथा उचित समझे जाने पर समय-समय पर आवंटन की शर्तों में कोई परिवर्तन या संशोधन का निर्णय ले सकें।
- 5.3 इस नियम व शर्तों के संबंध में किसी भी प्रकार का एपेल्शन अथवा उसकी व्याख्या करने के संबंध में मुख्य कार्यपालक अधिकारी का निर्णय अन्तिम होगा और आवेदक मानने लिए बाध्य होगा।
- 5.4 किसी देवीय आपदा अथवा प्राधिकरण के नियंत्रण के बाहर किसी भी परिस्थिति के फलस्वरूप प्राधिकरण आवंटन देने अथवा कब्जा प्रदान करने में असमर्थ होता है तो सम्पूर्ण जमा राशि को आवंटनी की 4 प्रतिशत वार्षिक साधारण ब्याज सहित वापिस की दी जायेगी।
- 5.5 सभी विवादों का आवंटन/पट्टे के संबंध में किसी भी विवाद के लिए न्याय का क्षेत्राधिकार सम्बद्ध जिला न्यायालय जहाँ सम्बन्धित स्थित है का होगा।
- 5.6 आवंटनी पर उत्तर प्रदेश औद्योगिक क्षेत्र विकास अभिनियम सन 1976 (यूपी. एक्ट नं. 1976) के प्रावधान तथा उसके तहत गठित नियम/विनियम लागू माने जायेंगे।
- 5.7 निर्मित टॉवर का प्रयोग विज्ञापन लगाने अथवा वाणिज्यिक प्रयोग के लिए नहीं किया जायेगा।
- 5.8 कम्पनी को सेल्यूलर टॉवर निर्माण/स्थापना/संचालन हेतु भारत सरकार के मानकों के अनुरूप संबंधित विभागों से आवश्यक प्रमाण पत्र आवश्यक हो तो उसे निर्माण प्रारम्भ करने/संचालन से पूर्व स्वयं प्राप्त कर प्राधिकरण में जमा कराकर अनापत्ति प्राप्त करनी होगी।
- 5.9 सेल्यूलर टॉवर कम्पनी को प्राधिकरण की लागू भवन विनियमावली मान्य होगी।
- 5.10 ड्रेन टॉप से टॉवर की उंचाई 90 मीटर या इससे अधिक होने पर प्रार्थी को स्वीकृति से पूर्व एयरपोर्ट एंथॉरिटी से एन०ओ०सी० प्राप्त करनी होगी।
- 5.11 आवंटनी/कम्पनी द्वारा 2जी, 3जी, को सेवारे बन्द की जाती है तो एसी दशा में उनके द्वारा किया गया कोई भी भुगतान की देयता प्राधिकरण स्तर पर नहीं होगी तथा मुख्य अड्डे का कब्जा प्राधिकरण को हस्तान्तरण करना होगा।
- 5.12 मुख्य अड्डे का हस्तान्तरण/संविधान परिवर्तन/अंशधारिता परिवर्तन अनुमत्य नहीं होगा।

- 5.13 मुख्यपत्र का कब्जा प्राप्त करने की तिथि से 8 माह के अन्दर प्राधिकरण से अनापत्ति प्राप्त कर संचालन प्रारम्भ करना होगा। इसमें किसी भी दशा में समय विस्तारण अनुमत्य नहीं होगा। समयान्तर्गत कियाशील न होने की स्थिति में समस्त जमा धनराशि जब्त करते हुए आवंटन निरस्त कर दिया जायेगा तथा प्रश्नगत मुख्यपत्र को रिक्ता मानते हुए आवंटन अन्य को कर दिया जायेगा।
- 5.14 आवेदक द्वारा इस सम्बन्ध में जारी समस्त नियम/विधि का अनुपालन सुनिश्चित किया जायेगा।
- 5.15 माननीय सर्वोच्च न्यायालय के आदेश के कम में तत्काल प्रभाव से आवासीय भवनों पर निर्मित समस्त टीयर सम्बन्धित कम्पनियों द्वारा हटा लिया जायेगा। यदि इनके द्वारा इन टीयरों को नहीं हटाया जाता है तो इनके पक्ष में आर्द्यटित स्थल मुख्यपत्र निरस्त कर दिया जायेगा तथा बलपूर्वक विमोचन हटा लिया जायेगा।

तदनुसार प्रस्ताव प्राधिकरण बोर्ड के समक्ष अनुमोदनाद्य प्रस्तुत।

Regarding amended policy qua the Item no 95/2 G and 3 G pertaining to installation of cellular mobile towers.

Sir, for the purposes of installing of mobile towers, policy was got approved in the 75th meeting of the authority. Thereafter, certain amendments in the policy were also got approved in the 94th meeting of Board on 11.1.2013. Regarding allotment of plot for installation of mobile towers, Estate department has informed with regard to certain practical difficulties and clarification. In sequence thereof, for the purposes of review of the policy of installation of mobile towers, a committee was constituted at Authority level. Above said committee after due consideration, while amending the previous approved policy pertaining to installation of mobile towers, revised policy has been proposed as under:-

1. Standard and site demarcation:-

1.1. For the purposes of installation of mobile towers, a plot of minim area as per the

requirement shall be allotted to the Mobile service provider/ Mobile Infrastructure company, which will be marked in green belt area or in the site allotted for the community utilities in lay out plan. If it is not possible to allot site by the authority, permission to install mobile towers in sectors on the buildings of community utility centers or shopping malls and over the roofs of commercial /institutional / Industrial sectors which shall not include roofs of school, hospital, Nursing home and other like community utilities, which shall be provided, after approval of chief executive officer.

1.2. In a situation where site is not available at per the above said para, permission to install tower shall be granted in the following preferential orders:-

1. In green belt area provided in view of employment.

2. In sectors, on community utility centers or shopping malls by the authority.

3. Roofs of the commercial/institutional/Industrial sector which shall not include roofs of school, hospital, Nursing home and other like community utility facilities.

1.3. Permission for installing towers on roofs of residential buildings /plots shall not be granted.

2. Tariffs:-

2.1. Prior to construction, for the purposes of installation of tower, along with application form, application fee of Rs 1,00,000/- shall be payable.

If tower is installed, since prior to grant of permission, application fee of Rs 1,50,000/- shall be payable. In case of use of one tower by more than one company an additional fee of Rs 50,000/- per company shall also be payable.

Above said application fee shall be non refundable and will not be adjusted on account of any other fee.

2.2. In case of allotment of a plot, premium of plot shall be calculated at the rate of plots falls in the category of office for self use.

2.3. Against the plot, payment of total premium amount shall be payable in one time within 90 days of issuance of allotment letter. Else allotment shall be cancelled and applicant would be require to make application again along with application fee a fresh.

2.4. Allottee shall also be required to deposit lease rent for 15 years together in one go, which shall be 27.5% of the total premium to be paid against the plot. Maximum period of lease of plot for installation of tower shall be 30 years. After 15 years, renewal of lease shall be done after the recommendation of chief executive officer along with due increase in leas rent.

2.5. Only that much constructed are on allotted plot shall be allowed minimum which would be necessary for the purposes of construction of

Tower Guard room, DG set and other instruments. Any other type of construction would not be permissible other than the minimum construction required for the purposes of operation of mobile tower.

2.6. If permission is granted to install the mobile tower over the buildings of community centers and on other buildings constructed by Authority, license fee at the rate of Rs 25,000/- per month shall be payable and in above said rate annual increment at the rate of 5% shall also be payable. Annual premium amount payable for the licence fee, shall be payable in first month of every year.

2.7. In case licence is granted for installation of tower over the roof of buildings or in private premises as permissible in para 1.2, applicant would be required to furnish a bank guarantee of rs 3.00 Lakh (Three lakh) in favour of authority for a minimum period of 3 years. After lapse of licence period, if licence is not renewed, bank

guarantee shall be returned. In case of renewal, it will be necessary to refurnish the bank guarantee again.

2.8. If licence payable to the authority is not paid within stipulated time period, in such situation for delayed period, extension of time shall be granted in special circumstances twice only during the entire licence period. In case of extension, 16% annual interest (which shall be calculated on the basis of tri-monthly compound interest), which shall be payable on balance amount. After one year, in case of nonpayment, licence shall be cancelled.

2.9. After one year, in case of default of licence fee, permission to install tower shall automatically shall be cancelled and bank guarantee shall be forfeited in favour of authority.

2.10. Licence fee amount deposited by the allottee / lease holder firstly shall be adjusted against the

payable interest, thereafter, remaining amount shall be adjusted against the payable annual fee.

2.11. After permission letter is issued by the authority for installation of tower, allottee shall get executed the lease deed of allotted plot within a period of illegible. Else permission to install tower shall be cancelled.

3. Competent Authority:-

3.1. permission for installing of tower shall be granted by the Chief Executive officer, greater Noida. Permission so granted, can be cancelled at any time in public interest. In case of cancellation of permission, no any financial loss/damages shall be payable by the Authority in any circumstances. Company/ lease holder shall be required to remove all the instruments from the site within 30 days of issuance of letter of cancellation.

4. Application:-

4.1. A:- Cellular Mobile Service Operator company/ Mobile Infrastructure company shall make application to executive officer, Greater Noida Industrial Development Authority in prescribed format.

B. If licence is desirable on and over buildings/ premises detailed in para 12 (3), then a joint application shall be required to be moved on behalf of Mobile Service Operator company/ Mobile Infrastructure company and lease holder.

4.2. If licence is desirable on and over buildings/ premises detailed in para 12 (3), then application shall be accompanied with a joint affidavit on stamp of Rs 100 shall be required to be submitted by Mobile Service Operator company/ Mobile Infrastructure company and lease holder of the intent that in which it shall be clearly stipulated that owner of building/ lease holder has granted clear consent for installation of mobile tower over roof of his building.

4.3. Application shall also be accompanied with an indemnity Bond executed by Mobile Service Operator company/ Mobile Infrastructure company on a stamp of Rs 100/- that if any kind of damage or loss is caused, they shall pay the said damage of cost. Applicant shall also be required to furnish a bank guarantee of Rs 3.00 lakh with validity of minimum three years, in favour of authority against any damages and applicant shall be required to renew the bank guarantee prior to its expiry.

4.4. At the time of making of application for licence applicant shall submit site plan in triplicate showing location of tower, its maximum height, size and high electricity line etc. In case of allotment of plot, after execution of lease deed ,Mobile Service Operator company/ Mobile Infrastructure company shall be required to get the lay out plan approved.

4.5. IF licence is desired as per para 12 (3) , applicant shall be required to submit certificate certified by the structural engineers of following institutions along with application of the intent that toughness/firmness of that tower and it shall not have any adverse effect over the structural stability of that building.

-IIT Delhi

- Central building Research Institute , Roorkee.

-. Rail India technical and economical services Ltd Delhi.

-National council of Building material , Faridabad.

-IIT Roorkee.

4.6. Standard of radiation approved by the Government of Indi shall be required to be complied with. Else licence/ allotment shall be cancelled without any notice.

4.7. No objection certificate of generator to be installed for the mobile Tower purposes, if so

required, shall be required to be obtained from Uttar Pradesh Pollution Control Board and if any other no objection is required for installing of machinery, applicant shall also obtained the same.

5. Other Rules and conditions:-

5.1. Application fee detailed in para (2) as above, and payment of one year's advance monthly fee shall be required to be submitted along with application and shall be paid by way of demand draft/Pay order in the name of Greater Noida Industrial Development Authority payable at Delhi/ Noida Branch.

5.2. Chief Executive officer or any other Authorized officer shall have full authority that they if it is think necessary and justified , can take a decision regarding any change, amendment etc in the terms and condition of allotment.

5.3. Decision of Executive officer with regard to any interpretation or explanation of terms and conditions, shall be final and applicant shall be bound to abide by it.

5.4. If authority fails to deliver possession due to any act of God or in circumstances beyond control of Authority, entire deposited amount shall be refunded to the applicant along with 4% simple annual interest.

5.5. In case of any dispute qua the allotment/ lease etc, concerned District Court shall have jurisdiction , where property is situated.

5.6. Provisions of Uttar Pradesh Industrial Area Development Act year 1976 (UP Act no 1976) and rules and regulations framed under it, shall be applicable to the allottee.

5.7. Constructed tower shall not be used for the purposes of advertisement or for commercial use.

5.8. If it is necessary for company to obtain certificates from the concerned Departments as

per the standard of Government of India with respect to cellular Tower construction /establishment/ operation etc, same shall be obtained prior to start of construction work etc/operation and shall be submitted with authority and no objection shall be required to obtain.

5.9. Applicable building regulation shall also apply to the cellular tower company.

5.10. In case of height of tower is 30 meter or more from the drain top, prior to its approval, applicant shall be required to obtain NOC from Airport Authority of India.

5.11. If allottee /company closes 2G/3G services, then in such situation, payability of amount paid by them shall not be at the level of Authority and possession of plot shall be required to be handed over to the authority.

5.12. Transfer/description/ change in sharing of plot shall not be permissible.

5.13. Operation shall be required to start within 6 months of receiving of possession of plot after obtaining permission from the Authority. In which extension of time will not be permissible in any circumstances. In case of non functioning with the fixed time period, while forfeiting entire deposited amount, allotment shall be cancelled and while considering the plot in question as vacant, allotment shall be made to other.

5.14. Applicant shall ensure to comply all the rules and law issued in this regard.

5.15. In sequence of order passed by the Hon'ble Supreme Court, all towers constructed over the residential buildings, shall be removed by the concerned companies. If they fails to remove these towers, allotment of plot in favour of it shall be cancelled and construction shall be removed forcibly.

Accordingly proposal is submitted before the Board, Authority for approval.

Government of India
Ministry of Communications and IT
Department of Telecommunications
(AS-II Cell)
Sanchar Bhavan, 20, Ashok Road, New Delhi-110117

No.842-998/2008-VAS/16

Dated: 4th Nov., 2008

To

All Cellular Mobile Telephone Service Licensee(s) to whom CMTS Licenses issued prior to 2001

Subject: Amendment to the Cellular Mobile Telephone Service Licence Agreement for Telecom Circle Service Areas issued prior to 2001.

In exercise of the power vested in the Licensor under clause 14(ii) of Cellular Mobile Telephone Service Licence Agreement for Telecom Circle Service Areas issued prior to 2001, inter-alia, reserving the right to modify at any time the terms and conditions of the LICENCE, in public interest, security of the nation or proper conduct of the SERVICE, the Licensor hereby inserts after clause 20.2 of the said Licence Agreement, with immediate effect, the following clause, namely:-

"20.3. Licensee shall conduct audit and provide self certificates annually as per procedure prescribed by Telecommunication Engineering Centre (TEC)/or any other agency authorized by Licensor from time to time for confirming to limits/levels for antennae (Base Station Emissions) for general public exposure as prescribed by International Commission on Non-Ionizing Radiation Protection (ICNIRP) from time to time. The present limits/levels are reproduced as detailed below:

Frequency Range	E-Field Strength (Volt/Meter (V/m))	H-Field Strength (Amp/Meter (A/m))	Power Density (Watt/Sq.Meter (W/Sq.m))
400MHz to 2000MHz	$1.375f^{1/2}$	$0.0037f^{1/2}$	$f/200$
2GHz to 300GHz	61	0.16	10

(f = frequency in MHz)

Note: The compliance in the form of Self Certificate shall commence six months after the date of issue of prescribed test procedure by TEC or any other agency authorized by Licensor."

(B.L. Panwar)

Asstt. Director General (VAS-II)

Tel:23710506

Copy to:

1. Secretary, TRAI, New Delhi
2. Wireless Advisor, WPC Wing, New Delhi
3. Sr.DDG,TEC,New Delhi: A detailed test procedure may kindly be issued on priority
4. Sr.DDG(WPF), DoT, New Delhi
5. DDG(Security), DDG(AS-I), DDG(LF), DoT, New Delhi
6. DDG(C&A), DoT for posting on the DoT website

Dated: 17 Nov. 2011

Office Memorandum

Subject: Inter Ministerial Committee on EMF Radiation – Acceptance of recommendations reg.

I am directed to communicate the acceptance of the following recommendations of the Inter Ministerial Committee on EMF Radiation set up vide order of even number dated 24.8.2010:-

Mobile Handsets

- i) SAR level for mobile handsets shall be limited to 1.6 Watt / Kg, averaged over a 6 minutes period and taken over a volume containing a mass of 1 gram of human tissue.
- ii) SAR level shall be displayed on the handset.
- iii) All cell phone handsets sold in the market in India shall comply with relevant BIS standards and shall be with hand free devices.
- iv) SAR value information of the mobile handsets shall be available on the manufacturer's web site & in the handset's manual. The information on SAR values shall be made available to the consumer at the point of sale.
- v) Mobile hand set manufactured and sold in India or Imported from other countries shall be checked for compliance of SAR limit.
- vi) The manufacturers in India shall provide self declaration of SAR value of the handset. In respect of imported handset from other countries, manufacturers apart from self declaration of SAR shall specify the SAR information in their documents for verification by the appropriate authority. Suitable amendments in the Indian Telegraph Rule under Indian Telegraph Act 1985 shall be enacted for strict compliance.
- vii) Manufacturer's mobile handset booklet shall contain the following safety precautions:
 - a. Use a wireless hands-free system (headphone, headset) with a low power Bluetooth emitter.
 - b. Make sure the cell phone has a low SAR.
 - c. Keep your calls short or send a text message (SMS) instead. This advice applies especially to children, adolescents and pregnant women.
 - d. Use cell phone when the signal quality is good.
 - e. People having active medical implants should preferably keep the cell phone at least 15 cm away from the implant.
- viii) List of SAR values of different mobile phones shall be uploaded on DoT/TEC website.

- ix) The exposure limit for the Radio Frequency field (Base Station Emissions) lowered to $1/10^{\text{th}}$ of the existing exposure level as under :

Type of Exposure	Frequency Range	Power Density (Watt/Sq. mtr.)
General Public	400-2000 MHz	$f/2000$
	2-300 GHz	1

f : frequency in MHz.

- x) Provision shall be made for continuous online monitoring and display of radiation level in mobile network frequency range at prominent places in metro/cities and online data transfer to the central server.
- xi) The mobile service providers apart from self certification for compliance of radiation norms on EMF exposure shall measure the radiation level in mobile network frequency range of prominent places and display it for information of the general public. The service providers should have mobile unit for its measurement wherever necessary.
- xii) A national data base with the information of all base stations, their emission compliance status (i.e. Compliant / non-compliant) shall be created and made available in DoT website for public information.
- xiii) Uniform guidelines to be formulated at national level to enforce restrictions on establishment / setting up of BTS towers.
- xiv) An appropriate framework to be created for structural safety clearance for towers set up on roof-tops.
- xv) In the Master Plan of towns and cities the location for installation of mobile towers shall be identified in consultation with the Ministry of Urban Development.
- xvi) New technology low power transmitters shall be installed with in-building solutions for the future expansion of telecom network in the country.
- xvii) Long term scientific research related to health aspect of EMF radiation exposure from multiple antennas of a shared infrastructure sites and associated technologies in India shall be encouraged.
- xviii) A document "Radio waves and safety in our daily life" in regional languages indicating various Dos and Don'ts related to mobile phone users clarifying various myths regarding deployment and use of radio waves shall be created for enhanced customer awareness and to be given to the customer at the point of sale by the mobile service provider.

This issues with the approval of MOC&IT.

ACC
17/11/2011

(A.K. Chaudhary)
ADG (Elect.)

Tele: 011-23036395

Copy to:

- i) PS to Hon'ble MOC&IT
- ii) PS to Hon. MOS (C&IT)-D
- iii) PS to Hon. MOS (C&IT)-P
- iv) PPS to Secretary (T), DoT
- v) PSs to Member (T)/ Member (F)/ Member (S)
- vi) PS to Addl. Secy.
- vii) Advisor (Technology)
- viii) Sr. DDG (TEC)/ Sr. DDG (AS)/ Sr. DDG (BW)/ DDG (IP)/ DDG (TERM)/ DDG ((CS))/ DDG (PG)/ Wireless Adviser, WPC, DoT for taking necessary action.
- ix) All members of the IMC

Government of India
Department of Telecommunications
(Access Services Cell)
Sanchar Bhawan, 20, Ashoka Road New Delhi - 110 001

No. 500-15/2010-VAS (PL)

Dated: 30.12.2011

To

All CMTS/ UAS Licensee(s)

Subject: Norms on EMF exposure by Base Transceiver Stations (BTSs)

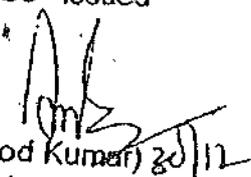
Please refer to the amendment to License conditions dated 4th November 2008 vide which the norms on EMF exposure by Base Transceiver Stations (BTSs) were incorporated in License.

2. In this regard, it has been decided that the new norms for exposure limit for the Radio Frequency Field (Base Station Emissions) as mentioned in the table given below shall be applicable for all the Self Certificates submitted with effect from 01.04.2012.

Frequency Range	E-Field Strength (Volt/Meter (V/m))	H-Field Strength (Amp/Meter (A/m))	Power Density (Watt/Sq.Meter (W/Sq.m))
400MHz to 2000MHz	0.434 f ^{1/2}	0.0011 f ^{1/2}	f/2000
2GHz to 300GHz	19.29	0.05	1

3. Thus, with effect from 01.04.2012, all the BTS/sites for which self certificates shall be submitted to TERM Cells shall be compliant to these new radiation norms.

4. The necessary amendment to licence conditions shall be issued separately.


(Vinod Kumar) 30/12
Director (AS-II)

Copy to:

1. DDG (Security-TERM), DoT
2. DDsG TERM Cell
- ✓ 3. COA/AUSPI

Government of India
Department of Telecommunications
(Access Services Cell)
Sarchar Bhawan, 20, Ashoka Road New Delhi - 110 001

File No: 800-152010-VAS (Pt.)

Dated: 10.04.2012

To
All CMTS/ UAS Licensee(s)

Subject: Norms on EMF exposure by Base Transceiver Stations (BTSs).

Kindly refer to this office letter of even number dated 30.12.2011 on the above-mentioned subject.

2. In this regard, it has been decided that the new norms for exposure limit for the Radio Frequency Field (Base Station Emissions) details of which are mentioned in the letter dated 30.12.2011 shall come into effect from 01.09.2012.

10.4.2012
A.K. Tirkey
ADG (AS-II)

Copy to:

1. DDG (Security-TERM), DoT
2. DDsG TERM Cell
3. COAI/AUSPI

No. 32-7/2010-EW
Government of India
Ministry of Communications & IT
Department of Telecommunications
1110, Sanchar Bhawan, 20 Ashoka Road, New Delhi-1

Dated: 17 Nov. 2011

Office Memorandum

Subject: Inter Ministerial Committee on EMF Radiation – Acceptance of recommendations reg.

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- iv) SAR value information of the mobile handsets shall be available on the manufacturer's web site & in the handset's manual. The information on SAR values shall be made available to the consumer at the point of sale.
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This issues with the approval of MOC&IT.

ACC
17/11/2011

(A.K. Chaudhary)
ADG (Elect.)

Tele: 011-23036395

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- viii) Sr. DDG (TEC)/ Sr. DDG (AS)/ Sr. DDG (BW)/ DDG (IP)/ DDG (TERM)/ DDG ((CS))/ DDG (PG)/ Wireless Adviser, WPC, DoT for taking necessary action.
- ix) All members of the IMC

IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD, LUCKNOW BENCH, LUCKNOW.

SUPPLEMENTARY COUNTER AFFIDAVIT
(ON BEHALF OF OPPOSITE PARTY NO.1)

IN RE:

WRIT PETITION NO.11275 (M/B) OF 2010

Ram Singh Jauhari

...Petitioner

VERSUS

Union of India & Ors.

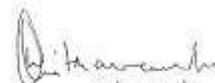
...Opposite Parties

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2.	Supplementary Counter Affidavit on behalf of opposite party no.1	3-4
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4.	<u>Annexure SCA-1</u> A true copy of the report of Committee constituted in compliance of Hon'ble Court's order dated 10.01.2012	6-161

LUCKNOW:

DATED : 10/2/14


Advocate

(Neerav Chitravanshi)

Advocate

Counsel for the Applicant-
Opposite Party No.1

9335203217

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD, LUCKNOW BENCH, LUCKNOW**

C.M. APPLICATION NO. OF 2014

IN RE;

WRIT PETITION NO.11275 (M/B) OF 2010

Ram Singh Jauhari, aged about 80 years, son of late
Indrajeet Singh Jauhari, resident of 138/156, Galla Mandi,
Fatehganj, P.S. Naka Kotwall, District Lucknow.

.....Petitioner

VERSUS

1. Union of India, through Secretary, Department of Telecommunication, New Delhi.
2. C.G.M. (Chief General Manager), B.S.N.L., Hazaratganj, Lucknow.(Uttar Pradesh).
3. General Manager, B.S.N.L., Gandhi Bhawan, Lucknow.
4. G.T.L. Infrastructure and Reliance Infratel, through Manager, Gomtinagar, Lucknow, (Near G.Mall).
5. District Magistrate, Lucknow U.P.
6. Adhishashi Abhiyanta, Nagar Maha Palika, Lucknow.
7. Girish Chandra Mishra, son of Bihari Lal Mishra, resident of 138/158, Galla Mandi Fatehganj, P.S. Naka Kotwall, district Lucknow.

.....Opposite Parties

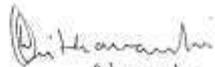


**APPLICATION FOR TAKING SUPPLEMENTARY
COUNTER AFFIDAVIT ON BEHALF OF OPPOSITE
PARTY NO.1 ON RECORD**

The applicant-opposite party no.1 named above respectfully submits here as under:-

That for the facts, reasons and circumstances stated in the accompanying supplementary counter affidavit, it is most respectfully and humbly prayed that the Hon'ble Court may very graciously be pleased to take the same on record, in the interest of justice.

LUCKNOW:
DATED : 10/2/14


Advocate
(Neerav Chitravanshi)
Advocate
Counsel for the Applicant-
Opposite Party no.1

①

**IN THE HON'BLE HIGH COURT OF JUDICATURE AT
ALLAHABAD, LUCKNOW BENCH, LUCKNOW**

WRIT PETITION NO.11275 (M/B) OF 2010

Ram Singh Jauhari, aged about 80 years, son of late
Indrajeet Singh Jauhari, resident of 138/156, Galla Mandi,
Fatehganj, P.S. Naka Kotwali, District Lucknow.

.....Petitioner

VERSUS

1. Union of India, through Secretary, Department of
Telecommunication, New Delhi.
2. C.G.M. (Chief General Manager), B.S.N.L., Hazaratganj,
Lucknow.(Uttar Pradesh).
3. General Manager, B.S.N.L., Gandhi Bhawan, Lucknow.
4. G.T.L. Infrastructure and Reliance Infratel, through
Manager, Gominagar, Lucknow.(Near G.Mall).
5. District Magistrate, Lucknow U.P.
6. Adhishashi Abhiyanta, Nagar Maha Palika, Lucknow.
7. Girish Chandra Mishra, son of Bihari Lal Mishra, resident
of 138/158, Galla Mandi Fatehganj, P.S. Naka Kotwali,
district Lucknow.

.....Opposite Parties

(2)

SUPPLEMENTARY COUNTER AFFIDAVIT
(ON BEHALF OF THE OPPOSITE PARTY NO.1)

I, Lal Chandra Singh aged about 57 years, son of Late S. N. Singh, resident of ...

Lucknow, follower of Hindu Religion, posted at present as Deputy Controller of Communication Accounts, Office of the CCA, U.P. (East) Circle, Lucknow, the deponent do hereby solemnly affirm and state on oath as under:-

1. That the deponent is presently posted and working as Deputy Controller of Communication Accounts, Office of the CCA, U.P. (East) Circle, Lucknow, and as such he is fully conversant with the facts of the case as deposed to hereunder. He has also been authorized by the opposite party no.1 to file the instant affidavit, which he is so filing on its behalf and under its instructions. A true copy of the identity proof of the deponent is enclosed along with this affidavit.

2. That the Hon'ble Court vide its order dated 10-01-2012 directed the answering opposite party no.1 for constitution of a committee consisting of five members of Electrical Engineering Department of the IITs Mumbai, Khadagpur, Kanpur, Delhi and Roorkee, including Professor (Dr.) Girish Kumar and four other prominent persons of other Scientific

[Handwritten signature]

(3)

Institutions of the Country like AIIMS (Delhi), Indian Council of Medical Research etc. to submit a report with regard to the adverse effects of electromagnetic radiations emitted from the mobile base stations, so that the answering opposite party no.1 may take necessary precaution while granting permission for establishment of mobile towers as well as sale of mobiles with necessary precaution.

3. That it is respectfully submitted that in compliance of the order dated 10.01.2012 passed by the Hon'ble Court in the aforesaid case the answering opposite party vide order dated 20.08.2013 has constituted a committee of experts for studying the effect of radiation from the mobile towers and submitting its report within a period of three months as per the directives of the Hon'ble Court.

4. That the committee so constituted by the answering opposite party in compliance of the Hon'ble Court's order dated 10.01.2012 after detailed study and deliberations on the issue has prepared and submitted its report dated 17.01.2014 to the answering opposite party on 20.01.2014. A true copy of the said report submitted by the Committee is being enclosed as **Annexure SCA-1** to this affidavit.

Lucknow:

Dated: 10/2/14


Deponent

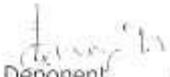
A

VERIFICATION

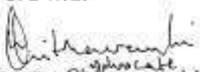
I, the above named deponent, do hereby verify that the contents of paragraph 1 of this affidavit is true to my own knowledge; those of paragraphs 2 to 4 are believed to be true on the basis of records; while those of paragraphs - based on legal advice adduced to me. No part of it is false and nothing material has been concealed. SO HELP ME GOD.

Lucknow ;

Dated : 10/2/14


Deponent

I identify the deponent who has signed before me and personally known to me on the basis of records produced before me.


(Neerav Chittravanshi)
Advocate

Solemnly affirmed before me on 10/2/14 at 9:30 am/pm by Shri Dal Chandra Shukla the deponent who has been identified by Sri Neerav Chittravanshi, Advocate, High Court, Lucknow Bench, Lucknow.
I have satisfied myself by examining the deponent that he understands the contents of this affidavit, which have been read over and explained to him by me.

OATH COMMISSIONER

(5)

 GOVERNMENT OF INDIA DEPARTMENT OF POSTS AND TELEGRAPHS	
	125 L.C. Singh Dy. C.C.A 20-06-1954 B+

E-2609.R.I. Param Lucknow

8005494414 0522-2302774
Conditions

Handwritten signature

Annexure SCA-1

(6)



Government of India

Ministry of Communications & Information Technology

Department of Telecommunications

Report of the Committee

Constituted as per direction of Hon'ble High Court Allahabad,
Lucknow Bench in its order dated 10.01.2012

in

writ petition No. 11275 (M/B) of 2010.

ON

ISSUES RELATED

TO

EMF RADIATION

Dated – 17th January 2014

(10)

The revised norms became effective from 01-09-2012.

(ii) **EMF radiation norms for Mobile Handset - Specific Absorption Rate (SAR):**

In view of the Office Memorandum dated 17-11-2011, Department of Telecom, has adopted stricter norms for SAR levels of mobile handsets.

The new revised SAR limit of 1.6 Watt/Kg, averaged over a mass of 1 gram of human tissue, has replaced the earlier existing limit of 2 Watt/Kg averaged over a mass of 10 gram of human tissue, which was in place since 01-09-2008.

These revised SAR norms for new mobile handsets have become effective from 01-09-2013.

2. B. **Discussion on the issues raised in the Petition before the Hon'ble High Court:**

In addition to the first meeting, subsequent meetings of the committee were held on 21/10/2013, 08/11/2013, 28/11/2013, 16/12/2013, 30/12/2013 and 17/1/2014.

The Committee noted, inter-alia, the following observations of the Hon'ble High Court in its order dated 10-01-2012.

.....

On the other hand, the report of Prof. Ginish Kumar filed with the supplementary affidavit seems to raise important questions with regard to safety measures adopted by the Government of India which is precisely narrated as under:

- 1. The current exposure safety standards are mainly based on the thermal effects, which are inadequate. Non-thermal effects are several times more harmful than thermal effects. According to Dr. Ginish Kumar, Microwave radiation is classified as thermal and non-thermal. Out of two, non-thermal effects are more harmful.*

AG
 A/10/14
 SL
 R. K. Mittal
 S. J. Singh
 N. K. Singh
 P. K. Singh
 17/1/14
 Do not agree with report
 J. K.

(11)

2. With regard to Microwave Heating Concept, 4.2 KW of microwave power raises temperature of 1 Litre of water by 1 degree C in 1 second. In a microwave oven, temperature of one cup of water increases from 30 degree to 100 degree C in approx. With 1W power temperature will increase by 1 degree C in 500 seconds. Temperature of ear lobes increases by approx. 1 degree C when cell phone is used for approx. 20 minutes.

3. According to Dr. Girish Kumar, different safety measures have been provided with regard to cell phone as well as SAR in different States of U.S.A. For example, San Francisco Government has made it mandatory for the industry to display SAR value for each set. According to him, people living within 50 to 300 meter radius of the tower are in the high radiation zone and are more prone to ill-effects of electromagnetic radiation. Four cancer cases in three consecutive floors (6th, 7th and 8th) directly facing and at similar height as the mobile phone towers of four telecom companies placed on the roof of opposite building has been found to be true experiment in Worli, Mumbai. With regard to power density, it has been found that it increases for multiple carriers and multiple operators on the same roof top or tower. Dr. Girish Kumar found that the persons residing in vicinity of Cell Tower are prone to suffer with cancer.

Overall reading of the report of Dr. Girish Kumar prima facie reveals that the people residing in the vicinity of Cell towers may suffer from different diseases which includes boils, drying up the fluids around eyes, brain, joints, heart, abdomen, etc along with change of electrical activity of brain. Use of mobile phone before bed also disturb the sound sleep.

Courts are not experts. Prima facie, the report of Dr. Girish Kumar reveals that the establishment of mobile tower in residential areas of the cities may be harmful. Different anomalies, drawback and

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problems considered by Dr. Girish Kumar in his report, prima facie, do not seem to have been taken into account by the Government of India.

In consideration of the observations and directions of Hon'ble High court, members of the committee look note of the fact that the petitioner has relied on the report of Prof. (Dr.) Girish Kumar. As Prof. (Dr.) Girish Kumar is also a member of this Committee, he was requested to make a presentation and express his views on the subject matter considering the matter in the petition and observations & directions of Hon'ble High Court. Prof. (Dr.) Girish Kumar made a presentation to the Committee on his views on the issues raised in the said petition. Keeping in view the directions of the Hon'ble High Court, detailed discussions took place on these issues. Prof. (Dr.) Girish Kumar's presentation included all the issues that the petitioner had submitted before Hon'ble High Court. The gist of discussion is as placed below in the Table-1:

Table-1

Sl.	Main issues brought out in the petition – presented by Prof. (Dr.) Girish Kumar	Details of deliberations held by the Committee
1	<p>People living within 50-300 meter radius are more prone to dangerous ill effects of EMR on human health. There are some evidence to this effect.</p> <p>It was explained to the Committee members by him that if present ICNIRP guidelines are followed then human body would absorb microwave energy of 583.2</p>	<p>Thermal effects of EMF radiations are explained in this example as there is a comparison with microwave heating. It has been assumed by Prof. (Dr.) Girish Kumar that human body is a cylinder of fluid and has no thermal regulation of its own. Further, to understand the effect of EMF radiation of human body, following factors need to be considered:</p> <p>a) According the scientific data</p>

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		<p>as if live human being is kept in a reverberation chamber having EMF radiation from all sides at peak values. He further assumes that the entire electro-magnetic (E.M.) power in the incident wave enters into the human body which is not correct.</p> <p>d) BTS generally radiates at much lower power than peak power.</p> <p>e) World Health Organisation (WHO) in its fact sheet No. 193 of 2011 while describing short-term health effects has mentioned that at the frequencies used by mobile phones, most of the energy is absorbed by the skin and other superficial tissues, resulting in negligible temperature rise in the brain or any other organ of the body.</p> <p>Prof. (Dr.) Girish Kumar has not taken these factors into consideration in the calculations given by him. Further, Prof. Girish Kumar has also not taken into account a very important factor, i.e., the self thermo-regulatory mechanism of the human body.</p> <p>As far as thermal effects are concerned, committee also noted that power density of the Sun's radiation during day time is of the</p>
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order of about 1000 Watt/m² which is more than 1000 times higher than EMF radiation power from BTSs. However, due to the thermo-regulatory mechanism of human body, temperature of human body remains regulated even if exposed to very high thermal radiation from Sun.

Hence, the committee observed that the conclusion in Prof. (Dr.) Girish Kumar's report that ICNIRP guidelines would result into absorption of microwave energy of 583.2 kw-sec in human body and would amount to keeping human body in microwave oven for 19 minutes/day is incorrect, highly misplaced and misleading.

Further, at distances in the range of 50-300 meters, the power density of the signal from BTS becomes very low as compared to the prescribed precautionary maximum limits of EMF radiation in India. Only a fraction of power radiated from BTS reaches a particular spot in the EMF lobe of power radiation pattern, where a human being may be present. Further, considerable attenuation of the EM wave occurs as it passes through the concrete walls and roof of the buildings. Committee also noted that radiation levels below and near to antenna are very low due to height and tilt of the

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antenna considering the antenna radiation pattern. Actual measured EMF radiation at any place vis-à-vis the radiation limit as recommended by DoT is the criteria to take the precautionary measures.

In view of the above discussion, the committee notes that irrespective of the distance, so long as the EMF radiation power levels in the vicinity of Base Stations are below the prescribed limits, there should not be any cause of concern for adverse thermal health effects on human beings due to base station radiation. So far as non-thermal effects of EM radiation are concerned, a lot of research is going around the world but currently there is no CONCLUSIVE scientific evidence which establishes that EMF has harmful non-thermal effects. However, some countries are taking a precautionary approach by reducing EMF levels below those specified by ICNIRP and India is one of them which has reduced the prescribed EMF radiation levels by a factor of 10.

Thus, the Committee concludes that the assertion by Prof. (Dr.) Girish Kumar that people living within 50-300 meter radius of mobile tower are more prone to dangerous ill effects of EMF radiation,

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are not backed by conclusive scientific evidences.

Regarding Radiation from Mobile Handset:

As far as rise of temperature of ear lobes by approx. 1 degree Celsius is concerned on using cell phone for approx. 20 minutes, the Committee is of the view that heat energy is generated due to the working of electronic components in the mobile phone as well as EMF radiation from mobile phone falling on the ear lobe. The Committee further noted the fact that the thermo-regulatory mechanism of human body takes care of the localized heating, thus the temperature rise of ear lobe is limited to less than 1°C by use of mobile handsets very close to the ear lobe even for continuous use for longer durations also. The claimed biological effects of EMF radiations are discussed in detail in item No. 4 of this table (TABLE-1).

However, so far, no conclusive evidence on adverse health effects by EMF radiation from mobile handset has been found internationally by World Health Organization (WHO). Further studies are underway in different forums to establish any linkage, if any, of adverse health

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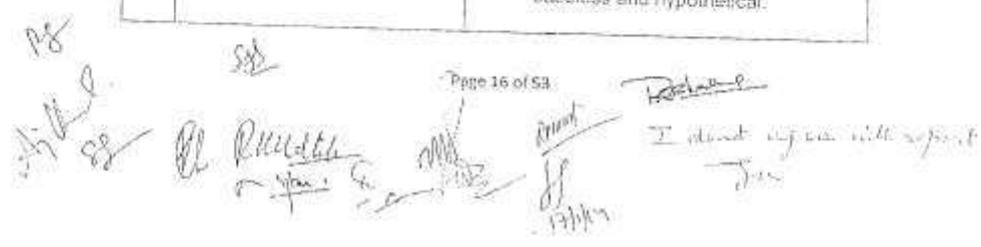
		<p>effects with EMF radiation from mobile handsets.</p> <p><u>Conclusion:</u> In view of the discussion as above, the Committee concludes that these findings of Prof. (Dr.) Girish Kumar of comparing heating of water in microwave oven with human health effects of EMF radiation from mobile tower are incorrect. Self thermo regulation of human body is an important aspect which has been totally ignored in this example. Further, as regard the temperature rise of ear lobe and dangerous ill effects caused by it due to radiation from mobile phones/handset are not conclusively supported by proven scientific studies. Therefore such comparisons are highly misleading and may create unfounded fear and panic in the minds of people, which is totally unwarranted and should be avoided.</p>
2	<p>If one stands 1 meter away from cell tower antenna, body temperature would rise to 2°F in 1 hour and by 8°F in 4 hours.</p>	<p>This assertion of Prof. (Dr.) Girish Kumar is related to thermal effects of EMF radiation on human body.</p> <p>In continuation of deliberations of the Committee on earlier item regarding</p>

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<p>about the FCC guidelines, power density limits from cell tower should be $1/300 \text{ mw/cm}^2$ for 6 minutes use and $1/1500 \text{ mw/cm}^2$ for 30 minutes use.</p> <p>As per his interpretation, for 24 hour exposure (which is the case, as the cell tower radiates continuously) FCC guidelines recommend exposure limit of 12.5 mw/m^2.</p> <p>With regard to mobile handset, India has adopted SAR value 1.5 w/kg averaged over 1 gm of tissue which is same as FCC guidelines.</p> <p>Prof. (Dr.) Girish Kumar argued and interpreted that use of mobile phone only upto 6 minutes is recommended by FCC but he has found use of phone safe upto 10 to 30 minutes.</p>	<p>EMF radiation exposure for 300-1500 MHz frequency, the FCC limits are $1/1500 \text{ mwatt/cm}^2$ with average measurement time of 30 minutes. These two limits are for different environments and hence can not be compared.</p> <p>b. While the FCC standard for radiation is $1/1500 \text{ mwatt/cm}^2$, when expressed in the unit of watts/m^2, this limit becomes $1/150 \text{ watts/m}^2$. This is far relaxed than the limit of ICNIRP which is $1/200 \text{ watt/m}^2$. The FCC limits are followed in USA, Canada, and Japan besides few more countries. India has adopted $1/10^{\text{th}}$ of ICNIRP norms which is more stringent and is $1/2000 \text{ watt/m}^2$.</p> <p>c. While, measuring this parameter, the average of 30 minutes of radiation is taken so as to avoid any misreading due to instantaneous increase. The contention of Prof Girish Kumar that the same limit, when averaged over 6 minutes, becomes $1/300 \text{ mw/cm}^2$ is total misunderstanding of the standard.</p> <p>d. Cell towers are designed to radiate continuously for providing reliable and continuous mobile phone service. The Committee observed that this interpretation of Prof. (Dr.) Girish Kumar, of reducing the radiated EMF power from cell tower depending on period of use, is baseless and hypothetical.</p>
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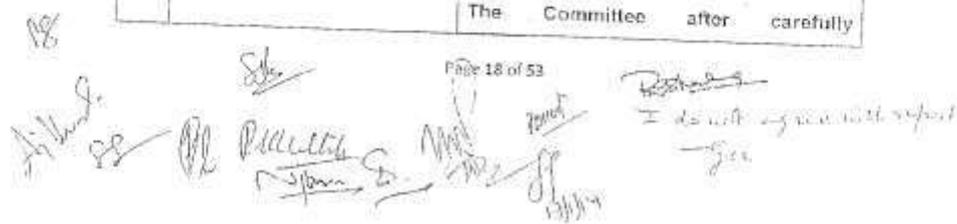
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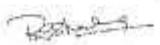


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		<p>not exceeded, duration of exposure is not significant taking into account the self thermal regulatory mechanism of the human body. Rather, absolute prescribed limit of EMF radiation power level are recommended by the international bodies keeping in view the continuous radiation from cell towers.</p> <p>h. The limit of 6 minutes radiation at the recommended power levels of EMF radiation by FCC as deduced by Prof. Gish Kumar is absolutely incorrect and gross misrepresentation of the FCC recommendation. Similarly, the limits deduced by him for 24 hours use is also utter misrepresentation of the FCC standard.</p> <p>i. In the context of 30 minutes average exposure, FCC in their document No OET Bulletin 55 has clarified that "For such public exposure situations, the MPE (Maximum Permissible Exposure) limits normally apply for continuous exposure. In other words, as long as the absolute limits are not exceeded, indefinite exposure is allowed."</p> <p>j. Same applies to the measurement of SAR values for average 6 minutes and has no relation to the duration of use of mobile phone by the people.</p> <p><u>Conclusion:</u> The Committee after carefully</p>
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But, of course, the body does not possess adequate compensation mechanisms for all biological effects. Changes that are irreversible and stress the system for long periods of time may constitute a health hazard.

An adverse health effect causes detectable impairment of the health of the exposed individual or of his or her offspring; a biological effect, on the other hand, may or may not result in an adverse health effect.

It is not disputed that electromagnetic fields above certain levels can trigger biological effects. Experiments with healthy volunteers indicate that short-term exposure at the levels present in the environment or in the home do not cause any apparent detrimental effects. Exposures to higher levels that might be harmful are restricted by national and international guidelines. The current debate is centred on whether long-term low level exposure can evoke biological responses and influence people's well-being.

Conclusions from scientific research

In the area of biological effects and medical applications of non-ionizing radiation approximately 25,000 articles have been published over the past 30 years. Despite the feeling of some people that more research needs to be done, scientific knowledge in this area is now more extensive than for most chemicals. Based on a recent in-depth review of the scientific literature, the WHO concluded that current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields. However, some gaps in knowledge about biological effects exist and need further research.

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		<p>phones. Hence at this stage, there is no cause of alarm with regard to the possible dangerous ill effects on human health as mentioned by Prof. (Dr.) Girish Kumar.</p> <p>However, national authorities must keep a watch on the studies and research work being carried out in this area for finding conclusive evidence and direct correlation, if any.</p>
5	<p>The author presented a case study of Usha Kiran Building, Worli, Mumbai wherein six cases of cancer were reported. This building was facing the Antennas placed by four telecom companies on the opposite side of another building.</p> <p>Further, while giving example of various countries, he has brought out during discussions that in Mumbai at Riddi Park, Thakurlee, within 4 months of occupying the top floor flat, Mrs. Bhat was diagnosed with brain tumour and her neighbour delivered a baby with cancer of spinal cord i.e. within a duration of 9 months</p>	<p>The Committee's response against point 4 above details the biological studies which have been taken into consideration by ICNIRP while recommending the exposure limits of EMF radiation.</p> <p>It is amply clear from the studies of ICNIRP/WHO that there is no established relationship between radiation from mobile towers and cancer/tumour.</p> <p>These case studies of Usha Kiran building and Riddi Park quoted by Prof. Girish Kumar highlights EMF radiation as the only environmental factors while ignoring all other factors which might be significant. The Committee opined that, without any conclusive evidence, such examples could be a matter of further analysis rather than saying that EMF radiation was an environmental factor in these case studies for causing cancer/tumour.</p>

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<p>of pregnancy. This has also been brought out by him in his report submitted to Secretary, DOT in December 2010.</p>	<p>Committee felt that such selective highlighting of EMF radiation, as the only environmental factor, may cause unfounded fear and scare among public and should be avoided in the absence of any conclusive evidence.</p> <p>Members have further questioned the assumption of Prof. (Dr.) Girish Kumar that cancer can develop during a short period of exposure to EMF radiation to a new born baby during pregnancy in 9 months time whereas as per the present findings, latency period for developing cancer in human being is 10-15 years. Similarly assumptions of Prof. (Dr.) Girish Kumar that brain tumor has developed during 4 months of exposure to EMF radiation is also not acceptable as the latency period is much higher.</p> <p><u>Conclusion:</u></p> <p>It is noted by the Committee that measured EMF radiation power levels from cell tower have not been quoted by Prof. (Dr.) Girish Kumar in this example while ignoring all other factors which might be relevant. Also no peer reviewed conclusive analysis has been presented by him. This makes the case study highly misleading and objectionable and at best be termed as</p>
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		findings.
7	Analysis of certain studies done in few countries have been quoted by Prof. (Dr.) Girish Kumar. These include Spain, Israel, Germany, Sweden, Brazil and India.	<p>It is noted by the Committee that only few select studies, many of them possibly without any peer review, have been picked in the example given in the presentation by Prof (Dr.) Girish Kumar, simply to buttress his own point of view. Whereas International Organisations like United Nation's WHO conduct peer review of the independent studies done by an individual or a country and have taken into account approximately 25,000 studies over past 30 years from all over the world.</p> <p><u>Conclusion:</u> The studies quoted by Prof. (Dr) Girish Kumar, therefore, may be relevant for conducting further peer review at international level for appropriate correlation and can not be relied upon at this stage without any conclusive evidence.</p>
8	Comparison of Automobile industry with Mobile industry was explained to the members by comparing air pollution with radiation.	The Committee deliberated on the issue and noted that studies are available to link outdoor air pollution with human health. IARC, an agency of WHO, in its press release dated 17 th October 2013 has already classified the 'Outdoor air pollution'

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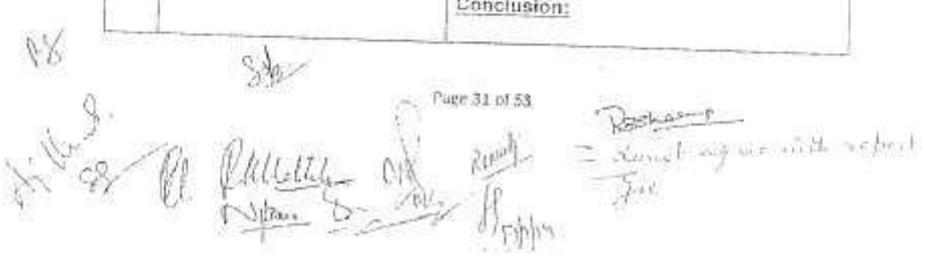
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<p>Comparison of cigarette with cell phones was also explained</p>	<p>as carcinogenic to humans as 'Group 1' which is the highest category. Hence, it is highly inappropriate to compare outdoor air pollution with EMF radiation as no conclusive evidence has emerged so far regarding ill effects from EMF radiation on human health.</p> <p>Similarly, ill effects of cigarette smoking can not be compared with mobile phone use. There is no conclusive evidence about the ill effects of mobile phone use at the most stringent SAR levels as adopted in India.</p> <p>To reiterate, the Committee noted that India has already adopted a more precautionary approach in fixing the present norms as mentioned below:</p> <p>(i) For Cell Towers: 1/10th of ICNIRP limit as the prescribed limit of EMF radiation from cell tower.</p> <p>(ii) For Mobile Phones: SAR values adopted in India are 1.6Watt/Kg averaged over 1gm tissue, which are most stringent.</p> <p><u>Conclusion:</u></p>
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	<p>The Committee observed that it is incorrect to correlate automobile industry or smoking with EMF radiation. Such type of comparison of incomparable situation creates misconception and unfounded anxiety among the people.</p>
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2. B. 1. During discussions, Prof. Girish Kumar also referred to the report of 24 faculty members of various IITs which was issued by Prof. Ashok Jhunjhunwala of IIT Madras in September 2013. Prof. Girish has informed the Committee members that he personally does not agree with this report.

As Prof. Girish Kumar referred to the report issued by Prof. Ashok Jhunjhunwala of IIT Madras, a member of this Committee Dr. Prof. S. N. Sinha circulated photocopy of a statement issued in September 2013, by Prof. Ashok Jhunjhunwala, IIT Madras, on behalf of 24 faculty members of various IITs on effects of EMF radiation on health. (Annexure-IV)

The Committee noted that this report included Prof. Abhay Karandikar (presently HOD, Electrical Engineering Department, IIT Bombay) and two other faculty members from IIT Bombay (from the same Electrical Engineering Department of IIT Bombay to which Prof (Dr.) Girish Kumar belongs).

Gist of their recommendations is as follows:

"1) We consider the recommendations of DoT, Government of India, to be sensible and based on the international best practices at this point in time. They should be implemented strictly, including ensuring radiation norms are met at windows, balconies and roof-tops near cell-towers. At this stage, there is no further knowledge available that warrants a change in the recommendations.

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Results of new research, as well as complaints from citizens, should be carefully examined on a continuous basis, and the recommendations modified as found appropriate. However, caution should be exercised to avoid ad-hoc decisions regarding restrictions on tower locations as long as they meet the stringent guidelines, and to avoid unnecessary panic and fear among the citizens.

2) We further would like to see the following:

- i) Creation of a public database, where all study reports (pro and con) on the health implication of EM radiation should be placed. Also, all arguments in favour and against putting higher restrictions on radiation should be placed. The site should become a public repository for all information, so that it can be analyzed on a continuous basis. This should be supervised by a committee of academicians.
- ii) As the bit-rates required on Internet increases and usage of Internet in India increases, there will be more and more usage of wireless (especially in the absence of adequate wired infrastructure in India). Further higher bit-rates imply higher RF energy transmitted if energy per bit remains the same. India needs to evolve a focused scientific program to develop technological solutions to reduce transmitted energy per bit required by a factor of ten in the next five years and by a factor of hundred in the next ten years. Difficult though these goals may appear today, focused scientific research should get us there.
- iii) There is a need to conduct on a continuous basis multiple scientific studies on the subject of short-term, mid-term and long-term health implications of EM radiations. The studies should be reviewed and thereafter published. DST, DBT, ICMR etc may fund such studies.

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	and taken over a volume containing a mass of 1 gram of human tissue.	be effective from 1 st Sept 2013. (ANNEXURE - XI)
II	SAR level shall be displayed on the handset.	Guideline has been issued to all Mobile Manufacturers vide para 3(ii) of DoT letter no 18-10/2008-IP dt 25 January 2012, effective from 1 st Sept 2013.
III	All cell phone handsets sold in the market in India shall comply with relevant BIS standards and shall be with hand free devices.	Guideline has been issued to all Mobile Manufacturers vide para 3(iii) of DoT letter no 18-10/2008-IP dt 25 January 2012, effective from 1 st Sept 2013 to adhere to SAR limits of 1.6 watts/Kg.
IV	SAR value information of the mobile handsets shall be available on the manufacturer's web site & in the handset's manual. The information on SAR values shall be made available to the consumer at the point of sale.	Guideline has been issued to all Mobile Manufacturers vide para 3(iv) of DoT letter no 18-10/2008-IP dt 25 January 2012 effective from 1 st Sept 2013.
V	Mobile hand set manufactured and sold in India or imported from other countries shall be checked for compliance of SAR value.	Guideline has been issued to all Mobile Manufacturers vide para 3(v) of DoT letter no 18-10/2008-IP dt 25 January 2012, effective from 1 st Sept 2013 for importers to adhere to the SAR limits.
VI	The manufacturers in India shall provide self-declaration of SAR Value of the handset. In respect of imported handset from other countries, the manufacturers apart from self-declaration of SAR shall specify the SAR information in their documents for verification by appropriate authority. Suitable amendment in the Indian Telegraph Rule under Indian Telegraph Act 1905 shall be	Guideline has been issued to all Mobile Manufacturers vide para 3(vi) of DoT letter no 18-10/2008-IP dt 25 January 2012, effective from 1 st Sept 2013. Suitable amendment in the Indian Telegraph Rule under Indian Telegraph Act 1905 under consideration for enactment.

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		conducting a multi-disciplinary cohort study in Delhi and National Capital Region to find out adverse effects of Radio Frequency Radiation, if any, emitted from cell phone on adult Indian population.
XVIII	A document "Radio waves and safety in our daily life" in regional languages indicating various Dos and Don'ts related to mobile phone users clarifying various myths regarding deployment and use of radio waves shall be created for enhanced customer awareness and to be given to the customer at the point of sale by the mobile service provider.	The document has been issued and is placed on the DoT website.

2.D. Discussions on implementation of various guidelines in India and research work being carried out in the area of "Health Effects from EMF Radiation"

1. Summary of discussion about EMF norms adopted in India:

(i) The Committee has noted that WHO in its Facts sheet no. 304 of May 2006 has stated that:

"International exposure guidelines have been developed to provide protection against established effects from RF fields by International Commission on Non-ionizing Radiation Protection (ICNIRP, 1998) and the Institute of Electrical and Electronics Engineers (IEEE, 2005).

National authorities should adopt international standards to protect their citizens against adverse levels of RF fields. They should restrict access to areas where exposure limits may be exceeded."

(ii) ICNIRP guidelines have made, inter alia, following recommendations:

a. EMF radiation from tower:

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ICNIRP has recommended the limit from cell phone tower as
"f/200 watt per meter square"

where 'f' is frequency in MHz (for 400-2000 MHz)

b. EMF radiation from mobile handset:

ICNIRP has recommended Specific Absorption Rate (SAR) level of mobile handset as 2 watt per /per kg averaged over mass of 10 gm of tissue.

(iii). IEEE guidelines have, inter-alia, made following recommendations:

EMF radiation from mobile handset

IEEE has recommended Specific Absorption Rate (SAR) level of mobile handset as 1.6 watt per /per kg averaged over mass of 1 gm of tissue.

(iv) The Committee notes that India has adopted 1/2000 watt per meter square as the EMF radiation limit from cell phone tower which is $1/10^{th}$ of the ICNIRP recommended limit whereas majority of the countries around the world have adopted the limits prescribed by ICNIRP.

(v) Similarly, the Committee further notes that with reference to the EMF radiation from mobile handset India has adopted more stringent recommendations of IEEE rather than ICNIRP recommended limits which are 1.6 watt per kg averaged over mass of 1 gm of human tissue, as against the ICNIRP recommended limit of 2 watt per kg averaged over mass of 10 gm of human tissue.

(vi) The Committee also further notes that though there are some isolated examples of a few countries or counties / local bodies of a country adopting lower radiation norms from cell phone towers but as per the

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- (v) In order to increase the deterrence, Department of Telecom, recently on 20th November 2013, has made the compliance norms more stringent. The penalty for non-compliance to EMF norms by mobile operators has been increased from Rs. 5.00 lakh to Rs. 10.00 lakh. This penalty is applicable per occasion per mobile operator per site if the tower site is shared by more than one operator and is applicable to all the operators sharing the tower site.
- (vi) EMF radiation limits from cell tower and mobile handsets have been prescribed by DoT taking into account both thermal and non-thermal/biological effects of EMF radiation.
- (vii) The Committee notes with satisfaction the efforts made by Department of Telecom in adopting the most precautionary approach for limiting the EMF radiation from mobile towers in addition to adoption of most stringent SAR level for mobile handsets in India. Further the penalty on non-compliant telecom service providers has been doubled to Rs. 10.00 lakh per site per occasion per operator.
- (viii) The Committee also noted that in reply to a online question, WHO on 20.9.13 has mentioned:

".....Because exposure to the radiofrequency (RF) fields emitted by mobile phones is generally more than a 1000 times higher than from base stations, and the greater likelihood of any adverse effect being due to handsets, research has almost exclusively been conducted on possible effects of mobile phone exposure.

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WHO has further concluded that While an increased risk of brain tumours from the use of mobile phones is not established, the increasing use of mobile phones and the lack of data for mobile phone use over time

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The Committee is of the view that health effect of EMF radiation from cell towers and mobile phones are two different subject matters and results of one type should not be applied on the other and should not be used interchangeably.

- (xi) The Committee also noted that the prescribed norms for EMF radiation by standards making bodies take into account the continuous EMF radiation (24x7) emitted from mobile towers and mobile phones (while in use).
- (xii) The Committee also deliberated in detail the various studies and information circulated through email by various members of the Committee. These studies include ICNIRP report, Bio-Initiative report, FCC guidelines, report of Health Protection Agency, April 2012 (United Kingdom), EMF exposure limit comparison and various other studies related to effects of EMF radiation on human health. This also includes the information and comments circulated by Prof (Dr.) Girish Kumar through his various emails to the Committee members received till date.
- (xiii) With regard to Bio-Initiative report 2007, the Committee noted the statement issued in year 2009 by the Committee on Man and Radiation (COMAR) which is a technical committee of the Engineering in Medicine and Biology Society (EMBS) of the Institute of Electrical and Electronics Engineers (IEEE), an international standard making body. COMAR is primarily working in the area of biological effects of non-ionizing electromagnetic radiation, including radiofrequency (RF) energy.

COMAR submitted a statement in 2009 on BioInitiative report titled:

"COMAR Technical Information Statement: Expert reviews on potential health effects of radiofrequency electromagnetic fields and comments on the BioInitiative Report". (Annexure-VII)

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Extract of this statement is as below:

"This report summarizes the conclusions from several major reports and comments on the markedly different conclusions in the Bioinitiative Report (abbreviated BIR below). Since appearing on the internet in August 2007, the BIR has received much media attention but, more recently, has been criticized by several health organizations (see Section titled "Views of health agencies about BIR"). COMAR concludes that the weight of scientific evidence in the RF bioeffects literature does not support the safety limits recommended by the Bioinitiative group. For this reason, COMAR recommends that public health officials continue to base their policies on RF safety limits recommended by established and sanctioned international organizations such as the Institute of Electrical and Electronics Engineers International Committee on Electromagnetic Safety and the International Commission on Non-Ionizing Radiation Protection, which is formally related to the World Health Organization."

Further, the Committee also noted that Indian Council of Medical Research (ICMR), on critical examination of the Bio-initiative 2012 Report, has observed that the report is not based on multi disciplinary weight and there is no balanced reflection of the current state of scientific knowledge. However, further study is needed to arrive at a conclusion about the potential health effects of EMF radiation.

(xiv) It was also noted that, WHO, after studying approximately 25,000 studies over past 30 years has concluded that current evidence does not confirm the existence of any health consequences from exposure to EMF radiation.

(xv) Further, the Committee also noted that DoT has issued "Precautionary guidelines for the mobile users" to increase public awareness. In addition, DoT has also published advertisements in National & Regional Newspapers for creating awareness among public for ensuring safety from EMF radiations emitted from Mobile Towers & handsets. Further, for the information of the general public, a hand book on "Mobile

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Communication - Radio Waves & Safety' has also been issued. These documents are available on the website of DoT also. (Annexure-VIII)

2.E. Other Discussions:

- (i) The Committee noted that as part of professional ethics, a practice is being followed by all the professionals before publishing any report/ newsletter in public domain to make a disclosure about their commercial business interest or the commercial business interest of their close relatives and family members. The Committee noticed that Prof. (Dr. Girish Kumar) has not made any such disclosure about the studies being conducted by him/ reports submitted by him or on the newsletters being published by him on the issue of health effects from EMF radiation. Though, initially, Prof. (Dr.) Girish Kumar had agreed to submit a proper disclosure on his work related to EMF radiation but he later on refused to give any such disclosure. However, Prof. (Dr.) Girish Kumar has stated that the information given in his newsletter be considered as his disclosure. The other members of the Committee are of the view that this information is unclear & incomplete. He should have specifically disclosed his family's commercial interest in companies involved in manufacturing / dealing with EMF shielding products.
- (ii) Committee wants to highlight that Dr. (Prof.) Girish Kumar had circulated an email to all the Committee members, casting aspersions and ascribing bias against them which was strongly objected to by the members (copy of minutes of first meeting of the Committee are enclosed as annexure-4). Most of the members were of the view that it amounts to undermining the premier institutions and disagreed with Prof. Girish Kumar's prejudiced stance at the very outset. Prof. (Dr.) Girish Kumar refused to attend and participate in the meetings of the Committee despite persuasion by DOT and did not attend the first meeting. It is worth mentioning that while formulating the Committee, nominations were asked from the Head of the

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organizations and based on the nominations, so received, the Committee was constituted in line with the directions of the Hon'ble High Court.

- (iii) The Committee also noted that Prof. (Dr.) Girish Kumar in his newsletter of October 2013 (**Annexure-IX**) while responding to some allegation has admitted to his commercial interest in the family business of 'radiation shielding solutions'. The Committee observed that his daughter Ms. Nena Kumar is selling 'Radiation Shielding Solutions' through her company named 'NESA Radiation Solutions Pvt. Ltd.' The members of the Committee noted that on one hand he is spreading misinformation & creating misconceptions and unfounded apprehensions in the mind of public by sensationalizing and blowing out of proportion the effects of EMF radiation, on other side he is promoting his family's business on related products (which do not even follow any National/International standards) thus throwing professional ethics to the winds.
- (iv) The Committee members have taken due note of emails dated 14-1-2014 and 15-01-2014 sent by Prof.(Dr.) Girish Kumar to them where there is an attempt by Prof. (Dr.) Girish Kumar to involve Hon'ble judges of High Court, Allahabad into the discussions even before finalization of report. All other members disassociate themselves from such activities of Prof. (Dr.) Girish Kumar, the Member of the Committee.

3. **Observations and Recommendations of the Committee for taking necessary precautions with respect to EMF radiation from mobile towers and mobile phones.**

3.A. **OBSERVATIONS:**

1. The Committee has carefully examined all the submissions of the petitioner, which were also presented by Prof. (Dr.) Girish Kumar. On the basis of scientific

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evidences, studies and reports available, it has been found that there is no conclusive evidence about the stated dangers of EMF radiation from mobile BTS tower as raised by the petitioner.

As regards the possible health hazards of EMF radiation from mobile phones, WHO has concluded in its Fact Sheet No. 193, year 2011 that a large number of studies have been performed over the last two decades to assess whether mobile phones pose a potential health risk. To date, no adverse health effects have been established as being caused by mobile phone use. Further studies are ongoing in different parts of the world to assess possible health effects of mobile phone exposure.

In addition, in reply to an online question, WHO on 20th September, 2013 has mentioned that Studies to date provide no indication that environmental exposure to RF fields, such as from base stations, increases the risk of cancer or any other disease. Further, it is also mentioned that Scientists have reported other health effects of using mobile phones including changes in brain activity, reaction times, and sleep patterns. These effects are minor and have no apparent health significance. More studies are underway to try to confirm these findings.

ii. The Committee also took note of the actions taken by the Department of Telecommunication in view of the accepted recommendations of the Inter-ministerial Committee. It has been observed by the Committee that the Department has taken adequate steps to impose stricter precautionary limits for EMF radiation from mobile towers as well as from the mobile phones.

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Dr. V. S. Srinivasan
Secretary

Dr. P. S. Srinivasan
Secretary

Dr. S. Srinivasan
Secretary

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Dr. Srinivasan

Dr. Srinivasan

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Dr. Srinivasan

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3.B. RECOMMENDATIONS:

- I. The Department of Telecom should continue the extensive audit of the self-certificates being submitted by the Telecom Service Providers in order to ensure compliance to the prescribed stricter norms of EMF radiation from RTS tower.
- II. The Department of Science and Technology and Indian Council of Medical Research (ICMR) should carry out / facilitate extensive studies, on the Indian conditions with special focus on prolonged use of mobile phone, to conclusively determine sensitivity of EMF Radiation / possible health hazard risk of EMF radiation, which at present is not proven. These Indian specific scientific studies should aim at generating scientifically credible data and evidences by involving Ministry of Science and Technology, ICMR, Ministry of Environment & Forest, DoT and other relevant organisation. The Government of India should make available funds to ensure extensive long term/short term research and studies on possible health effects of EMF radiation on life (Human, Living organism, Flora & Fauna & Environment).
- III. Department of Telecom has already taken measures to create awareness among public by issuing "Precautionary guidelines for the mobile users" and publishing advertisements in National & Regional Newspapers for ensuring safety from EMF radiations emitted from Mobile Towers & handsets for the information of the general public.

A hand book on "Mobile Communication - Radio Waves & Safety" has also been issued by Department of Telecom. These measures, inter-alia, include:

- (i) Frequently asked questions (FAQ)
- (ii) Myths and Facts
- (iii) Precautionary guidelines for Mobile Users

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These precautionary guidelines, inter-alia, include the following precautions:

- Keep distance – Hold the cell phone away from body to the extent possible
- Use a headset (or ear bud) to keep the handset farther from your head.
- Do not press the phone handset against your head.
- Use a wired headset
- Limit the length of mobile calls.
- Use text as compared to voice wherever possible.
- Put the cell phone on speaker mode etc.

The Committee recommends that there is a need to step up efforts by concerned Departments of the Government like Department of Telecom, Health, Environment etc. to spread public awareness on EMF and above precautions regarding mobile phones (Handsets) to allay undue apprehensions in regard to possible health effects of EMF radiation largely caused due to misinformation being peddled by certain sections in public. This can be done through print media/electronic media and other communications channels and tools along with conducting market research / survey, workshops and seminars etc.

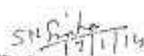
IV. Annual discussion, meetings/seminars should be conducted by the Government by inviting experts from various academic and research institutions for continual evaluation of scientific evidence published worldwide with an aim to monitor the progress in research on the effects of EMF radiation.

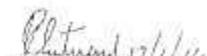
V. In order to get latest updates on EMF radiation related issues, DoT should actively participate in the deliberations of various International standards bodies, including WHO, involved in the study of EMF radiation.

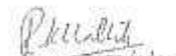
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 Page 52 of 53
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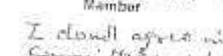
VI. Department of Telecom should create national EMF web portal to provide public access to the status of compliance, of the prescribed EMF norms, of all BTSs/ mobile towers in the country and related relevant information:


 (Dr. S.N. Senhal)
 (Professor, IIT Roorkee)
 Member

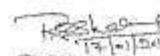

 (Dr. Ajit Kumar Chaturvedi)
 (Professor, IIT Kanpur)
 Member


 (Dr. Ranjan K. Mazila)
 (Professor, IIT Delhi)
 Member

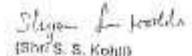

 (Dr. Vivek Tandon)
 (AIMS, New Delhi)
 Alternate Member

I don't agree with report. Committed bias against Dr. Girish Kumar.

 (Dr. Girish Kumar)
 (Professor, IIT Bombay)
 Member


 (Dr. R.C. Murthy)
 (Chief Scientist, ITR Lucknow)
 Member


 (Dr. R. S. Sharma)
 (ICMR, New Delhi)
 Member


 (Dr. Ajoy Chakrabarty)
 (Professor, IIT Kharagpur)
 Member


 (Shri S. S. Kohli)
 (SERB New Delhi)
 Member


 (Shri U. K. Srivastava)
 (DDG, TEC, DoT)
 Member


 (Shri Nitin Jain)
 (DDG CS, DoT)
 Member


 (Shri Rame Shankar Rain)
 (Director CS-TP, DoT)
 Alternate Member Convener

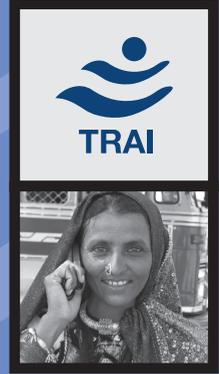

 (Shri S. S. Sirohi)
 (Sr. DDG (TERM), DoT)
 Chairman

In view of the remarks of Prof (Dr.) Girish Kumar, Member, above his signature ascribing bias to the Committee, I, as Chairman of the Committee, feel it necessary to highlight the following for the sake of clarity of perspective:

As is evident from the discussions / documents in the report, Prof. Girish Kumar participated in the Committee with prejudice right from inception. He, in fact, appeared to be less amenable to close scientific scrutiny of his ideas / studies by other members/ experts. His reckless and swearing allegation of bias against the Committee, without any basis, was objected to and denounced by other members, which is also appropriately captured in this report.

The Committee with their collective wisdom and domain expertise has been completely fair, reasonable, open minded and scientific in dealing with the subject matter of wide public importance.


 (Shri S. S. Sirohi)
 (Sr. DDG (TERM), DoT)
 Chairman



EMF RADIATION FROM MOBILE TOWERS A FACT SHEET

Message from the Chairman, Telecom Regulatory Authority of India (TRAI)



The radiation which they are essentially talking about, this is not radiation, this is essentially radio waves. It is very weak electromagnetic waves which are essentially unable to cause any disruption in any other form of life. So therefore to call these radiations will not be correct. They are at the best radio waves or a very weak kind of emission of the waves.

- R. S. Sharma - IAS, Chairman TRAI

What do mobile towers emit?

When we communicate through electronic devices, such as in mobile communications, the voice is translated into electronic signals, which are transmitted through the antennae as radio waves, also loosely referred to as Electro-Magnetic Field Radiation. These are very low in intensity radiations and they do not have any adverse health effects.

“ MOBILE TELEPHONE: A KEY ENABLER FOR DIGITAL INDIA

There are one billion plus mobile phones in our country, which means almost every person of this country uses mobile phone in one way or the other. Out of 300 million Internet users in India, around 200 million go to the Internet through the mobile.

Therefore, it is one of the very important instruments of realizing the vision of Digital India. ”

- R. S. Sharma - IAS, Chairman TRAI

Are all Radiations the same?

Radiations are of two types, ionizing and non-ionizing. Ionizing waves are high energy waves such as those used for diagnostics and radio therapy like in CT scan, X-rays, etc., have the ability to break chemical bonds in the human body. They have the potential to cause harm to humans, yet they are safe because of their controlled exposure.

Non-ionizing waves, such as the radio waves emitted by cell phones and mobile tower antennae, are low energy radio waves that do not carry enough energy to break any chemical bond within the human body. Thus, they cannot potentially harm humans. Yet, they are used safely for various purposes in secure and controlled environment.

NON-IONISING

IONISING



RADIO



TELEVISION



CELL TOWER



FRIDGE



SATELITE



SUNLIGHT



ULTRAVIOLET



X-RAYS



GAMMA RAYS

NO HARM RADIATION

For high quality mobile phone services, mobile towers are essential. More mobile towers mean higher download speeds, greater voice clarity and lesser call drops.

"There is no evidence that the tower will affect the health of the people."

- The Hon'ble Kerala High Court in the W.P. (C) No. 24569 of 2012 dated 9, July 2013.

"...we deem it necessary to mention that the concerned authorities should, by way of communication through T.V., Radio etc. bring it to the notice of the people at large that there is no reason for them to fear the erection of the Base Transceiver Station, known as the WIFI Mobile Tower."

- The Hon'ble Gujarat High Court in SCA No. 5548 of 2014, dated 09 September 2014.

"There is no cause of alarm with regard to possible ill-effects on human health by electromagnetic field emission from cellphone towers and cellphones because the safety limits adopted in India take into account all biological effects of radiation."

- An expert committee constituted in compliance to the directions of the Hon'ble High Court, Allahabad, Lucknow Bench - January 2014.

"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."

- The Hon'ble Himachal Pradesh High Court in the CWP No. 8283 of 2012 dated 30 November 2015

World Health Organisation says...

World Health Organisation (WHO) has concluded that '...current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields, including children.' WHO recommends adoption of the International Commission on Non-Ionizing Radiation Protection (ICNIRP) guidelines and states that these guidelines '...offer protection against all identified hazards of RF energy with large safety margins.'

Thousands of studies on radiation have been done by various organizations and independent agencies. After considering all of them WHO (World Health Organization) has come to the conclusion that there is negligible chance of adverse health impact due to mobile tower radiation on the lives of the people.

World Health Organisation which is the main international organisation on global health issues and standards, after a detailed study has reported in its fact sheet No. 304 (on EMF and Public Health) that considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that weak RF signals from the base stations and wireless networks caused adverse health effects.

In case of any doubt contact TERM Cell

Telecom companies conduct a thorough check of their networks and self-certify each and every base station in a tower for compliance with EMF radiation norms. Upon satisfaction that the EMF exposure is well below the specified standards, they provide self-certification to the DoT's (Department of Telecommunications) TERM cell. The TERM cell (Telecom Enforcement, Resource and Monitoring) of DoT — regulate, oversee and manage each and every tower/base station/antenna in India for radiation compliance. It has offices in various locations in India. For more information: www.dot.gov.in/term/term-security

For any further queries please contact TERM Cell, 5th Floor MTNL TE Building, Nehru Place, New Delhi 110019, ddgterm-dot@nic.in, 011-26469191.

To know more, visit

DoT website: <http://www.dot.gov.in/access-services/journey-emf>

GSMA website: <http://www.gsma.com/publicpolicy/mobile-and-health>

World Health Organization [WHO] website: <http://www.who.int/peh-emf/publications/facts/fs296/en/>

ITU Website: <http://www.itu.int/en/pages/default.aspx>

TRAI website: <http://www.trai.gov.in>

Issued in Public Interest by:



Telecom Regulatory Authority of India

(IS/ISO 9001-2008 Certified Organisation)





मोबाइल टावर से ईएमएफ रेडियेशन अफवाह और सच



अध्यक्ष का संदेश, भारतीय दूरसंचार नियामक प्राधिकरण (ट्राई)



“आज लोग जिसे जोर-शोर से रेडियेशन बता रहे हैं दरअसल वह रेडियेशन नहीं बल्कि रेडियो तरंगें हैं। ये बहुत कमजोर इलेक्ट्रोमैग्नेटिक (विद्युत-चुम्बकीय) तरंगें हैं जो जीवन के किसी रूप में बिल्कुल कोई बाधा नहीं पहुंचा सकती हैं। इसलिए इसे रेडियेशन कहना उचित नहीं है। आप इन्हें रेडियो तरंगें या फिर बहुत कमजोर किरम की तरंगों का उत्सर्जन कह सकते हैं।”

—आर. एस. शर्मा, भारतीय प्रशासनिक सेवा, अध्यक्ष, ट्राई

मोबाइल टावरों से क्या उत्सर्जन होता है?

अमूमन ऐसा वैज्ञानिक रूप से अवलोकन किया गया है कि जब हम इलेक्ट्रॉनिक उपकरणों के माध्यम से वार्तालाप करते हैं; तो उस दौरान ध्वनि का इलेक्ट्रॉनिक सिग्नल में परिवर्तन होता है। तत्पश्चात् परिवर्तित इलेक्ट्रॉनिक सिग्नल एंटीना के माध्यम से रेडियो-तरंगों के रूप में प्रसारित होते हैं। बोलचाल की भाषा में इन तरंगों को विद्युत-चुम्बकीय क्षेत्र विकिरण से संबोधित किया जाता है। वस्तुतः इस विकिरण की तीव्रता कम होने की वजह से मानव-स्वास्थ्य पर कोई प्रतिकूल असर नहीं पड़ता है।

“मोबाइल टेलिफोन : “डिजिटल इंडिया” की कामयाबी का एक महत्वपूर्ण अवयव

हमारे देश में एक अरब से भी अधिक मोबाइल फोन उपभोक्ता हैं। जाहिर है, इस देश का अधिकांशतः प्रत्येक नागरिक किसी न किसी रूप में मोबाइल फोन का इस्तेमाल करता है। भारत में 300 मिलियन इंटरनेट उपभोक्ताओं में से लगभग 200 मिलियन उपभोक्ता मोबाइल फोन के माध्यम से इंटरनेट की सुविधा लेते हैं।

अतएव, डिजिटल इंडिया का सपना साकार करने में इसकी अहम् भूमिका है”

— आर. एस. शर्मा — भा.प्र.से. अध्यक्ष, ट्राई

क्या सभी विकिरणों की प्रकृति एक समान हैं?

विकिरण दो प्रकार के होते हैं — आयनाइजिंग और नॉन-आयनाइजिंग। आयनाइजिंग वेक्स (तरंगें) उच्च ऊर्जा की तरंगें हैं जैसे कि सीटी स्कैन, एक्स-रे आदि डायग्नॉस्टिक और रेडियो थिरेपी में उपयोग होने वाली तरंगें। ये तरंगें मानव शरीर के रासायनिक बंधनों को तोड़ सकती हैं। इसलिए इनसे मनुष्यों को नुकसान पहुंचाने की संभावना है। फिर भी इनका कई उद्देश्यों से एक सुरक्षित और नियंत्रित परिवेश में सुरक्षा के साथ प्रयोग किया जाता है।

सेल फोन और मोबाइल टावर के एंटेना से नॉन-आयनाइजिंग तरंगें जैसे कि रेडियो तरंगें निकलती हैं। ये कम ऊर्जा की रेडियो तरंगें हैं जिनमें इतनी ऊर्जा नहीं होती कि मानव शरीर के रासायनिक बंधनों को तोड़ सके। ये मनुष्य के लिए सुरक्षित हैं। फिर भी अतिरिक्त सुरक्षा के दृष्टिकोण से इस पर भारत सरकार के कई कड़े सुरक्षा मानक लागू हैं।

नॉन-आयनाइजिंग

आयनाइजिंग



रेडियो



टेलीविजन



सेल टावर



फ्रिज



सैटेलाइट



सनलाइट



अल्ट्रावायलेट



एक्स-रे



गामा रेज

रेडियेशन से खतरा नहीं

उच्च गुणवत्ता मोबाइल फोन सेवाओं के लिए मोबाइल टावर अनिवार्य हैं। मोबाइल टावर जितने अधिक होंगे डाउनलोड की गति, आवाज की स्पष्टता उतनी अधिक होगी और कॉल ड्रॉप की समस्या भी कम होगी।

“मोबाइल टावर द्वारा लोगों के स्वास्थ्य पर पड़ने वाले दुष्प्रभावों का कोई साक्ष्य नहीं है।”

— माननीय केरल उच्च न्यायालय का डब्ल्यू.पी. (सी) सं. 24569 / 2012 में दिनांक 9 जुलाई 2013 का निर्णय।

“...हम यह उल्लेख करना जरूरी समझते हैं कि संबद्ध प्राधिकरणों को टी.वी., रेडियो आदि संचार के विभिन्न माध्यमों से जन-जन को यह संदेश देना चाहिए कि बेस ट्रांसीवर स्टेशन, जिसे बोलचाल की भाषा में वाईफाई मोबाइल टावर कहते हैं, की स्थापना को लेकर घबराने की कोई बात नहीं है।”

— माननीय गुजरात उच्च न्यायालय का एससीए सं. 5548 / 2014 में दिनांक 9 सितंबर 2013 का निर्णय।

“सेल फोन टावरों और सेल फोनों से इलैक्ट्रोमैग्नेटिक फील्ड के उत्सर्जन का मनुष्य के स्वास्थ्य पर संभावित दुष्परिणामों को लेकर चिंता की कोई बात नहीं है क्योंकि भारत में रेडियेशन के जैव-वैज्ञानिक दुष्परिणामों पर विचार करने के बाद ही सुरक्षा सीमाएं निर्धारित की गई हैं।”

— एक विशेषज्ञ समिति, जनवरी 2014 में माननीय इलाहाबाद उच्च न्यायालय की लखनऊ पीठ के निर्देशों के अनुपालन में गठित।

“पर्याप्त तथ्यों के मद्देनजर सोच-समझ कर हमारा यह दृष्टिकोण बनता है कि मोबाइल फोन टावरों और मोबाइल फोनों से उत्पन्न इलैक्ट्रोमैग्नेटिक तरंगों के मनुष्य के स्वास्थ्य पर संभावित दुष्परिणामों को लेकर चिंतित होने का फिलहाल कोई ठोस कारण नहीं है क्योंकि इस संबंध में भारत में निर्धारित सीमाओं से मनुष्यों पर कोई जैव-वैज्ञानिक दुष्परिणाम नहीं होगा।”

— माननीय हिमाचल प्रदेश उच्च न्यायालय का सीडब्ल्यूपी सं. 8283 / 2012 में दिनांक 30 सितंबर 2015 का निर्णय।

विश्व स्वास्थ्य संगठन का कहना है...

विश्व स्वास्थ्य संगठन (डब्ल्यू.एच.ओ.) इस निष्कर्ष पर पहुंचा है कि...‘वर्तमान में उपलब्ध प्रमाण से इस बात की पुष्टि नहीं होती है कि निम्नस्तरीय इलैक्ट्रोमैग्नेटिक फील्ड का हमारे, यहां तक कि बच्चों के स्वास्थ्य पर भी कोई प्रभाव पड़ता है।’ डब्ल्यू.एच.ओ. ‘इंटरनेशनल कमीशन ऑन नॉन-आयनाइजिंग रेडियेशन प्रोटेक्शन (ICNIRP) के निर्देशों को अपनाने की अनुशंसा करता है और कहता है कि ये निर्देश...‘आरएफ ऊर्जा के सभी निर्दिष्ट खतरों से हमें सुरक्षित, बल्कि पर्याप्त सुरक्षित रखते हैं।’

रेडियेशन पर विभिन्न संगठनों और निष्पक्ष अभिकरणों के हजारों अध्ययन हैं। इन पर विचार करने के बाद डब्ल्यू.एच.ओ. (विश्व स्वास्थ्य संगठन) इस निष्कर्ष पर पहुंचा है कि मोबाइल टावर के रेडियेशन का जनसाधारण के स्वास्थ्य पर दुष्परिणाम नगण्य है।

वैश्विक स्वास्थ्य के मुद्दों और मानकों के मुख्य अंतर्राष्ट्रीय संगठन — विश्व स्वास्थ्य संगठन ने व्यापक अध्ययन के बाद इसकी फ़ैक्ट शीट सं. 304 (ईएमएफ और सार्वजनिक स्वास्थ्य पर) में यह रिपोर्ट दी है कि बहुत निम्नस्तरीय प्रभाव, और आज तक एकत्रित शोध परिणामों पर विचार करने से यह स्पष्ट है कि बेस स्टेशनों और वायरलेस नेटवर्कों के कमजोर आरएफ सिग्नलों का स्वास्थ्य पर प्रतिकूल प्रभाव पड़ने का ऐसा कोई वैज्ञानिक प्रमाण नहीं है जिसे माना जा सके।

यदि कोई संदेह हो तो टर्म सेल से संपर्क करें

टेलीकॉम कम्पनियां ईएमएफ रेडियेशन के मानकों पर खरा उतरने के लिए खुद उनके नेटवर्कों की पूरी जांच करती हैं और प्रत्येक टावर के सभी बेस स्टेशन से जुड़े ईएमएफ विकिरण सीमाओं के अनुपालन को सत्यापित करती हैं। इसमें संतुष्टि के बाद ही वे डीओटी (दूरसंचार विभाग) के टर्म सेल का यह स्व-सत्यापन करती हैं कि ईएमएफ का प्रभाव निर्धारित मानकों से बहुत कम है। डीओटी का टर्म सेल (टेलीकॉम इन्फोर्समेंट, रिसोर्स एण्ड मॉनिटरिंग सेल) रेडियेशन संबंधी मानकों को पूरा करने के लिए भारत के हर एक टावर/बेस स्टेशन/एंटेना का नियंत्रण, निगरानी और प्रबंधन करता है। इसके कार्यालय भारत के विभिन्न स्थानों पर हैं। अधिक जानकारी के लिए: www.dot.gov.in/term/term-security

अधिक जानकारी के लिए कृपया संपर्क करें टर्म सेल, 5वीं मंजिल, एमटीएनएल टेलीफोन एक्सचेंज बिल्डिंग, नेहरू प्लेस, नई दिल्ली-110019, ddgterm-dot@nic.in, 011-26469191.

अधिक जानकारी के लिए देखें :

डीओटी की वेबसाइट : <http://www.dot.gov.in/access-services/journey-emf>

जीएसएमए की वेबसाइट : <http://www.gsma.com/publicpolicy/mobile-and-health>

विश्व स्वास्थ्य संगठन [WHO] की वेबसाइट : <http://www.who.int/peh-emf/publications/facts/fs296/en/>

आईटीयू की वेबसाइट : <http://www.itu.int/en/pages/default.aspx>

ट्राई की वेबसाइट : <http://www.trai.gov.in>

जनहित में जारी, जारीकर्ता:



Telecom Regulatory Authority of India

(IS/ISO 9001-2008 Certified Organisation)



सत्यमेव जयते

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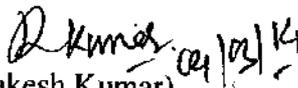
Department of Telecommunications
(CS-III)

Subject: Uploading of document to the Website of DoT.

It is requested to kindly upload the following documents to the website of DoT under the tab "A Journey for EMF" at the earliest –

- Report of the committee constituted in compliance to the directions of the Hon'ble High Court, Allahabad on issues relating to EMF radiation --- Acceptance and decisions thereof.

Encl.: As above


(Rakesh Kumar)
Under Secretary
(CS-III)
Ph.: 23372628
Fax: 23372496

Director IT, DOT

No. : 17-63/2011-CS-III Dated: 03.03.2014

Govt. of India
Ministry of Communications & IT
Department of Telecommunications
713, Sanchar Bhawan, 20-Ashoka Road, New Delhi-110001.
(Carrier Services Cell)

No. 17-63/2011-CS-III

Dated: 27.02.2014

OFFICE MEMORANDUM

Subject: Report of the Committee constituted in compliance to the directions of the Hon'ble High Court, Allahabad, Lucknow Bench on issues relating to Electromagnetic Field (EMF) radiation --- Acceptance and decisions regarding:

In compliance to the directions of Hon'ble High Court, Allahabad, Lucknow Bench vide its order dated 10th January, 2012, the Committee was setup by the Government which has submitted its Report on 17.01.2014 on issues relating to EMF radiations from cell phone towers and mobile handsets. In consideration to the Report of the Committee, the following decisions are hereby conveyed:-

1) The present prescribed norms for the EMF radiation limits are as follows:

- a) **Limits/levels for antennae (Base Station) EMF Emissions for general public exposure :**

Frequency Range	E-Field Strength (Volt/Meter (V/m))	H-Field Strength (Amp/Meter (A/m))	Power Density (Watt/Sq.Meter (W/Sq.m))
400MHz to 2000MHz	$0.434f^{1/2}$	$0.0011f^{1/2}$	$f/2000$
2GHz to 300GHz	19.29	0.05	1

(f = frequency in MHz)

The above prescribed limits for EMF radiations from Base Station in India are one-tenth (1/10th) of internationally prescribed limits (ICNIRP).



b) For Mobile Phones:

Specific Absorption Rate (SAR) levels for mobile handsets adopted in India are 1.6 Watt/Kg averaged over a mass of 1gram of human tissue.

The Department of Telecom has already prescribed stricter precautionary limits for EMF radiation from mobile tower as well as from mobile handset/phones applicable as on date.

After due consideration of the human health concerns on account of EMF radiation recently being raised in public and the Report of the Committee, it has been decided that the present prescribed precautionary EMF safe exposure limits are adequate and need no further change at this stage.

- 2) Department of Telecom has already taken adequate steps in regard to granting of permission for siting of mobile towers in its recent guidelines to State governments and Telecom Enforcement, Resource & Monitoring (TERM) cells in different licence service areas effective from 01-08-2013. In order to make the deterrence stronger, the penalty for violation of prescribed stricter EMF norms from BTS tower by telecom service providers has been increased from Rs. 5 Lakhs to Rs. 10 Lakhs per BTS, per incidence per operator w.e.f. 20th November, 2013.

In order to ensure compliance to the prescribed stricter precautionary norms of EMF from BTS tower, the extensive audit of comprehensive self-certificates and sites for compliance to EMF radiations safe limits being submitted by telecom service providers shall be carried out by TERM Cells of DoT for the purpose of limiting the EMF radiation exposure and keeping general public areas in the vicinity of towers safe, as per the procedure prescribed from time to time in their respective License Service Areas.

- 3) The Department of Science and Technology and Indian Council of Medical Research (ICMR) shall carry out / facilitate extensive studies, on the Indian conditions with special focus on prolonged use of mobile phone, to conclusively determine sensitivity of EMF Radiation / possible health hazard risk of EMF radiation, which at present is not proven. These Indian specific scientific studies should aim at generating scientifically credible data and evidences by involving Ministry of Science and Technology, ICMR, Ministry of Environment & Forest, DoT and other relevant organisation. The Government of India shall make available funds to ensure

extensive long term/short term research and studies on possible health effects of EMF radiation on life (Human, Living organism, Flora & Fauna & Environment).

- 4) Concerned departments of Government like Department of Telecom, Health, Environment etc. shall step up efforts to spread public awareness on EMF and above precautions regarding mobile phones (Handsets) to allay undue apprehensions in regard to possible health effects of EMF radiation largely caused due to misinformation being peddled by certain sections in public. This can be done through print media/electronic media and other communications channels and tools along with conducting market research / survey, workshops and seminars etc.
- 5) Annual discussion, meetings/seminars shall be conducted by the Government by inviting experts from various academic and research institutions for continual evaluation of scientific evidence published worldwide with an aim to monitor the progress in research on the effects of EMF radiation.
- 6) In order to get latest updates on EMF radiation related issues, DoT will actively participate in the deliberations of various International standards bodies, including WHO, involved in the study of EMF radiation.
- 7) Department of Telecom will create national EMF web portal to provide public access to the status of compliance, of the prescribed EMF norms, of all BTSs/ mobile towers in the country and related relevant information.

This issues with the approval of MOC&IT.


 (Sanjeev Kumar Sharma)
 Director (CS-III)

Copy to:

- I) PS to Hon'ble MOC&IT
- II) PS to Hon. MOS (C&IT)-D
- III) PS to Hon. MOS (C&IT)-P
- IV) PPS to Secretary (T), DoT
- V) PSs to Member (T)/Member (F)/ Member (S)
- VI) PS to Addl. Secy.
- VII) Advisor (Technology)



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ANNEXURE R-7

PRESS RELEASE - December 10, 2013

Mobile Tower radiation health hazard - A *MYTH* IMA-Mumbai West

Dr. S K Joshi, President, IMA Mumbai West

Dr. Parthiv Sanghvi, Secretary, IMA Mumbai West

- Radiation emitted by the **Sun** is thousand times stronger than ones emitted by a mobile phone tower.
- Considering the research results collected till date and the very low exposure levels, there is no convincing scientific evidence that the weak radio frequency signals from base stations and wireless networks can cause adverse health effects (**WHO**).
- A **microwave oven** at home emanates much more radiation than a telecom tower.
- Television and Radio emit radiations five times more than mobile tower.
- India has adopted a strict radiation limit, which is **one-tenth** of the international norm
- India's current radiation exposure limit (**0.45 w/m2.**) for mobile towers is much lesser than countries like USA, Canada and Japan, whose radiation exposure limit is much higher (**9 w/m2**)
- Cell-phone photons do not have enough energy to cause a mutation in your DNA.

Mumbai: 10, December: In a landmark development, as part of their larger responsibility towards public health in the country, IMA Mumbai West has come forward to address the unwanted fear of harmful effects/health hazards from EMF Emissions/Radiations emanating out of Mobile Towers. IMA Mumbai West feels that such misconceptions and misinformation can only add to prevailing confusion.

Addressing the growing concern of cell tower radiation at a Press Conference, Indian Medical Association-Mumbai West announced that cell tower radiation is lower compared to RF emissions from radio FM and television and is not hazardous to human health as has been perceived so far in some quarters.

Dr.S K Joshi, President, I M A Mumbai West, said that“Radiations from the Mobile Towers poses no threat to health or cause cancer, as is commonly believed. There are no empirical findings to establish that mobile tower radiation causes cancer or any such diseases. Radio and TV have been

in operation for over 50 years without any known health consequence. Cell tower radiation is lower compared to RF emissions from FM radio and television, hence it is not alarming. The radiation emitted is just too weak to be harmful. Across the globe, these emissions are monitored by UN bodies like World Health Organization (WHO), which comes out with fact sheets from time to time”.

“We understand that the emission levels are prescribed and monitored by WHO in consultation with other UN bodies like International Telecommunications Union (ITU) and an academic body of physicists, International Commission for Non Ionizing radiation protection (ICNIRP). Across the world and government of each country adopts these standards to the best of their knowledge addressing public health concerns. These organizations monitor the situation across the globe in this sector and come out with fact sheets and advisories from time to time.”

“A person absorbs five times more RF from FM radio and television than the base station tower. Radiation from mobile towers has also been found safe internationally and if the Govt. of India prescribed levels of radiation limits are observed, then the fear of health hazards from radiation of mobile towers is merely hysteria.”

“Cancer, *of the kind mediated by radiation*, is known to be caused by mutations in the cell-division machinery—a clear bond breaking process—which results in uncontrolled multiplication of the cells. X-rays are well known to cause such mutations, which is why X-ray technicians are required to wear lead aprons. UV rays from the sun, those which are not stopped by the ozone layer, can cause skin cancers in people who do not have enough pigmentation to block them. Any electro-magnetic wave whose frequency is smaller — such as infra-red, microwave, radio waves, and the typical cell tower waves (900 MHz) used for cell phones do not have enough energy to cause a mutation in our DNA. AIIMS building itself has Cell Phone Towers, which clearly proves that the medical community trusts the WHO prescribed emission levels. Though only a few epidemiological studies have been conducted, it has found no evidence of cancers in children.”

“Radiation emitted by the Sun is thousand times stronger than ones emitted by a tower. A microwave oven heats up the food inside by bombarding it with microwave photons. The energy inside an oven in one second is multiple times stronger than the cell phone tower emissions. When people are comfortable with such ovens, then they should not have fears about telecom tower emissions.” added **Dr. Joshi.**

“Since there is a growing concern among the masses regarding the harmful effects of radiation, government should share the WHO advisory and fact sheets which come out from time to time with the general public. Circulating the fact sheets in regional language would be a better way of communicating to the public thereby creating awareness on the issue. Doing so will enable the public to create their own perception and judgment about mobile tower radiations and not depend on others/ groups to interpret for them, minimizing the spread of misconception or misinterpretation. **The efficiency of emergency services like medical emergency, security etc have significantly improved by mobile technology,**” said **Dr. Parthiv Sanghvi**, Secretary, IMA Mumbai West

About IMA - Mumbai West

Indian Medical Association - Mumbai West is a part of IMA Maharashtra State Branch of IMA. Indian Medical Association is the only representative voluntary organization of Doctors of Modern Scientific System of Medicine, which looks after the interest of doctors as well as the well being of the community at large. The Association was started in 1928 with the avowed objectives:

- a. Promotion and Advancement of Medical and allied sciences in all their different branches.
- b. Improving the public Health and Medical Education in India.
- c. The maintenance of honour and dignity of medical profession.

It has been rendering yeoman's service in the field of health care deliver, disease control and eradication. Its services to the community during natural calamities like earthquakes, droughts and floods, famines and epidemics. Its role and involvement in the formulation and implementation of National Health Programmes have been highly significant and received recognition by the Central and State Governments and the [UNICEF](#). IMA regularly conducts Medical updating programs on medical development and various issues related to public health for its members and general public.

For further media information kindly contact:

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DEPARTMENT OF TELECOMMUNICATIONS

Ministry of Communications & Information Technology

सत्यमेव जयते



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You are here: Home » Licensing » Access Services » A Journey for EMF



A Journey for EMF

A. Introduction

1. Telecommunications have been recognized the world-over as an important tool for socio-economic development of a nation. It has become core infrastructure required for rapid growth and modernisation of various sectors of the economy. There has been a phenomenal growth of the telecom sector in terms of subscribers and revenues over the past one and a half decades in India. Today, India is amongst top three of largest and one of the fastest growing telecom markets in the world. The Indian telecom industry has grown from a tele-density of 3.58% in March 2001 to 78.13% in February, 2015. This great leap in both the number of subscribers and revenues from telecom services has contributed significantly to the growth in GDP and employment.

2. The next information revolution will be brought through the use of mobile broadband/ internet. However the penetration of mobile internet is very low in country in comparison to other nations. Large investments and efforts from industry as well as Government are required to expand the mobile telephony related infrastructure, which include tower, with a view to expand the mobile telephony based services and take these to rural and remote areas. This needs to be done, so that the dream of broadband for all can be realised and benefit of this technology can be reaped by all sections of society. According to various reports increase in 10% penetration of mobile broadband leads to more than 1% increase in GDP of country.

3. Telecom towers are critical installations on which the backbone of mobile communication rests. These are essential for realizing the vision of inclusive growth. The success of initiatives like Digital India, Smart Cities and right to Broadband, which the Government intends to implement in mission mode, depends on this critical and essential infrastructure. Mobile communications play important role in social and economic growth and disaster management for which mobile towers are a pre-requisite. A robust and scalable mobile infrastructure including towers is must for universal access to communication, effective delivery of services to citizens and financial inclusion. Realizing the significance of mobile towers, Government of India has included it in the harmonized list of infrastructure vide its Gazette notification dated 27-03-2012. Simplifying the sectoral policy for Right of way, for laying cable network and installation of towers, has also been incorporated as one of the strategies for achieving the broad objectives of the National Telecom Policy, 2012.

B. Health effect due to Electro Magnetic Frequency (EMF) Radiations - International Research

4. There is a public concern over possible health effects from Electromagnetic Field Radiation (EMR) exposure from diverse EMR sources especially Mobile BTS antennae and mobile. In this regard, several studies have been conducted in different countries, under the aegis of World Health Organization (WHO). WHO has referred to approximately 25,000 articles published around the world over past 30 years, and based on an in-depth review of scientific literature, has concluded: "*current evidence does not confirm the existence of any health consequences from exposure to EMF radiation*". Since the effects on human beings are to be studied over a long period of time, further studies are going on around the world.

5. With reference to Electromagnetic Radiation emanating from cellular mobile towers, World Health Organization (WHO) in its Fact Sheet No. 304, May 2006 on Electromagnetic Fields and Public Health (Base Stations and Wireless Technologies) has concluded that "*considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak Radio Frequency (RF) Signals from base stations and wireless networks caused adverse health effects. From all evidence accumulated so far, no adverse short or long term health effects have been shown to occur from the RF Signals produced by based stations.*"

6. In September 2013, WHO in online question and answers, have mentioned that "*Studies to date provide no indication that environmental exposure to RF fields, such as from base stations, increases the risk of cancer or any*

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other disease."

7. In respect of EMF radiations from mobile handsets, WHO in Fact Sheet 193 published in June 2011 has concluded that "A large number of studies have been performed over the last two decades to assess whether mobile phones pose a potential health risk. To date, no adverse health effects have been established as being caused by mobile phone use".

C. International EMF Project

8. As part of its charter to protect public health and in response to public concern over health effects of EMF exposure, the World Health Organization (WHO) established the International EMF Project in 1996 to assess the scientific evidence of possible health effects of EMF in the frequency range from 0 to 300 GHz. The EMF Project encourages focused research to fill important gaps in knowledge and to facilitate the development of internationally acceptable standards limiting EMF exposure.

9. Since the commencement of the EMF Project, over 50 national authorities have been involved. Apart from the national authorities the project is overseen by 8 international organizations[1] and independent collaborating institutions[2] and together they review scientific information related to public and occupational health, and environmental management of the EMF issue. It is pertinent to note that many of these studies have been going on for years so as to understand the effect of EMF over the period of time and these studies are not specific to developed countries alone. While summarizing the key points on health effect of EMF radiation, WHO website mentions the following:

".....WHO's International EMF Project was launched to provide scientifically sound and objective answers to public concerns about possible hazards of low level electromagnetic fields.

Despite extensive research, to date there is no evidence to conclude that exposure to low level electromagnetic fields is harmful to human health..."

D. EMF Radiations – Recommended International safety standards

10. WHO recommended that 'National authorities should adopt international standards to protect their citizens against adverse levels of RF fields. They should restrict access to areas where exposure limits may be exceeded.' WHO has recommended adoption of international standards, namely International Commission for Non Ionizing Radiation Protection (ICNIRP)/ Institute of Electrical and Electronics Engineers(IEEE). The main conclusion from the WHO reviews is that EMF exposures below the limits recommended in the ICNIRP international guidelines do not appear to have any known consequence on health. The WHO says -

"All reviews conducted so far have indicated that exposures below the limits recommended in the International Commission for Non Ionizing Radiation Protection (ICNIRP) 1998 EMF guidelines, covering the full frequency range from 0-300 GHz, do not produce any known adverse health effect. However, there are gaps in knowledge still needing to be filled before better health risk assessments can be made."

ICNIRP continually monitors the science to ensure its guidelines on safe exposure limits remain up to date.

E. Steps taken by Department of Telecommunications

11. Department of Telecommunication (DoT), since 2008, has been monitoring global developments and has already taken necessary steps and adopted stricter norms for safety from EMF radiation that are emitted from mobile towers and mobile handsets. Government of India has been taking due precautions and necessary actions in respect of EMF radiation emitted from mobile towers and mobile handsets by issuing various guidelines and norms taking into account the international standards/norms prescribed by International Commission on Non Ionizing Radiation Protection (ICNIRP) as recommended by World Health Organisation.

12. EMF safe exposure Limits from mobile towers adopted in India – As mentioned above, Government of India adopted the ICNIRP guidelines in the year 2008 for basic restriction and limiting reference levels of Electromagnetic radiation from Mobile towers and inserted the additional clause in the Access Service Licenses vide its amendment letter dated 4/11/2008 ([Link to Document](#)) (256.42 KB). Based on the recommendations by Inter-Ministerial Committee (IMC), these norms for exposure limit for the Radio Frequency Field (Base Station Emissions) have been further made stringent and reduced to 1/10th of the existing limits prescribed by International Commission on Non Ionizing Radiation Protection (ICNIRP). Directions in this regard have been issued to the Mobile Operators on 30.12.2011. These directions have been further revised on 10.01.2013 ([Link to Document](#)) (54.91 KB) and 26.06.2013 ([Link to Document](#)) (51.49 KB). As per latest directions of 26.06.2013 -

"Licensee shall conduct audit and provide self certificates after every two years as per procedure prescribed by Telecommunication Engineering Centre (TEC) /or any other agency authorized by Licensor from time to time for

confirming to limits/levels for antennae (Base Station Emissions) for general public exposure as prescribed by Licensor from time to time.”

The present limits/levels for antennae (Base Station) EMF emissions for general public exposure are detail below –

Frequency Range	E-Field Strength (Volt/Meter (V/m))	H-Field Strength (Amp/Meter (A/m))	Power Density (Watt/Sq.Meter (W/Sq.m))
400MHz to 2000MHz	$0.434f^{1/2}$	$0.0011f^{1/2}$	$f/2000$
2GHz to 300GHz	19.29	0.05	1

(f is frequency in MHz)

13. Keeping the precautionary EMF safe exposure limits for the Radio Frequency Field (Base Station Emissions) as 1/10th of the safe limits prescribed by ICNIRP for all areas in India, eliminates the need for fixing lower limits for specific areas like schools, hospitals, residential premises, children playgrounds; a segregation of which is impractical in densely populated localities.

F. Recent review of exposure limits by Committee constituted in compliance of direction by Hon'ble High Court Allahabad:

14. In a Writ Petition filed in Hon'ble High Court Allahabad, Lucknow bench, the Hon'ble Court vide its order dated 10.01.2012 constituted a committee including Members from Indian Institute of Technology (IITs) Kharagpur, Kanpur, Delhi, Roorkee, Bombay and from other scientific institutions of the country including Indian Council of Medical Research (ICMR) and All India Institute of Medical Science (AIIMS) Delhi who submitted its Report on 17-01-2014. After due consideration of the human health concerns on account of EMF radiation being raised in public and the Report of the Committee, the Government has decided in February 2014 that the present prescribed precautionary EMF safe exposure limits are adequate and need no further change at this stage ([Link to Document \(103.22 KB\)](#)).

G. Ensuring compliance to various safe limits standards :

15. Safe limits for emission from Base Transmitting Stations (mobile towers) - As detailed above, the norms for exposure limit for the Radio Frequency Field (Base Station Emissions) in India have already been made stringent and reduced to 1/10th of the existing limits prescribed by ICNIRP. In order to ensure that all Base Transceiver Stations (BTSs) should be compliant to prescribed EMF reference limits/ levels, DoT has issued instructions directing all **Cellular Mobile Telephone Service (CMTS)/ Unified Access Services (UAS)** licensees that all BTSs should be compliant to prescribed EMF reference limits/ levels and all BTSs should be self certified as meeting the radiation norm. Self certification is submitted to respective Telecom Enforcement Resource & Monitoring (TERM) Cells of DoT. All new BTS sites starts radiating only after self certificate has been submitted to relevant TERM Cells. In order to ensure compliance to the prescribed stricter precautionary norms of EMF radiation from mobile tower, the extensive audit of compliance of self-certificates being submitted by telecom service providers and Base Transceiver Station (BTS) sites is carried out by Telecom Enforcement Resource & Monitoring (TERM) field units of DoT. This is regularly done by TERM units for the purpose of limiting the EMF radiation exposure and keeping general public areas in the vicinity of towers safe. In case, any BTS site is found to violate the prescribed EMF norms, actions are taken to put a penalty of Rs. 10 lakh per BTS per incidence ([Link to Document \(1.11 MB\)](#)) including closing of BTS site as per the prescribed procedure. Additionally, the BTS sites against which there are public complaints are also tested by TERM Cell. The testing is done as per procedures prescribed by Telecom Engineering Centre (TEC) from time to time. TEC has published the Test Procedure for measurement of EMF from BTSs vide document no. TEC/TP/EMF/001/01 SEP 2009 ([Link to Document \(891.33 KB\)](#)).

16. Specific Absorption Rate (SAR) safe exposure Limits from mobile handsets adopted in India - With respect to radiation from Mobile Handsets also, ICNIRP has prescribed values for Specific Absorption Rate (SAR) limit as 2 Watt/Kg averaged over 10 gm tissue. Based on the limits provided by ICNIRP, DOT, in the year 2008, notified for compliance of Mobile Handsets being manufactured in India as well as the handsets being imported to conform to SAR limit of 2 W/kg (averaged over a mass of 10 gm tissue) localised for head and trunk in the frequency range of 10 MHz to 10 GHz ([Link to Document \(72.06 KB\)](#)). Based on the recommendations by IMC, SAR level for Mobile Handset has been revised from 2 watt per Kg averaged over a mass of 10 gram human tissue to 1.6 Watt per Kg averaged over a mass of 1 gram human tissue. Directions in this regard including other

recommendations related to Mobile Handset have been issued to Mobile Handset Manufacturers on 25.01.2012 ([Link to Document](#)) (181.43 KB). These directions have now become effective since 01.09.2013. From 01.09.2013, the mobile handsets with revised SAR value of 1.6 Watt/Kg averaged over a mass of 1 gram human tissue are only permitted to be manufactured or imported in India for domestic market.

17. SAR value testing Lab - A laboratory has been set-up in the Telecommunication Engineering Centre (TEC) for testing of SAR value of mobile handsets imported/manufactured in India.

H. Public Awareness

DoT has issued an informative guide on 'Mobile Communications-Radio Waves and Safety' ([Link to Document](#)) (2.57 MB). The document covers a basic introduction to radio waves, various terminologies, Do's & Don'ts related to mobile phone usage, clarification of various myths regarding deployment, use of Radio waves / Safety Standards and frequently asked questions relating to Mobile phones & Human health. Advertisement for ensuring safety from radiations of Mobile Towers & handsets has been issued by DoT which has been published in National ([Link to Document](#)) (916.85 KB) & Regional Newspapers ([Link to Document](#)) (175.32 KB).

I. EMF Web portal

18. Telecommunication Engineering Center(TEC), a wing of DoT, is carrying out a pilot project on EMF web portal for implementation of online database for EMR of BTS towers. The pilot trial of web portal is being conducted in three circles Mumbai, Haryana, Karnataka and the city of Hyderabad. Based on the results of the pilot trial, decision will be taken to scale up the implementation throughout the country. The portal is envisaged to provide a public interface for viewing the EMF compliance status of mobile towers, anywhere in India. The portal is meant to generate confidence among the public about effectiveness of the EMF compliance process in India.

J. Guidelines for Installation of Mobile Tower

19. Broad guidelines for issue of clearances for installation of Mobile Towers were forwarded to all the State Governments on 23.08.2012 ([Link to Document](#)) (42.91 KB). The above guidelines have been further revised with effect from 01.08.2013 and are also available on DOT Website ([Link to Document](#)) (188.36 KB).

K. India Specific research in the field - Committee Constituted by Department of Science & Technology:

20. As far as India specific studies are concerned, Department of Science & Technology (DST), Government of India, is working on this issue for conducting study on possible impact of EMF Radiation exposure from mobile tower and handset on life (humans, living organism, flora & fauna and environment) and related initiatives. Based on the recommendation of the Committee consisting of former Director General(ICMR), representative from IIT Chennai, Indian Institute of Toxicology Research, Lucknow, Department of Telecom, Ministry of Environment & Forest, ICMR and DST; Science and Engineering Research Board (SERB) has invited R&D proposals in June, 2013 ([Link to Document](#)) (30.59 KB) on the possible impact of EMF radiation exposure from mobile towers and handsets on life (humans, living organism, flora & fauna and environment) and related initiatives from eligible Scientist/Organizations-public or private, individually or in collaboration. The SERB has constituted an Expert Committee/Task Force comprising of various experts from Medical & Engineering Institutes on 04 September 2013 to evaluate R&D proposals ([letter on constitution of committee](#)) (358.73 KB).

L. Conclusion:

21. EMF radiations from a mobile tower, which are below the safe limits prescribed by ICNIRP and recommended by WHO, have no convincing scientific evidence of causing adverse health effects. Department of Telecommunications have prescribed stricter precautionary norms for exposure limit for the Radio Frequency Field (Base Station Emissions) which is 1/10th of the existing limits prescribed by ICNIRP and recommended by WHO. Further, Government of India has taken adequate steps to ensure that Telecommunications Service Providers strictly adhere to these prescribed norms.

M. Other relevant documents/ links:

i. **Advisory to all State Govt and Union Territories to set up State Level Telecom Committee and District level Telecom Committee in order to effectively address PG relating to installation of towers and issues relating to Telecom Infrastructure.** (189.33 KB)

[1] International Commission on Non-Ionizing Radiation Protection (ICNIRP), International Agency for Research on Cancer (IARC), United Nations Environment Programme (UNEP), International Labour Organization (ILO), International Telecommunications Union (ITU), European Commission (EC), International Electrotechnical

Commission (IEC) and North Atlantic Treaty Organisation (NATO)

[2] Air Force Research Laboratory USA, Australian Radiation and Nuclear Safety Agency (ARPANSA), Health Protection Agency - Radiation Protection Division, United Kingdom, Institut für Strahlenhygiene, Germany and R. Samuel McLaughlin Centre for Population Health Risk Assessment

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Last Updated on: 05.06.2015



A.F.R.
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PUBLIC INTEREST LITIGATION (PIL) No. - 48084 of 2015

Smt. Asha Mishra

Vs.

State Of U.P. And 7 Others

Appearance:

For the petitioner:

Satyendra Nath Tripathi

For the respondent:

C.S.C.

A.S.G.I./2015/1786

Arvind Kumar Goswami

Nisheeth Yadav

Rahul Agrawal

Rakesh Mishra

S.P. Shukla

Shashi Nandan

Hon'ble Dr. Dhananjaya Yeshwant Chandrachud, Chief Justice
Hon'ble Yashwant Varma, J.

(Per Hon'ble Yashwant Varma J)

This batch of writ petitions has sought a restraint on the installation of mobile towers and 4G Base Transmitting Stations (BTS's) being established in different districts of the State. The installations in question are part of a 4G network being laid in place by the seventh respondent. The primary ground of challenge raised in these proceedings is based upon the alleged and perceived ill effects of electromagnetic radiation generated

by the BTS's and mobile towers on human health. Placing reliance upon a report of one Prof. (Dr.) Girish Kumar, the petitioners sought to highlight the adverse impact and the serious health risk likely to occur on account of radiation from mobile towers and BTS's. Referring to the report of Prof. (Dr.) Girish Kumar, it was contended that emissions from mobile towers and BTS's have a serious and irreversible impact on the health and well being of individuals, resulting in neurological damage, impact on children and women, impact on fertility rates in human beings, lead to skin and ear damage and also effect vision. It was further contended that mobile towers as well as BTSs should not be permitted to be installed in densely populated areas, residential areas or in and around areas where mobile towers and BTSs already existed. The petitioners place reliance upon a report drawn up by a Parliamentary Standing Committee to contend that emissions from mobile towers and BTSs have been recognized to have an adverse impact on public health and their installation should be banned. The petitioners have also highlighted the absence of an effective grievance redressal and regulatory mechanism to oversee the installation of these towers and prevent their mushrooming growth.

On 31 August 2015, the Court called upon both the Union and the State Governments to file a response in these

proceedings setting out the regulatory mechanism that may have been put in place for monitoring the levels of radiation emitted by mobile towers. The order further directed the Union and the State Governments to disclose on Affidavit all particulars relating to the following important aspects:

- a) the process followed for grant of permissions or clearance for installation of mobile towers;
- b) the permissible distance between mobile towers;
- c) restrictions, if any, on setting up of mobile towers in residential areas; and
- d) the authority designated to carry out checks and verify levels of radiation emitted from such installation.

Pursuant to the aforesaid order both the State as well as the Union Governments have filed their responses in these proceedings. By a subsequent order dated 6 January 2016, this Court issued directions calling upon the **Telecom Enforcement Resource and Monitoring Cell (TERM Cell)** to submit a report with regard to the possible ramifications of the installation of the mobile towers and the BTSs by the seventh respondent. The Term Cell was required to submit a report after considering all relevant aspects including the location, distance from existing towers or cluster of towers and the extent of radiation from

already existing towers. The Term Cell was called upon to conduct a site inspection of all places which formed the subject matter of this batch of writ petitions and file a report.

Pursuant to the aforesaid directions the Term Cell carried out a site inspection of the locations forming the subject matter of this batch of writ petitions and submitted its report on Affidavit. The Affidavit found that in various places the installations of the seventh respondent were yet to be completed and the towers were not energized or functional. It proceeded to record the radiation levels at the proposed sites bearing in mind the emissions from nearby towers or clusters of towers as the case may be. In all cases, the Term Cell reported that the radiation level measured at the locations was far below the safe limit prescribed by the **Department of Telecommunication (DOT)**. It was on this state of the record that the petitions were set down for hearing.

Upon a review of the material placed before us and the submissions advanced we find that the following broad issues fall for our consideration: -

- I. Whether the contention of the petitioners including those related to the deleterious effect of EMF radiation upon human health and safety is liable to be sustained;

- II. Whether the seventh respondent is in compliance with the statutory and regulatory framework presently in vogue;
- III. Whether the Court in exercise of its jurisdiction under Article 226 would be justified in granting the reliefs as sought; and
- IV. Further directions if any.

Before we proceed to elaborate upon the broad issues which arise for determination it would be relevant to set out the backdrop against which the present controversy arises.

A. THE STATUTORY REGIME

The grant of licenses for establishment of a mobile network and connected aspects are administered and regulated by the DOT in the Union of India. The issue of fixation of standards, monitoring of compliance and other allied aspects emanating from radiation emissions by mobile towers and BTSs is laid down by DOT. **The International Commission on Non-Ionizing Radiation Protection Guidelines (ICNIRP)**, were adopted by the Union Government in 2008. ICNIRP Guidelines mandated that the exposure limit to electromagnetic radiation from mobile towers and BTS's should be limited to 0.08 W/kb. The guidelines referred to above had been recommended for adoption by the **World Health Organization (WHO)** and the **International Telecommunication Union (ITU)**. Consequent to the adoption

of these guidelines the licensing conditions of all telecom service providers in the country were amended and measures were put in place requiring them to comply with the radiation norms as prescribed by and under the ICNIRP guidelines. Subsequently and based upon the recommendations made by an Inter Ministerial Committee constituted by the Union Government which examined the issue of electromagnetic radiation a policy of abundant caution was adopted. On 30 December 2011, DOT enforced stricter norms providing for radiation from BTS's being limited to 1/10th of the limits prescribed by the ICNIRP guidelines. These limits as they stand disclosed in the Affidavit filed before us are as follows:

Frequency in MHz	Power density limit
900	0.45 watt/m ²
1800	0.9 watt/m ²
2100 and above	1 watt/m ²

To ensure compliance of the standards, DOT, on 8 April 2010 directed all licensees to comply with the reference limits/levels adopted by the Government of India in respect of EMF radiation norms by way of a self-certification procedure of their BTS's. DOT is also stated to have thereafter constituted TERM Cells for different regions of the country and presently as per the statutory and regulatory framework in place, service

providers can energize their BTSs commercially only after the self certification testing procedure is completed and a certificate in respect thereof has been duly submitted to the TERM Cell.

In August 2013, DOT issued the "**Advisory Guidelines for State Governments for Issue of Clearance for Installation of Mobile Towers**". These Guidelines dated 1 August 2013 have been issued by DOT in supersession of all earlier guidelines and circulars issued on the subject. Broadly, these guidelines envisage the service provider obtaining requisite permission for installation of mobile towers and BTSs from the State in which the tower is being installed, and from the local body within whose jurisdiction the tower is to be placed, prescribing audit standard for TERM Cells relating to the placement and position of the proposed BTS's with reference to existing towers and BTSs. This is apart from the clearance that the service provider is obliged to obtain from the "**Standing Advisory Committee for Frequency Allocations**" (SACFA). Some of the salient compliances which these guidelines require are:

- (a) A SACFA clearance;
- (b) Structural Stability Certificate;
- (c) Clearance from the Fire Safety Department;
- (d) Clearance and NOC from local bodies;

(e) Payment of regulatory fees

DOT apart from the above is also stated to have issued instructions to TERM Cells for carrying out technical audits of BTS's and to measure periodically the radiation from the towers which have come into commercial operation. For this purpose detailed guidelines have been codified by the Telecommunication Engineering Center called the **“Test Procedure for Measurement of Electro Magnetic Fields From Base Station Antenna”**.

The State of U.P. has framed building byelaws with reference to the powers conferred upon it by Section 57 of the Urban Planning and Development Act, 1973. As per the salient features of these byelaws, permission is accorded to the service provider only upon him having submitted a layout plan of the proposed tower prepared by an architect registered with the Council of Architects along with a structural safety certificate. The service provider is required to obtain an NOC from the Residents' Welfare Association and the byelaws strictly prohibit the installation of such towers on buildings which have been illegally erected or are situate in narrow lanes. The byelaws further require the service operator and the landlord of the

premises to submit a joint affidavit indemnifying against any human or property loss which may occur.

The Union Government in its Affidavit filed in these proceedings has further stated that the Science and Engineering Research Board functioning under the aegis of the Department of Science and Technology in the Union Government has constituted an Expert Committee/Task Force on 4 September 2013 to evaluate and to carry out studies in respect of the possible impact of Electro Magnetic Field (EMF) radiation exposure from mobile towers and handsets. The Affidavit discloses that as many as nineteen research proposals have been initiated by this Task Force in 2015. Dealing with the issue of distance the Union-respondents have submitted that mobile towers and BTSs are an essential ingredient to providing seamless and uninterrupted service. It has referred to the fact that the licensees are under an obligation to provide a minimum of 90% coverage and ensure a high quality of service. It is submitted that in order to maintain continuity of service, it is imperative that mobile towers be placed in all areas including residential and commercial areas. It is their submission that the placement of these towers is itself based upon a radio frequency network planning which maps out the various locations where these towers are liable to be installed to ensure seamless

uninterrupted service. It is bearing in mind the above objective that DOT, they submit, does not place any limitation of a permissible distance between towers. For the aforesaid reason also it is contended that there is no restriction on the placement of these towers near schools, hospitals or residential areas. According to the respondents, the prescription of adherence to a norm which is 1/10th of the safe limit prescribed by ICNIRP is a sufficient safeguard against all perceived dangers to human health. They submitted that even in the case of multiple sites or cluster of antennas installed in close proximity the overall radiation limits are not permitted to exceed the exposure limits mandated by Department of Telecommunication (DoT).

B. THE PROF. GIRISH KUMAR REPORT

On 10 January 2012, the Division Bench of the Court at Lucknow issued directions on a public interest litigation¹ to constitute an expert committee to consider the various issues highlighted in the report of Prof. Girish Kumar. A thirteen member committee comprising of members working in DOT, professors from the Indian Institutes of Technology at Kharagpur, Kanpur, Delhi, Roorkee, Bombay, the Indian Council of Medical Research, Institute of Toxicology Research, Department of Science and Technology Government of India

¹ Writ Petition (M/B) 11275 of 2010 (Sri Ram Singh Jauhari Vs. Union of India)

came to be constituted. This Committee submitted its findings in a Report dated 17 January 2014. Some of the salient conclusions that were recorded in this Report are extracted below:

Sl.	Main issues brought out in the petition-presented by Prof. (Dr.) Girish Kumar	Details of deliberations held by the Committee
1	<p>People living within 50-300 meter radius are more prone to dangerous ill effects of EMR on human health. There are some evidence to this effect.</p> <p>It was explained to the Committee members by him that if present ICNIRP guidelines are followed then human body would absorb microwave energy of 583.2 kw-sec which would amount to keeping human body in microwave oven for 19 minutes/day.</p> <p>Further, with regard to Microwave Heating Concept, 4.2 KW of microwave power raises temperature of 1 Litre of water by 1 degree C in 1 second. In a microwave oven, temperature of one cup of water increases</p>	<p>Thermal effects of EMF radiations are explained in this example as there is a comparison with microwave heating. It has been assumed by Prof. (Dr.) Girish Kumar that human body is a cylinder of fluid and has no thermal regulation of its own. Further, to understand the effect to EMF radiation of human body, following factors need to be considered:</p> <p>(a) According the scientific data published in reputed scientific journals, the Absorption cross-section (ACS), which is defined as the ratio of power absorbed to incident power density, of human body to EMF radiation is between 0.2 to 0.3 within mobile frequency bands as it is frequency dependent.</p> <p>These values have been determined by considering that the human body is totally immersed in a uniform EMF. Such a situation can only be created in an isolated environment like laboratory. For an actual directional exposure, the value of ACS will be even less.</p> <p>(b) Human body is not</p>

<p>from 30 degree to 100 degree C in approx. 70 seconds with 500 watt of microwave power. With 1W power temperature will increase by 1 degree C in 500 seconds.</p> <p>Temperature of ear lobes increases by approx. 1 degree C when cell phone is used for approx. 20 minutes</p>	<p>homogeneous. It consists of several layers like skin, tissue, fat, muscle etc and different dielectric constants.</p> <p>(c) Only about 20%-30% of the human body shall be actually exposed to the directional beam of EMF radiation from the BTS antenna. In his computations, Prof. (Dr.) Girish Kumar has assumed that the full EMF radiated power (at peak traffic value) is falling on the human body from all sides i.e. from every angle in 360° and also from top and bottom as if live human being is kept in a reverberation chamber having EMF radiation from all sides at peak values. He further assumes that the entire electro-magnetic (E.M.) power in the incident wave enters into the human body which is not correct.</p> <p>(d) BTS generally radiates at much lower power than peak power.</p> <p>(e) World Health Organisation (WHO) in its fact sheet No. 193 of 2011 while describing short-term health effects has mentioned that at the frequencies used by mobile phones, most of the energy is absorbed by the skin and other superficial tissues, resulting in negligible temperature rise in the brain or any other organ of the body.</p> <p>Prof. (Dr.) Girish Kumar has not taken these factors into consideration in the calculations given by him. Further, Prof. Girish Kumar has also not taken into</p>
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	<p>account a very important factor, i.e., the self thermo-regulatory mechanism of the human body.</p> <p>As for as thermal effects are concerned, committee also noted that power density of the Sun's radiation during day time is of the thermal effects, the Committee notes the following:</p> <p>The assumptions used by Prof. (Dr.) Girish Kumar are hypothetical. Such assumption of a person being close to and in front of very narrow beam of antenna at that height in the air is rhetorical and impractical. Further, there is no scientific evidence available so far to prove that the temperature of the human body steadily rises by 2°F in one hour and 8°F in 4 hours and so on inspite of self thermo regulation.</p> <p>The rise in body temperature due to EMF exposure depends upon whole-body SAR for which the FCC limit for general public is 0.08 W/Kg. There are ample number of published scientific studies which show that at these SAR levels, the rise in body temperature is of the order of 0.1 degree centigrade (0.18°F) for long exposure times.</p> <p>The thermal time constant and thermo-regulatory mechanism of human body have been totally ignored by Prof. (Dr.) Girish Kumar. Thus, the calculation given by him has no scientific basis as far as human body or living organisms are concerned in real situations. The factors affecting the EMF</p>
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		<p>exposure to human body as deliberated in point 1 above also apply in this case.</p> <p>The sole criteria of safety is that with present level of power radiated from antenna, the radiation level at the location around the tower where the people could be present should be within the limits as prescribed by the DOT which are already 1/10th of ICNIRP norms.</p> <p><u>Conclusion:</u></p> <p>The Committee has come to the conclusion that Prof.(Dr.) Girish Kumar has made an over simplification of the complex phenomenon of human response to such stimuli.</p> <p>Such unfounded and hypothetical analysis is ill conceived. This is complete misrepresentation of actual position and shall create only confusion, misperception and unfounded fear in the minds of general public, which should be avoided.</p>
3	<p>Prof. (Dr.) Girish Kumar while quoting a newsletter published by him (Sept-Oct, 2013) has referred to Federal Communications Commission (FCC) guidelines of USA. According to his interpretation about the FCC guidelines,</p>	<p>The Committee makes the following observations:</p> <p>a. FCC limits for occupational exposure to EMF radiation for 300-1500 MHz frequency are $f/300$ mwatt/cm² with average measurement time of 6 minutes. Whereas for general population, EMF radiation exposure for 300-1500 MHz frequency, the FCC limits are $f/1500$ mwatt/cm² with</p>

<p>power density limits from cell tower should be $f/300 \text{ mw/cm}^2$ for 6 minutes use and $f/1500 \text{ mw/cm}^2$ for 30 minutes use.</p> <p>As per his interpretation, for 24 hour exposure (which is the case, as the cell tower radiates continuously) FCC guidelines recommend exposure limit of 12.5 mw/m^2. With regard to mobile handset, India has adopted SAR value 1.6 w/kg averaged over 1 gm of tissue which is same as FCC guidelines.</p> <p>Prof. (Dr.) Girish Kumar argued and interpreted that use of mobile phone only up to 6 minutes is recommended by FCC but he has found use of phone safe upto 10 to 30 minutes.</p>	<p>average measurement time of 30 minutes. These two limits are for different environments and hence can not be compared.</p> <p>b. While the FCC standard for radiation is $f/1500 \text{ mwatt/cm}^2$, when expressed in the unit of watts/m^2, this limit becomes $f/150 \text{ watt/m}^2$. This is far relaxed than the limit of ICNIRP which is $f/200 \text{ watt/m}^2$. The FCC limits are followed in USA, Canada, and Japan besides few more countries. India has adopted $1/10^{\text{th}}$ of ICNIRP norms which is more stringent and is $f/2000 \text{ watt/m}^2$.</p> <p>c. While, measuring this parameter, the average of 30 minutes of radiation is taken so as to avoid any misreading due to instantaneous increase. The contention of Prof. Girish Kumar that the same limit, when averaged over 6 minutes, becomes $f/300 \text{ mw/cm}^2$ is total misunderstanding of the standard.</p> <p>d. Cell towers are designed to radiate continuously for providing reliable and continuous mobile phone service. The Committee observed that this interpretation of Prof. (Dr.) Girish Kumar, of reducing the radiated EMF power from cell tower depending on period of use, is baseless and hypothetical.</p> <p>e. The Committee members explained that duration of thirty minutes mentioned in FCC guidelines is the duration of any sample over which the measurement</p>
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	<p><i>should be done and average of the values gathered during these thirty minutes should be taken as the value of EMF radiation power density observed. The Committee noted that the FCC guidelines are available in public domain with the above explanation. These guidelines (FCC No. OET 56) have also been shared among all the members of the Committee. (ANNEXUE-II) Further, averaging is used in any measurement to avoid judgement on any instantaneous observation. This is a very well internationally established scientific procedure of measurement.</i></p> <p><i>f. The Committee further noted that in case of ICNIRP guideline, power density is to be averaged over any 6 minutes period for the purpose of measurement of EMF radiation. ICNIRP guidelines mentions that “for frequencies between 100 Khz & 10GHz, seq (i.e. power density) are to be averaged over any 6 minute period.” This measurement standard however does not mean that the radiation exposure to the public has to be limited to only six minute, as being made out in the meeting by Prof. (Dr.) Girish Kumar.</i></p> <p><i>g. It was opined by the Committee that as long as the absolute prescribed limit of EMF radiation power level is not exceeded, duration of exposure is not significant taking into account the self thermal regulatory mechanism of the human body. Rather, absolute prescribed limit of EMF</i></p>
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	<p>radiation power level are recommended by the international bodies keeping in view the continuous radiation from cell towers.</p> <p><i>h. The limit of 6 minutes radiation at the recommended power levels of EMF radiation by FCC as deduced by Prof. Girish Kumar is absolutely incorrect and gross misrepresentation of the FCC recommendation. Similarly, the limits deduced by him for 24 hours use is also utter misrepresentation of the FCC standard.</i></p> <p><i>i. In the context of 30 minutes average exposure, FCC in their document No. OET Bulletin 56 has clarified that “For such public exposure situations, the MPE (Maximum Permissible Exposure) limits normally apply for continuous exposure. In other words, as long as the absolute limits are not exceeded, indefinite exposure is allowed.”</i></p> <p><i>j. Same applies to the measurement of SAR values for average 6 minutes and has no relation to the duration of use of mobile phone by the people.</i></p> <p><u>Conclusion:</u></p> <p><i>The Committee after carefully deliberating all the aspects concludes that the interpretations and projections given by Prof. (Dr.) Girish Kumar are absolutely incorrect and are complete misrepresentation of</i></p>
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		<p><i>the facts.</i></p> <p><i>Further, it is also clear from above that the prescribed norms for EMF radiation by standards making bodies take into account the continuous EMF radiation (24x7) emitted from mobile towers and mobile phones (while in use).</i></p>
	<p>A4</p>	<p>Biological effects or health effects? What is a health hazard?</p> <p>Biological effects are measurable responses to a stimulus or to a change in the environment. These changes are not necessarily harmful to your health. For example, listening to music, reading a book, eating an apple or playing tennis will produce a range of biological effects. Nevertheless, none of these activities is expected to cause health effects. The body has sophisticated mechanisms to adjust to the many and varied influences we encounter in our environment. Ongoing change forms a normal part of our lives. But, of course, the body does not possess adequate compensation mechanisms for all biological effects. Changes that are irreversible and stress the system for long periods of time may constitute a health hazard.</p> <p>An adverse health effect causes detectable impairment of the health of the exposed individual or of his or her offspring; a biological effect, on the other hand, may or may not result in an adverse health</p>

	<p>effect.</p> <p>It is not disputed that electromagnetic fields above certain levels can trigger biological effects. Experiments with healthy volunteers indicate that short-term exposure at the levels present in the environment or in the home do not cause any apparent detrimental effects. Exposures to higher levels that might be harmful are restricted by national and international guidelines. The current debate is centered on whether long-term low level exposure can evoke biological responses and influence people's well-being.</p> <p>.....</p> <p>Conclusions from scientific research</p> <p>In the area of biological effects and medical applications of non-ionizing radiation approximately 25,000 articles have been published over the past 30 years. Despite the feeling of some people that more research needs to be done, scientific knowledge in this area is now more extensive than for most chemicals. Based on a recent in-depth review of the scientific literature, the WHO concluded that current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields. However, some gaps in knowledge about biological effects exist and need</p>
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	<p>further research.</p> <p>.....”</p> <p>(Source: WHO website: http://www.who.int/peh-emf/about/WhatisEMF/en/index1.html)</p> <p>Copy attached as Annexure-III</p> <p>The Committee has noted that the claims made by Prof.(Dr.) Girish Kumar on health effects of EMF radiation are not supported by any scientific evidence Prof. (Dr.) Girish Kumar appears to have heavily relied only on Bio-Initiative Report 2007 & 2012. This report is one of the extreme view among thousands of studies on the subject and does not provide any conclusive evidence.</p> <p>The Committee noted that WHO, after studying approximately 25,000 studies over past 30 years has concluded that current evidence does not confirm the existence of any health consequences from exposure to EMF radiation.</p> <p>WHO has concluded that considering the very low exposure levels and research, there is no convincing scientific evidence that the prescribed EMF exposure from base station cause adverse health effects.</p> <p>As regards the health effect of radiation from prolonged use of mobile phone, International</p>
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	<p>of pregnancy. This has also been brought out by him in his report submitted to Secretary, DOT in December 2010.</p>	<p>Agency for Research on Cancer (IARC), an agency of WHO, has classified radio frequency electromagnetic fields as possibly carcinogenic to humans (Group 2B), a category used when a casual association is considered credible but when chance, bias or confounding cannot be ruled out with reasonable confidence.</p> <p>WHO has further stated that a large number of studies have been performed over the last two decades to assess whether mobile phones pose a potential health risk. To date, no adverse health effects have been established as being caused by mobile phone use.</p> <p>The Committee also noted that in fact substances, mixtures and exposure circumstances classified by the International Agency for Research on Cancer (IARC) as 'Group 2B', inter-alia, include coffee, Aloe vera (whole leaf extract), Pickled vegetables (traditional in Asia), Talc-based body powder etc. (source IARC Monographs).</p> <p>However, more studies are underway at various forums (National as well as International) to find any conclusive evidence and direct correlation to the harmful health effect from EMF radiation from cell towers and mobile phones.</p> <p>Committee has further noted that IARC and WHO have classified the radio frequency Committee felt that such selective highlighting of</p>
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		<p>EMF radiation, as the only environment factor, may cause unfounded fear and scare among public and should be avoided in the absence of any conclusive evidence.</p> <p>Members have further questioned the assumption of Prof. (Dr.) Girish Kumar that cancer can develop during a short period of exposure to EMF radiation to a new born baby during pregnancy in 9 months time whereas as per the present findings, latency period for developing cancer in human being is 10-15 years. Similarly assumptions of Prof. (Dr.) Girish Kumar that brain tumor has developed during 4 months of exposure to EMF radiation is also not acceptable as the latency period is much higher.</p> <p><u>Conclusion:</u></p> <p>It is noted by the Committee that measured EMF radiation power levels from cell tower have not been quoted by Prof. (Dr.) Girish Kumar in this example while ignoring all other factors which might be relevant. Also no peer reviewed conclusive analysis has been presented by him. This makes the case study highly misleading and objectionable and at best be termed as anecdotal.</p>
6	International Exposure Standards from some of the countries (about 12 only) was	The examples taken by Prof.(Dr.) Girish Kumar are from very few countries and some are the examples of small local

	<p>presented that the radiation norms vary from $2w/m^2$ to as low as $0.00001w/m^2$</p>	<p>bodies/countries in a country. These are isolated examples and as per information available, these norms are not even legally binding in some of these countries.</p> <p>It is worthwhile to mention that most of the countries in the world have adopted ICNIRP limits. In fact WHO has recommended adoption of International standards, namely, ICNIRP/IEEE.</p> <p>Moreover, India is among the very few countries who have adopted precautionary approach and have adopted much lower norms than rest of the world which is $1/10^{th}$ of ICNIRP recommended EMF radiation limit. India has adopted $1/10^{th}$ of ICNIRP limits as an abundant precaution.</p> <p><u>Conclusion:</u></p> <p>India's prescribed limits for radiation are already much lower than most of the countries in the world. Therefore, there is no need to further reduce the limits without conclusive studies by International standards bodies and India's own conclusive research and findings.</p>
7	<p>Analysis of certain studies done in few countries have been quoted by Prof.(Dr.) Girish Kumar. These include Spain, Israel, Germany, Sweden, Brazil and India.</p>	<p>It is noted by the Committee that only few select studies, many of them possibly without any peer review, have been picked in the example given in the presentation by Prof.(Dr.) Girish Kumar, simply to buttress his own point of view. Whereas International Organisations like United Nation's WHO conduct peer review of the</p>

		<p>independent studies done by an individual or a country and have taken into account approximately 25,000 studies over past 30 years from all over the world.</p> <p><u>Conclusion:</u></p> <p>The studies quoted by Prof. (Dr.) Girish Kumar, therefore, may be relevant for conducting further peer review at international level for appropriate correlation and can not be relied upon at this stage without any conclusive evidence.</p>
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From a perusal of the aforesaid findings it is apparent that various aspects which were highlighted by Prof. Girish Kumar were considered in great detail by a team of experts which ultimately came to the conclusion that there was no justification for the fear perception as raised in his report. The Committee held that there was a need for a continued research on the subject of EMF radiation. However it categorically held that at present there was no scientific evidence which may justify the perception of EMF radiation adversely affecting human health or well being.

C. THE PARLIAMENTARY STANDING COMMITTEE

The Parliamentary Standing Committee delved upon various issues of concern such as the structural safety norms, the ill effects of EMF radiation, the need for India specific research, and the need for a continued monitoring of the issues pertaining safety and health. Upon the submission of the Report by the Committee, the DOT submitted an Action Taken Report and

point wise response. We deem it apposite to extract some of the relevant parts of the same hereunder: -

B. Issues related to health hazards from EMF Radiation and Need for India specific long term Research

(Recommendation Sl. Nos. 6 & 9)

10. The Committee in its Original Report had recommended as under:-

“The Committee note with concern that the Government had not adopted or prescribed any standards relating to safe exposure from electromagnetic radiations emitted by the mobile towers as well as the mobile handsets and it was only in the year 2008 that the Department of Telecommunications adopted the standards prescribed by the International Commission for Non-Ionizing Radiation Protection (ICNIRP) although the same were in existence since 1998. These norms are a kind of international safety guidelines for RF exposure. Thereafter, based on the growing media reports and increasing public concern on the possible health hazards of EMF emission from antenna(e) of telecom towers/networks, an Inter- Ministerial Committee (IMC) was constituted by the Government in August, 2010 to examine the effect of EMF Radiation from Base Transmission Stations (BTSS) and mobile phones. Based on the recommendations of the IMC, in respect of BTSSs, exposure limit for Base Station Emissions was subsequently reduced to 1/10th of the limits prescribed by ICNIRP with effect from 01.09.2012, which according to the various memoranda received by the Committee has still failed to allay the fear amongst the public who have cited various kinds of health hazards to human beings, animals, flora and fauna from the EMF emission of telecom towers.

During the course of the examination of the subject, the Committee found two contradictory views on ill effects of EMF emissions from telecom towers and mobile handsets on humans and wildlife. The Committee note that on one side, various organizations/ stakeholders, such as, Association of Unified Telecom Service Providers of India (AUSPI), Cellular Operators Association of India (COAI), Reliance Communications Limited, Vodafone India Limited, European Business Group etc., have denied the harmful effects of EMF radiations from mobile towers and mobile handsets and also contended that sufficient precautionary measures have been put in place. On the other side, various studies including Bioinitiative Report of 2012 have linked several adverse health effects to electromagnetic fields from mobile tower and handsets including effects on wildlife like birds, bats, honey bees, etc. Some of the health effects reported are effect on cell growth, cell differentiation, DNA damage, altered immune system, hormonal effects, pervasive impairment of metabolic and reproductive system, effect on fertility, reproduction and health of off-springs, risk of glioma (a malignant brain tumour), sleep disorders, confusion, anxiety and depression and appetite disturbance, etc. The Department of Telecommunications has cited a World Bank Report of May, 2006 which has concluded that considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak RF signals from base stations and wireless networks caused adverse health effects. In this regard, the Committee feel that the Department is selectively relying on the research findings which have concluded that there is no health effects of EMF from telecom towers/networks while ignoring host of other reliable research and concerns made which have proved to the contrary. Considering the seriousness of the matter which

concerns the citizens of the country, the Committee recommend that Government should entrust the scientific study on impact of Telecom towers and handsets on humans to a reputed Government organization in a time bound programme. Till such time Government should strictly enforce EMF radiation norms finalized in September, 2012 which are reportedly 1/10th of ICNIRP prescribed norms.”

(Recommendation No. 6)

The Committee note that all the standards of radiation limit which the government has chosen to follow are based on the researches conducted in western countries where conditions are very different from countries like India. Some of the specific differences between western countries and India are low population density, cold climatic conditions, low density of mobile phone towers etc. The Committee also note that DoT has acknowledged that some of the India specific conditions, such as, multi-operator scenario, mobile phone usage, higher population density etc., have been conveyed to WHO for their considerations in carrying out with India specific research. Against this backdrop, the Committee are not convinced with contention of DoT that none of the studies done under the aegis of the WHO had proved that the emissions from the mobile phone towers/networks are causing harmful effect on human beings as the same are not based on India specific research. The Committee find it deplorable that some of the India specific research carried out by eminent scientists and other Governmental organisations have not been taken into consideration by DoT in forming its guidelines. For instance, a 10 year study conducted by Prof. Gandhi of Department of Genetics, Guru Nanak Dev University, Amritsar has found that radiations emitted from the towers are degenerating DNA and chromosomes.

Similarly, a study conducted by Prof. Jitendra Behari in Jawaharlal Nehru has found that the exposure to radiation from mobile towers and mobile phones could have an adverse impact on male fertility and deplete the defense mechanism of cells. Also the Environment and Forest Ministry study has blamed electromagnetic radiation from communication towers for the declining number of sparrows and bees, etc. The Committee, in view of the above findings made by the reputed experts and research institutes, feel that there is no room for complacency on the issue by selectively relying only on the findings of WHO whose research reports are mainly based on developed countries and strongly recommend that the findings of India specific studies should also be taken into consideration by DoT in coming out with its policy initiative on mobile towers.

The Committee also note that the main challenge involved in conducting studies on radiation hazards from mobile towers and mobile handsets is the requirement of very long period of scientific research on targeted population and the lack of established standard procedures and protocols to study and monitor the EMF impacts on humans and wildlife. The Committee are , however, concerned to note that in spite of exponential growth of mobile telephony in the country over the last decade, no efforts have been made by the Department to undertake a continuous or long term research on the issue. It is rather surprising to note that even though the Department of Telecommunications is the nodal Department for all telecommunication related issues, it is only the Department of Science and Technology which on the direction of Prime Minister's Office has constituted a Committee under Dr. N.K. Ganguly, former Director General (ICMR) on 1.10.2012 to examine the harmful effects from Mobile towers on the population living in the vicinity and for developing the

frame of reference for calling out Request For Proposals (RFPs) for scientific assessment of health hazards and adverse impact on ecology. The Committee feel that DoT should be more sensitive and proactive in discharging its prime responsibility on such critical matters. The Committee, therefore, strongly recommend that the DoT must wholeheartedly associate itself with such long term research works being carried out within the country and also make regular budgetary allocation under a separate budget head of expenditure for research on health hazards from EMF radiation.

(Recommendation No. 9)"

Replies of the Government

11. The Department in their Action Taken Note have stated as under:-

“As has been brought out in response to recommendation no 1 above, extensive research has been carried out on the subject of health effects from EMF radiation. WHO has clearly stated that in the area of biological effects and medical applications of non-ionizing radiation approximately 25,000 articles have been published over the past 30 years. Despite the feeling of some people that more research needs to be done, scientific knowledge in this area is now more extensive than for most chemicals. Based on a recent in-depth review of the scientific literature, the WHO concluded that current evidence does not confirm the existence of any health consequences from exposure to low level electromagnetic fields. However, some gaps in knowledge about biological effects exist and need further research.

The Committee on Man and Radiation (COMAR) is a technical committee of the Engineering in Medicine and

Biology Society (EMBS) of the Institute of Electrical and Electronics Engineers (IEEE), an international standard making body. COAMAR is primarily working in the area of biological effects of non-ionizing electromagnetic radiation, including radiofrequency (RF) energy. With regard to Bio-Initiative report 2007, COMAR submitted a statement in 2009 titled - "COMAR Technical Information Statement: Expert reviews on potential health effects of radiofrequency electromagnetic fields and comments on the Bio Initiative Report". Extract of this statement is as below:

"This report summarizes the conclusions from several major reports and comments on the markedly different conclusions in the Bio Initiative Report (abbreviated BIR below). Since appearing on the Internet in August 2007, the BIR has received much media attention but, more recently, has been criticized by several health organizations (see Section titled "Views of health agencies about BIR"). COMAR concludes that the weight of scientific evidence in the RF bio effects literature does not support the safety limits recommended by the Bio Initiative group. For this reason, COMAR recommends that public health officials continue to base their policies on RF safety limits recommended by established and sanctioned international organizations such as the Institute of Electrical and Electronics Engineers International Committee on Electromagnetic Safety and the International Commission on Non-Ionizing Radiation Protection, which is formally related to the World Health Organization."

Further, it is also noted that Indian Council of Medical Research (ICMR), on critical examination of the Bio-initiative 2012 Report, has observed that the report is not based on multi disciplinary weight and there is no balanced reflection of the current state of scientific knowledge. However, further study is needed to arrive at a conclusion about the potential health effects of EMF radiation.

India specific scientific research by Indian Scientist/Engineers keeping in view Indian environment and conditions are being

carried out and till the time conclusive data from these researches becomes available, we have to rely on research done by reputed international agency like WHO, ICNIRP etc. These agencies have already carried out extensive research on the subject as has been brought out above. However, Department of Science & Technology (DST), Government of India, is already working on conducting study on possible impact of EMF Radiation exposure from mobile tower and handset on life (humans, living organism, flora & fauna and environment) and related initiatives. Based on the recommendation of the Committee headed by former Director General (ICMR), representative from IIT Chennai, Indian Institute of Toxicology Research, Lucknow, Department of Telecom, Ministry of Environment & Forest, ICMR and DST, Science and Engineering Research Board (SERB) invited R&D proposals in June, 2013 on the possible impact of EMF radiation exposure from mobile towers and handsets on life (humans, living organism, flora & fauna and environment) and related initiatives from Eligible Scientist/Organizations-public or private, individually or in collaboration. The SERB has constituted an Expert Committee / Task Force on 04 September 2013 to evaluate, R&D proposal to study the possible impact of EMF Radiation exposure from mobile tower and handset on life (humans, living organism, flora & fauna and environment) and related initiatives. SERB has short listed 79 proposal for carrying out scientific studies. Thus, India specific scientific research by Indian Scientist / Engineers keeping in view Indian environment and conditions are being carried out and conclusive data from these researches will also become available in future.”

(Reply to Recommendation No. 6)

The EMF project of WHO has been conducting research on effects of EMF Radiation on human health since 1996. This project has participation from over 50 countries. It is pertinent to note that many of these studies have been going on for years as to understand the effect of EMF over the period of time. Thus these studies are not specific to developed countries alone. WHO has referred to approximately 25,000 articles published around the world over past 30 years, and based on an in-depth review of scientific literature, has concluded: "current evidence does not confirm the existence of any health consequences from exposure to EMF radiation". Since the effects on human beings are to be studied over a long period of time, further studies are going on around the world.

As has been given in Action taken report to recommendation no. 6 above, India specific scientific research by Indian Scientist/Engineers keeping in view Indian environment and conditions are being carried out and conclusive data from these researches will also become available in future. Till the time conclusive data from these researches becomes available, research done by reputed international agency like WHO, ICNIRP, etc. are to be relied on.

(Reply to Recommendation No. 9)"

12. The Committee, in their original Report, had expressed their concern that while prescribing the limits to safe exposure from electromagnetic radiations emitted by mobile towers and mobile handsets, the Department had selectively relied on researches conducted in the western countries which have conditions very different from countries like India, such as low population density, cold climatic conditions, low density of mobile phone towers, etc., ignoring some of the India-specific

conditions like multi operator scenario, mobile phone usage, higher population density, etc. The Committee note that for India-specific studies, the Department of Science and Technology (DST) are working on conducting a study on the possible impact of EMF radiation exposure from mobile towers and handsets on life (humans, living organism, flora and fauna and environment) and related initiatives. Towards this end, the Science and Engineering Research Board (SERB) has invited proposals on the possible impact of EMF radiation exposure from mobile towers and handsets and shortlisted 79 proposal for carrying out scientific studies. The Committee are of the view that India-specific research on the subject has become very important, mainly because the standards of radiation limit which the Government have chosen to follow are based on researches conducted in western countries and some of the India-specific research carried out by eminent scientists and other Governmental organizations - which have found adverse impact of EMF - have not been taken into consideration by DoT. Taking into cognizance the initiative taken for carrying out India-specific scientific research by Indian scientists/engineers which will provide valuable feedback on the impact of EMF radiation, the Committee emphasize that DoT should promote and encourage the research works being carried out in the country, including by providing appropriate budgetary support.

Need for an enforceable national guidelines for setting up of telecom towers

The Committee note that mobile telephony which was introduced in the country more than one and a half decade back underwent high pace of growth and already more than 7 lakh Base Transmission Stations (BTSs) have been installed in the country to cater to the need of more than 860 million mobile connections. The Committee, however, are unhappy to

note that even after the lapse of such a long period, no uniform telecom infrastructure policy has been framed by the Government for setting up of the mobile towers in the country. This has resulted in a haphazard growth of this sector with varying parameters from State to State in setting up of mobile towers besides mushrooming of a large number of illegal towers all over the country. It was only in the year 2012 that DoT came out with some guidelines on grant of clearances for installation of mobile towers which too were just advisory in nature. The Committee note that these guidelines were sent to the Chief Secretaries of all States and UTs and were also placed on the website of the Department for inviting comments/ suggestions and based on the comments/ suggestions so received, the DoT issued revised guidelines on 1st August, 2013 which again are advisory in nature and none of the provisions contained therein have any kind of statutory backing. The Committee express their strong displeasure that even though the DoT has formulated revised guidelines, the Department is not aware of the practices followed in advanced countries like UK/ USA with respect to setting up of mobile towers.

The Committee are of the strong opinion that before formulating and issuing revised guidelines for setting up of mobile towers, the DoT ought to have studied and adopted the best practices prevalent in the advance countries in this regard. Further, the scrutiny of these revised guidelines has revealed various loopholes and ambiguities which in the opinion of the Committee render the guidelines ineffective and deficient on a number of crucial aspects. The Committee find that the revised guidelines have not addressed the important issue of removal of already existing illegal mobile towers or making it mandatory for the existing more than 7 lakh towers to comply with the guidelines. Moreover, no road

map has been prescribed as to how the revised guidelines are supposed to be implemented within a specific timeframe.

The Committee are of the firm opinion that until or unless the deficiencies in the guidelines are fully addressed, these are hardly expected to serve any meaningful purpose in streamlining the process of mobile tower installations and relocation of the already existing towers, wherever necessary, in the country. The Committee, therefore, strongly recommend that efforts should be made by the Department to come out with fresh guidelines in consultation with State Governments taking into consideration the above concerns of the Committee. The Committee further recommend that the implementation of guidelines should be made mandatory across the entire country by giving them a statutory backing. Apart from this, the Committee also strongly recommend for issuing of directives to all State Governments/Local Municipal bodies for immediate removal of all such illegal towers which have been set up without permission or which have failed to obtain the required 'No Objection Certificate' for structural safety or otherwise pose any kind of risk or health hazard to the public or to the residents living in the vicinity of mobile towers.

Action Taken by the Government

As has been detailed earlier, the revised guidelines for grant of clearances for installation of mobile towers have been issued on 01.08.2013. These broad guidelines already stipulate the requirements for Telecom Service Providers/Infrastructure Providers for obtaining clearance from local bodies / state governments for installation of mobile towers. These broad guidelines issued by DoT for clearance of installation of mobile towers to Chief Secretaries of all the states, should help in formulation of uniform-like policies

across various states. These guidelines have been issued recently and in future will be able to achieve their desired objective. In the meanwhile, keeping the recommendations of the Standing Committee in mind, DoT has taken steps to study best practices being followed in advance countries and information on the same is being collected.

For towers installed without permissions required under byelaws of local bodies, State Governments are taking actions based on the letter/advisory guidelines issued by DoT to states. For towers that pose any risk of health hazard to the public due to EMF radiation, extensive audit of comprehensive self-certificates and sites for compliance to EMF radiations safe limits being submitted by telecom service providers is being carried out by TERM Cells of DoT. These audits have the purpose of limiting the EMF radiation exposure and keeping general public areas in the vicinity of towers safe, and are carried out as per the procedure prescribed from time to time in their respective License Service Areas. TERM Cell of DoT levy penalty on those towers which violates the prescribed norms. In order to make the deterrence stronger, the penalty for violation of prescribed stricter EMF norms from BTS tower by telecom service providers has been increased from Rs. 5 Lakhs to Rs. 10 Lakhs per BTS, per incidence per operator w.e.f. 20th November, 2013. Provision has also been made to shut down the sites which do not meet the prescribed norms.

(Ministry of Communications & Information Technology /Department of Telecommunications O.M. No. 12-25/2010-CS-III(Pt. II)

D. WORLD HEALTH ORGANISATION INITIATIVE

From the material placed before us we find that the WHO had in 1996 established the International EMF Project. The Project

aimed at assessing the scientific evidence gathered on the possible effects of EMF exposure to health. The Project discharges its function of carrying on and enabling scientific research with the aid of 50 national authorities, eight international organizations and independent institutions. This Project is charged with reviewing the results of scientific studies carried on at an international level as also to focus research in the field. The web portal of the WHO carries the following recital on the subject: -

“.....WHO's International EMF Project was launched to provide scientifically sound and objective answers to public concerns about possible hazards of low level electromagnetic fields.

Despite extensive research, to date there is no evidence to conclude that exposure to low level electromagnetic fields is harmful to human health..”

D. EMF Radiations – Recommended International safety standards

10. WHO recommended that ‘National authorities should adopt international standards to protect their citizens against adverse levels of RF fields. They should restrict access to areas where exposure limits may be exceeded. 'WHO has recommended adoption of international standards, namely International Commission for Non Ionizing Radiation Protection (ICNIRP)/ Institute of Electrical and Electronics Engineers (IEEE). The main conclusion from the WHO reviews is that EMF exposures below the limits recommended in the ICNIRP international guidelines do not appear to have any known consequence on health. The WHO says –

"All reviews conducted so far have indicated that exposures below the limits recommended in the International Commission for Non Ionizing Radiation Protection (ICNIRP) 1998 EMF guidelines, covering the full frequency range from 0-300 GHz, do not produce any known adverse health effect. However, there are gaps in knowledge still needing to be filled before better health risk assessments can be made."

E. THE PRECEDENTS

The issues canvassed before us on these petitions also stood raised before various other High Courts. The Kerala High Court was one of the first Courts, which ruled upon a similar challenge. In **Reliance Infocom Ltd. Vs. Chemanchery Grama Panchyat**², the High Court observed as follows:

"5. We have already found that RF exposures from Mobile Base Stations are much less than from radio, FM radio and television transmissions and that the consensus of scientific community is that the radiation from Mobile Phone Base Stations is far too low to produce health hazards if people are kept away from direct access to the antenna and the overall evidence indicates that they are unlikely to pose a risk to health. The strength of radio frequency fields in front of the antennae varies with the distance. Persons standing directly in front of the antennae in these high density zones will get higher exposures. We have also found that the height of Mobile Base Station antennae is normally 36 metres and the effect of radio waves depends on the distance from the base stations since the antennae are directed horizontally with a 5 degree downwards tilt. Human studies pertaining to base stations conducted by Santini R et al (2002), Bortkiewicz et al (2004) & Hutter & kundi et al (2006) do not report any quantitative parameters related to health hazards. Therefore it can safely be concluded that the permission granted for installation of Mobile Base Station by the Panchayat would not cause as such any health hazards nor will it affect the fundamental rights guaranteed to citizens under Article 21 of the Constitution. 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. Petitioner and others for installing towers will have necessarily to comply with the statutory provisions contained in Chpater XIX of the Kerala Municipal Building Rules. 1999 which permits construction of telecommunication towers over buildings. Petitioner has submitted that it has already satisfied all those conditions and in such circumstance Panchayat has granted the licence.

8. We notice that the Panchayat has as on today no scientific data or relevant materials to cancel the licence already granted on the ground that the installation of the Tower would cause any health hazards. Licence granted has been cancelled by the Panchayat based on an apprehension that the radiation may cause health hazards to the people of the locality. Further Ext.P5 also says that installation of generator would cause sound

2 AIR 2007 Ker 33

pollution. Petitioner has not installed any generator as on today and if the installation of generator would cause any sound pollution, evidently Pollution Control Board can give appropriate direction and the petitioner will have to obtain necessary consent from the Pollution Control Board for installation of generators, so that it would not cause any sound pollution. So also, if the installation of Tower and the emission of electromagnetic waves causes any air pollution, affecting human health the Pollution Control Board can take appropriate measures under Air (Prevention and Control of Pollution) Act, 1991."

Following the dictum laid down in the aforesaid judgment similar views were taken by the High Court of Jammu & Kashmir in **Ujagar Singh and Ors Vs. State and Ors.**³, the High Court of Gujarat in **Muktipark Co-operative Society Vs. Ahmedabad Municipal Corporation**⁴, the Madras High Court in **K.R. Ramaswamy @ Traffic Ramaswamy Vs. The Secretary, Department of Telecommunications, Government of India, New Delhi & Ors.**⁵, the Delhi High Court in **Residents Welfare Association Vs. Union of India & Ors.**⁶ and the High Court of Himachal Pradesh in-- **Baldev & Others Vs. State of H.P. & others**⁷ as well as **Surinder Singh Vs. State of H.P. & Others**⁸.

A challenge on similar lines also fell for consideration before a Division Bench of this Court when a petition⁹ in public

3 AIR 2011 J & K 49

4 Special Civil Application No. 5548 of 2014 along with connected applications decided on 5.9.2014

5 W.P. No. 24976 of 2008 along with connected petitions decided on 05.03.2015

6 W.P. (C) 8661 Of 2015 decided on 09.09.2015

7 Writ Petition No. 5282 of 2014 decided on 30.11.2015

8 Writ Petition No. 4187 of 2015 decided on 30.11.2015

9 Writ Petition (PIL) No. 40535 of 2013 (Ashwani Vs. State & Ors.)

interest came to be dismissed on 26 July 2013 in the following terms:

"Till a proper research is made and conclusively it is shown that Mobile Towers in residential areas are a definite health hazard, it will not be proper to ask for removal of such towers from the residential areas, which is not prohibited under any law or executive decisions of the State. Petitioner has failed to properly research and has not stated that this issue has not been determined authentically. Similar prayers made in Public Interest Litigations filed earlier have been declined by this Court.

For all the aforesaid reasons this writ petition is dismissed."

From the above narration of facts, it is clear that High Courts throughout the country have noted the absence of any scientific material or data which may warrant a prohibition on the enterprise of establishing a mobile network and the consequential erection and establishment of mobile towers and BTS's.

Having traversed and noticed the vast field of scientific material gathered by different committees and organisations, the precedents rendered on the subject we now proceed to deal with the issues raised before us on merits.

F. ON MERITS

I. Whether the contention of the petitioners including those related to the deleterious effect of EMF radiation upon human health and safety is liable to be sustained?

The primary contention of the petitioners as noted above is based upon a perceived present and imminent danger to human health and safety caused by EMF radiation. The report of Prof. Girish Kumar forms the fundamental bedrock upon which these submissions are based. We however find that this is not the first time that this report has been utilized or pressed into service for laying a challenge to the roll out and establishment of mobile towers. In fact this very report was noted by the Division Bench of the Court at Lucknow in **Shriram Singh Jauharia** when taking note of the said report the Bench constituted a committee to examine the conclusions and undertake a comprehensive review on the subject of EMF radiation and the ill effects of mobile telephony on human health. As the record would reveal and as would be evident from the findings of the committee that we have extracted above, the conclusion arrived at was that there was no material which justified the conclusions arrived at by Prof. Kumar. The Committee, in fact went to the extent of characterizing the perceived threats as voiced by Prof. Kumar as being a misrepresentation. Once that be the state of the record we find that the report of Prof. Kumar does not advance the case of the petitioners any further.

However since the issue raised in the petitions related to public health and safety and bearing in mind the command of

Article 21 we delved even further to consider whether there was any material, which justified the invocation of our constitutional powers to injunct the seventh respondent from establishing the mobile towers or BTS's.

We felt constrained to burden this judgment with various extracts of the findings and recommendations of DOT, the Parliamentary Standing Committee as well as the WHO in order to establish that a plethora of material gathered by experts clearly negatives the perceived and alleged imminent threat and danger to health as was sought to be canvassed before us. All the experts have unanimously voiced their opinion that the present body of scientific research does not justify the threat to health and life as is sought to be portrayed by some quarters including the petitioners before us.

On the above state of the record we find no merit in the challenge raised by the petitioners on this score. Bearing in mind the present conclusions and findings on the subject as expressed by experts across the board we find that there exists no justification for the submission of a present and imminent danger or threat to human health from the radiation emitted by mobile towers and BTS's. We further note that the studies undertaken both in India as well as by other international organizations have unanimously opined that the emissions from

these equipments are minuscule and do not warrant the anxiety or fear which is sought to be generated in this batch of petitions. Our conclusion so recorded is of course not intended to relieve DOT or the Union Government from its obligation of continuing a scientific review of the subject. However in light of what we have found above, we rule against the petitioners insofar as Issue No. 1 is concerned.

Issue No. 2 Whether the seventh respondent is in compliance with the statutory and regulatory framework presently in vogue?

We find that the petitioners have clearly failed to establish on the basis of any material on record that the seventh respondent was in breach of the statutory requirements placed and enforced by DOT. In order to be assured independently, we as a matter of abundant caution called upon the TERM Cell to carry out a technical audit of all the proposed sites. The report of the TERM Cell placed before us upon affidavit did not find any of the sites to be in violation of the statutory and regulatory norms governing the field. We further note that as per the regulatory provisions prevalent, none of the mobile towers or BTS's of the seventh respondent would be entitled to be energized for commercial operations unless and until the self certification process is complied with and requisite papers filed before the TERM Cell. We therefore and in light of the above, find no

ground which may warrant a restraint upon the establishment of the mobile towers and BTS's being established by the seventh respondent.

Issue No. III. Whether the Court in exercise of its jurisdiction under Article 226 would be justified in granting the reliefs as sought?

The submissions of learned counsel for the petitioners advanced on these petitions on more than one aspect would require us to travel into the realm of testing policy measures as well as evaluation of scientific material gathered by experts. The Court in exercise of its powers of judicial review undertakes an exercise of testing actions of the State on the touchstone of our Constitution and the laws of the land. Articles 21 and 38 clearly mandate the State to take measures to ensure the safety, health and well being of all citizens. Its measures and actions must be aimed at alleviating the living conditions of all citizens and the environment of the nation as a whole. The Court in exercise of its constitutional mandate is therefore obliged to enquire into and test all actions of the State bearing in mind the breath and content of Articles 21 and 38. However at the same time, it cannot lose sight of certain inherent limitations placed upon the exercise of this power. The Court is not an arena for scientific debate nor is it a forum for the testing of conflicting scientific studies and findings of experts. That is surely not its province.

The Courts exercise their power of judicial review to test a law or a cause necessarily against legal norms or legal parameters. Legal norms and legal parameters do not, nay, cannot be left to rest upon competing or nebulous scientific research or opinion.

We may in this connection usefully refer to two causes, which travelled to the Supreme Court for an amplification of what we have held. The first was a challenge to the construction of the Tehri Dam. The second more recent and of far greater import than the subject which falls for our determination - the use of nuclear energy. **N.D. Jayal Vs. Union of India**¹⁰ dealt with a challenge to the establishment of the Tehri Dam. The Supreme Court dealing with the challenge held: -

“20. This Court cannot sit in judgment over the cutting edge of scientific analysis relating to the safety of any project. Experts in science may themselves differ in their opinions while taking decisions on matters related to safety and allied aspects. The opposing view points of the experts will also have to be given due consideration after full application of mind. When the Government or the authorities concerned after due consideration of all viewpoints and full application of mind took a decision, then it is not appropriate for the court to interfere. Such matters must be left to the mature wisdom of the Government or the implementing agency. It is their forte. In such cases, if the situation demands, the courts should take only a detached decision based on the pattern of the well settled principles of administrative law. If any such decision is

10 [(2004) 9 SCC 362]

based on irrelevant consideration or non-consideration of material or is thoroughly arbitrary, then the court will get in the way. Here the only point to consider is whether the decision-making agency took a well informed decision or not. If the answer is “yes”, then there is no need to interfere. The consideration in such cases is in the process of decision and not in its merits.”

Dealing with the challenge to the establishment of a nuclear power plant in **G. Sundarrajan Vs. Union of India**¹¹ the Supreme Court ruled: -

“15. India's national policy has been clearly and unequivocally expressed by the legislature in the Atomic Energy Act. National and international policy of the country is to develop control and use of atomic energy for the welfare of the people and for other peaceful purposes. NPP has been set up at Kundankulam as part of the national policy which is discernible from the Preamble of the Act and the provisions contained therein. It is not for courts to determine whether a particular policy or a particular decision taken in fulfillment of a policy, is fair. The reason is obvious, it is not the province of a court to scan the wisdom or reasonableness of the policy behind the statute.

200. Much hue and cry has been raised by some sections of the people about the possible impact of radiation from KKNP Units 1 and 2, a point which has been addressed by AERB, NPCIL, MoEF and all the Expert Committees constituted to go into the impact and effect of radiation from the units not only on humans but also on ecology. The Experts Committees are of the unanimous opinion that there will not be any deleterious effects due to radiation from the

11 [(2013) 6 SCC 620]

operation of KKNP, and that adequate safety measures have already been taken. We cannot forget that there are many potential areas of radiation reflected in many uses of radioactive materials. Radioactive materials are used in hospitals, surgeries and so on. Mobile phone use, though minor, also causes radiation. In a report of the Department of Telecommunication “Mobile Communication — Radio Wave and Safety” released in October 2012, it has been stated that a human body is exposed to more electromagnetic field radiation in case of a call from mobile phone in comparison to the radiation from a mobile tower.

201. We have, therefore, to balance “economic scientific benefits” with that of “minor radiological detriments” on the touchstone of our national nuclear policy. Economic benefit, we have already indicated has to be viewed on a larger canvas which not only augment our economic growth but alleviate poverty and generate more employment. NPCIL, while setting up the NPP at Kundankulam, have satisfied the environmental principles like sustainable development, corporate social responsibility, precautionary principle, inter-/intra-generational equity and so on to implement our National Policy to develop, control and use of atomic energy for the welfare of the people and for economic growth of the country. Larger public interest of the community should give way to individual apprehension of violation of human rights and right to life guaranteed under Article 21.

205. This Court in *Chameli Singh v. State of U.P.* [(1996) 2 SCC 549] held that in an organized society, the right to live as a human being is not ensured by meeting only the animal needs of man, but secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. Right to shelter includes adequate living space, safe and decent structure, clean and decent

surroundings, sufficient light, pure air and water, electricity, sanitation and civil amenities like road, etc. so as to have easy access to his daily avocation.

206. Nuclear power plant is being established not to negate right to life but to protect the right to life guaranteed under Article 21 of the Constitution. The petitioner's contention that the establishment of nuclear power plant at Kundankulam will make an inroad into the right to live guaranteed under Article 21 of the Constitution, therefore has no basis. On the other hand, it will only protect the right to life guaranteed under Article 21 of the Constitution for achieving a larger public interest and will also achieve the object and purpose of the Atomic Energy Act. ”

Bearing in mind the principles which must guide the exercise of the power of judicial review as enunciated by the Supreme Court we are of the opinion that this Court while exercising its jurisdiction under Article 226 would clearly not be justified in proceeding on the basis of the conclusions of an author of a scientific study which itself has not found acceptance amongst its peers.

Our reluctance to accede to the submissions advanced by the learned counsel for the petitioners also stemmed from the factual backdrop of the present proceedings. There was no conclusive material which was brought to our attention which may have even remotely be read as evidencing, underlining or supporting the perceived threat to human health voiced by the petitioners. Further we note that the seventh respondent is in the

process of rolling out and establishing its 4G network on the basis of licenses and permissions granted by the Union Government which are not under challenge before us. It is also not established from the record that the seventh respondent is in breach of the conditions of its license or that its installations violate the regulatory framework put in place by the Union and State governments.

The present policy regime as approved by the Union Government grants authority to the seventh respondent to establish a 4G mobile telephony and data network in accordance with the license issued to it. Mobile telephony is an enterprise which is duly permitted and has the sanction of the State. The subject of the so called and alleged effects of its usage on public health is a debate which continues both at the national as well as the international level. The fact however remains that as on date there is no conclusive material or scientific study which may justify or be read as conclusive proof of the canvassed ill effects of EMF radiation on human health. We are also mindful of the fact that DOT has adopted and put in place national standards which peg the maximum emission levels at 1/10th of the international norm prescribed by ICNIRP. This in our opinion should have been sufficient to allay the fears and anxieties of the petitioners. Moreover the scientific experts in the field have

found no justification in the findings recorded by Prof. Girish Kumar. The report of the Committee comprised of eminent persons who are experts in their field is liable to be accorded judicial deference. We accordingly find no ground which would warrant the issuance of the writs as prayed for.

Issue No IV Further directions

Though having found no justification for the imposition of a prohibition or restraint upon the installation of mobile towers and BTS's there remain certain issues which in our opinion do require notice. As per the admitted stand of the Union, the TERM Cells carry out a random inspection of 10% of the mobile tower sites falling within their respective jurisdictions. No periodicity of inspections appears to be fixed. There also does not appear to be in place a system for verification of the self-certification which is filed by the prospective service provider. The other area of concern appears to be, as was evident from the common refrain of all the petitioners, the lack of a complaint redressal mechanism or at least the absence of an effective, robust and transparent grievance redressal machinery.

The absence of determinative scientific data does not lead us to hold that the technology and its perceived effect on health and well being does not require a continuous monitoring or sustained scientific study or research. It is evident from the body

of material placed before us that internationally a close watch is being maintained on the effects of EMF radiation. All studies indicate that presently there appears to be no definitive scientific material or data which may warrant EMF radiation being classified as endangering health. However the state of the research can at present, as we have noted above, be best described as being still nebulous and tenuous. This is perhaps the reason for research in the field being continued and ongoing. The standards adopted in our country are stated to be more stringent than those suggested by the WHO. However the fixation of a standard is but one aspect of the oversight mechanism which must necessarily be put in place. The more important and fundamental issue appears to be the requirement of a system which ensures the adherence to the standards fixed. This aspect, in our opinion, cannot be left to depend solely upon a 10% random annual check carried out by TERM Cells.

The other aspect as noted above relates to the grievance redressal mechanism. From the submissions advanced and the material placed before us we find that there does exist the need for the establishment of a grievance redressal and information dissemination mechanism which may take note of complaints and allay the various doubts which stand raised in respect of the subject in question. The absence of an effective machinery was

also noted by the Parliamentary Standing Committee which found the reply of DOT to be unsatisfactory and reiterated its recommendations for the system being made more robust and responsive. Bearing in mind the serious concerns raised in respect of the above two issues, we proceed to issue the following directions: -

- 1) DOT will expeditiously and not later than within 2 months from the date of this judgment frame guidelines for the TERM Cells carrying out periodical inspection of mobile towers and BTS stations falling within their respective jurisdictions;
- 2) DOT while framing the guidelines shall also consider and if thought feasible incorporate appropriate provisions for inspection of all or such percentage of cell towers as may be deemed appropriately by the TERM Cells;
- 3) DOT shall also consider and implement a mechanism where the testing of cell sites is not left to depend upon the self certification procedure of the service provider solely;
- 4) The directions issued shall mandate the TERM Cells to disclose their findings of compliant and non-compliant mobile towers and BTS's for the information of the general public;
- 5) The TERM Cells shall also make known to the general public the action taken against erring and non-compliant mobile towers and BTS establishments;
- 6) DOT shall ensure that the particulars of TERM Cells including the particulars of its Nodal Officer for different

regions are made known to the members of the general public;

7) DOT shall establish a complaint cell in the various regions details of which are given wide publicity in the area concerned, to receive and address public complaints relating to mobile towers and BTS;

8) DOT shall also issue necessary directions to ensure that the complaint cell duly looks into, enquires and disposes of such complaints within a reasonable period of time.

Subject to the aforesaid directions, this writ petition stands

disposed of.

Order Date: -12.04.2016

Arun K. Singh

(Dr D Y Chandrachud, CJ)

(Yashwant Varma, J.)

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 23rd February, 2022

+ W.P.(C) 11831/2021& CM APPL. 36584/2021

INDUS TOWERS LTD Petitioner

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Rohit Jain, Advocate

For the Respondents: Ms. Khushboo Nahar and Ms. Latika Malhotra, Advocates
for North DMC

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J

1. The hearing was conducted through video conferencing.
2. Petitioner impugns work stop notice dated 27.08.2021 requiring the petitioner to stop further work of installation of a telecommunication tower on property bearing No. 50, F-Block, Baljit Nagar, Punjabi Basti, near Ramjas Ground, New Delhi.
3. Learned counsel for the petitioner submits that the permission for installation of a telecommunication tower was duly granted on

23.08.2021 after petitioner had complied with all the requisite formalities and obtained permissions for installation of the said tower.

4. Learned counsel submits that after the tower installation work commenced the impugned work stop notice dated 27.08.2021 was issued requiring the petitioner to stop further construction work.

5. Counter affidavit has been filed by the respondent wherein it is confirmed that permission to commence the installation process was allowed only after receipt of all requisite documents from the petitioner and on completion of all the formalities.

6. The counter affidavit states that the work stop notice had to be issued as complaints were received from residents of F-Block, Baljit Nagar raising objection with regard to installation of tower. Copies of the complaints have been annexed with the counter affidavit.

7. Perusal of the complaints annexed with the counter affidavit show that the only objection taken is that the installation of a tower in the colony is harmful and may cause great harm to children, old people and pregnant women.

8. It is not in dispute that petitioner has complied with all the requisite formalities for installation of the telecommunication tower and permission was granted only after the petitioner fulfilled the

conditions.

9. Petitioner, as per the Circulars of the Respondent-Corporation, has to also comply with the requirements of appropriate protective and preventive measures to be taken post installation and commission of the telecommunication tower.

10. Further, it may be noticed that the objection raised by the residents that the tower is likely to cause harm to children, old people and pregnant women is no longer *res integra* as by judgment dated 26.04.2016 a Division Bench of this Court in *W.P. (C) No. 5550/2015* titled *Kapil Chaudhary & Anr. Vs. Union of India & Ors.* has categorically held that there is no scientific data available to show that installation of mobile phone tower and emission of waves by the said tower is in anyway harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect.

11. The Division Bench in *Kapil Chaudhary (supra)* was considering a public interest petition seeking removal of the mobile towers installed in residential area. The ground raised in the petition *inter alia* was that the presence of the towers will cause diseases on account of radiation that is emitted. The Union of India had filed a Counter Affidavit therein stating that “*many studies have been conducted on the health hazard of radiations of mobile phone*

towers/networks. These studies have been conducted under the aegis of WHO. The studies have concluded that there is no conclusive scientific evidence of adverse health effects due to low level of RF emission from mobile phone towers”

12. The Division Bench after considering several Judgments of various High Courts wherein similar pleas had been rejected held as under:

“12. In view of the above, it is clear that there is no scientific data available to show that installation of mobile phone towers and the emission of the waves by the said towers is in any way harmful for the health or hazardous to the health of citizens. There is no conclusive data to the said effect. The petitioner has not been able to produce any data whatsoever showing any such harmful effects on the health of human beings. The petitioner has also not been able to show violation of any norms by the respondent.”

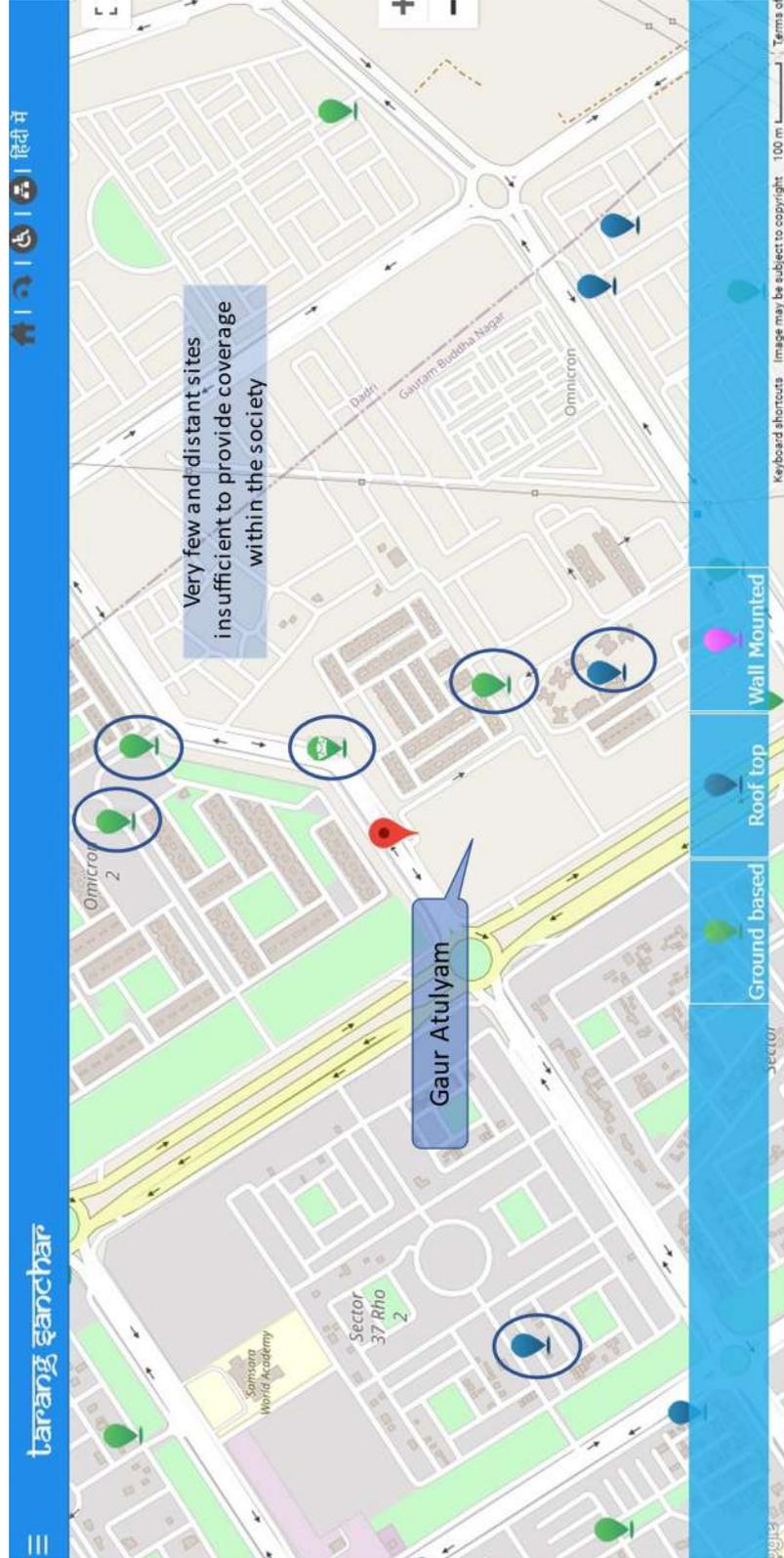
13. In view of the above, the work stop notice issued by the respondent Corporation, solely on the ground of the above referred complaints received from residents, is not sustainable. Accordingly, the work stop notice dated 27.08.2021 is quashed.

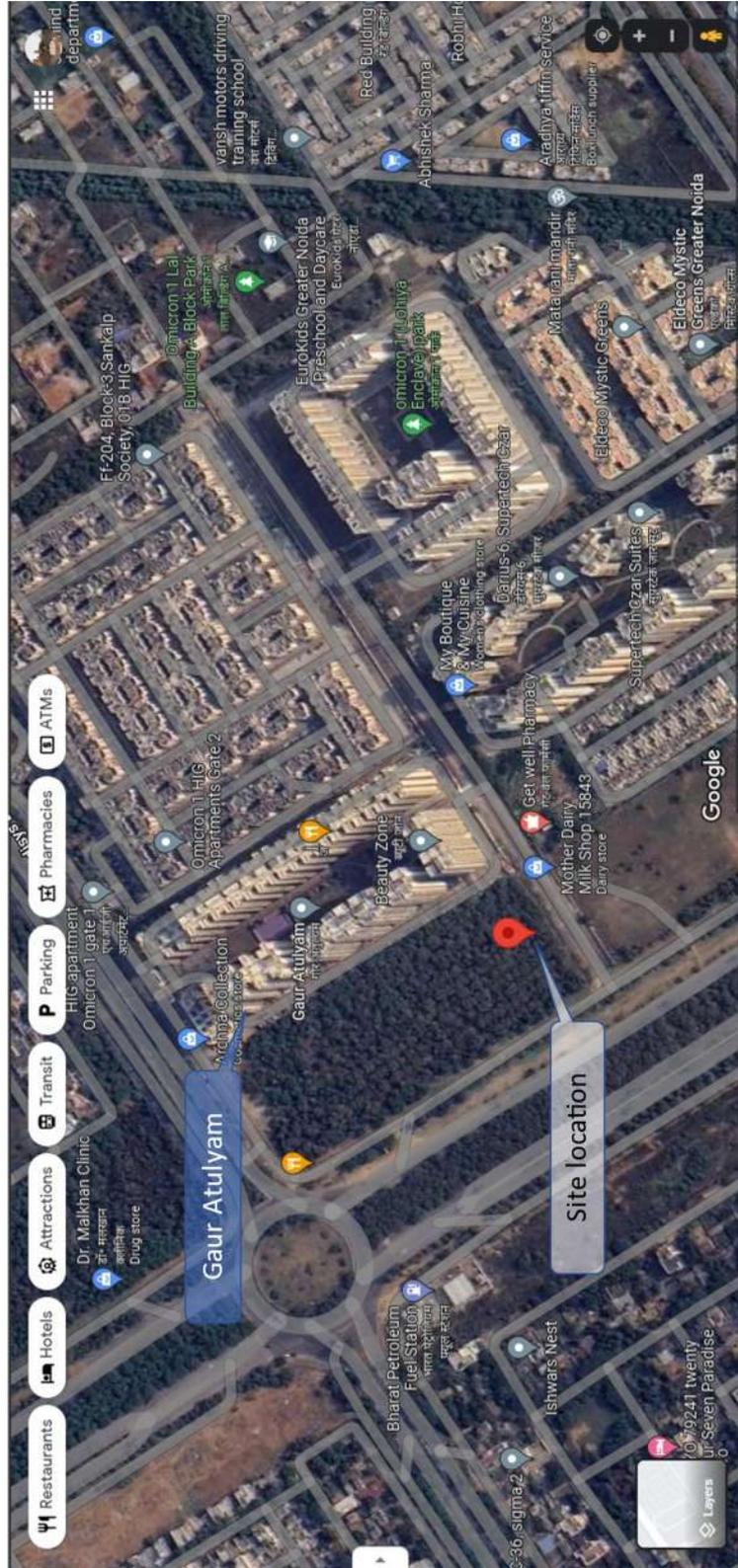
14. Petitioner would be at liberty to carry out the installation of telecommunication tower as per with the sanction/permission granted by the Corporation in accordance with law. Petitioner shall also comply with the post installation and commission stipulations.

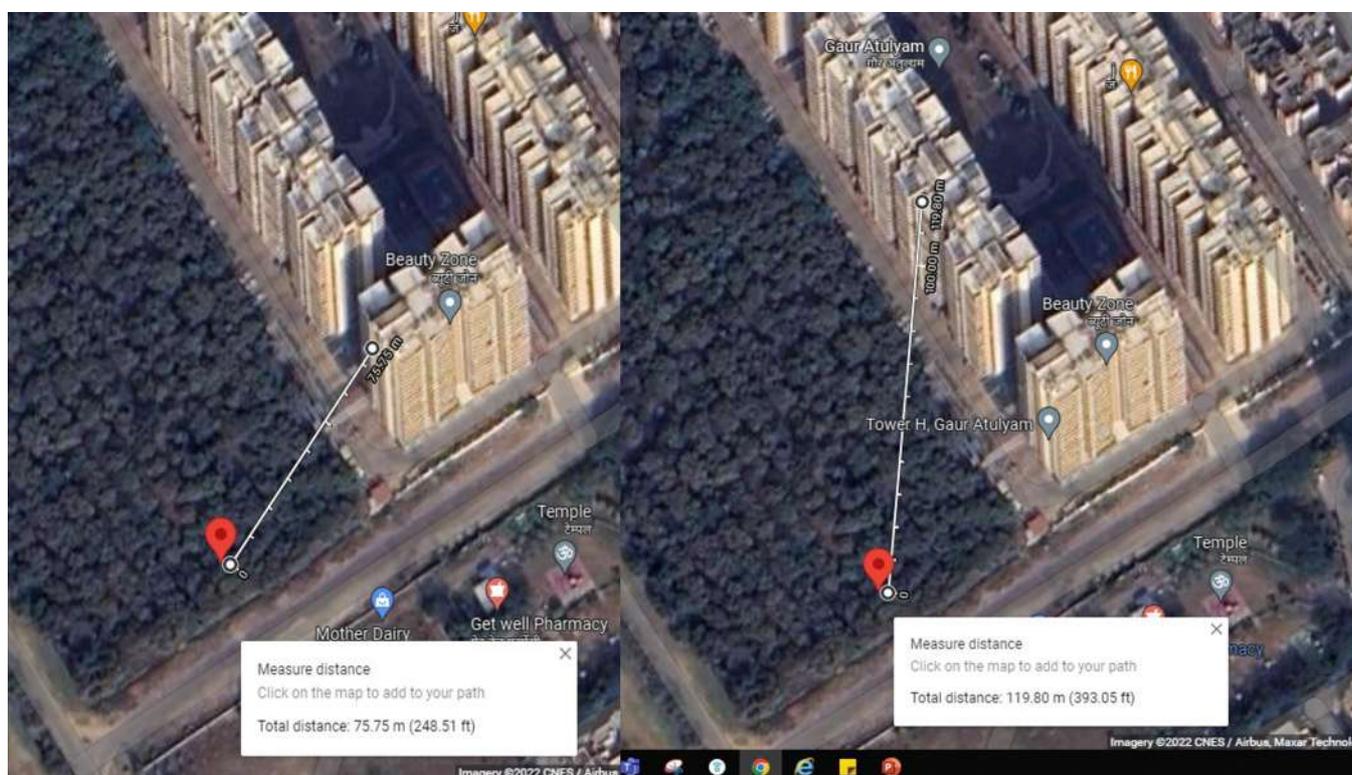
15. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

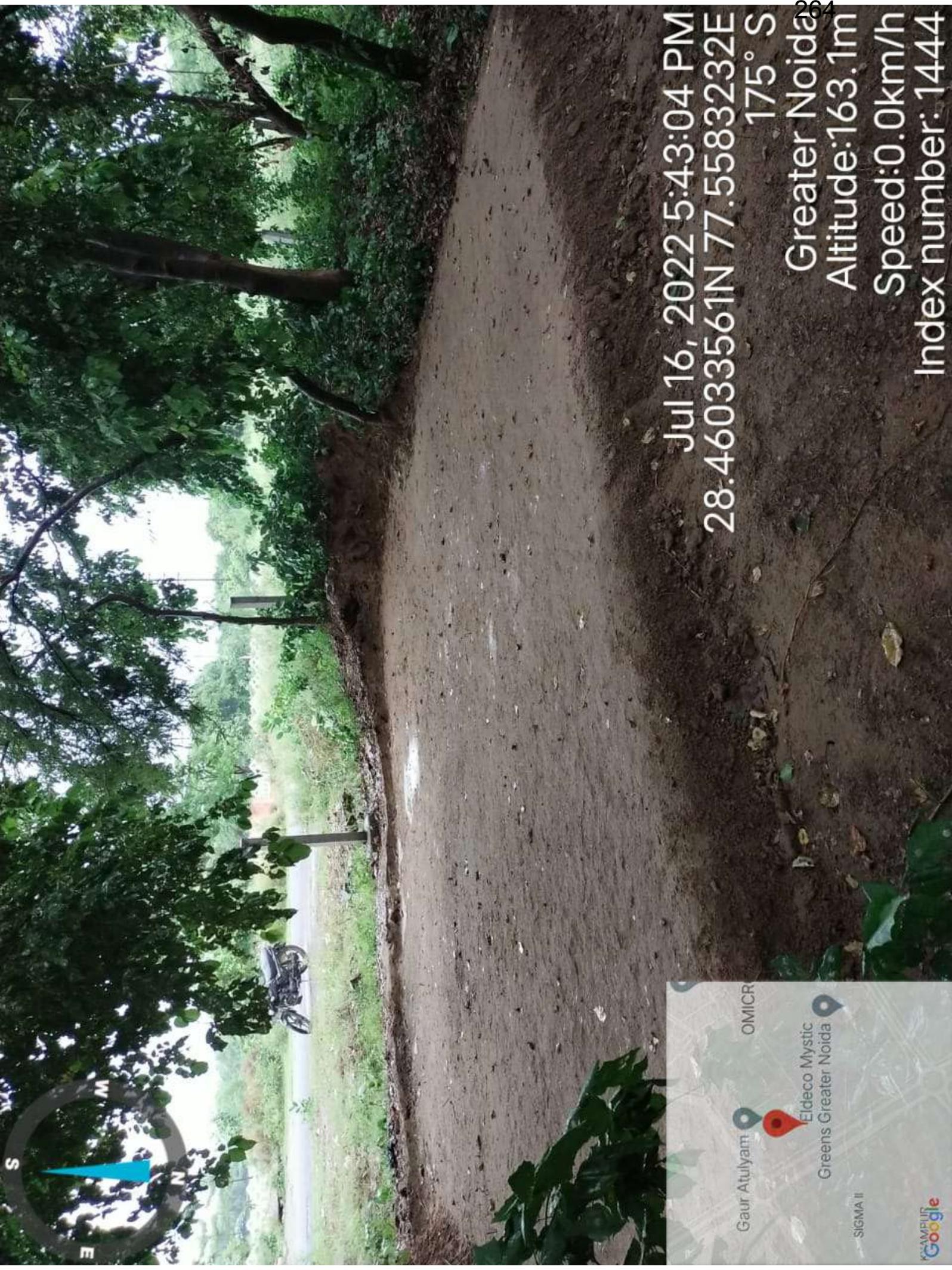
FEBRUARY 23, 2022/‘rs’ **SANJEEV SACHDEVA, J**

सत्यमेव जयते









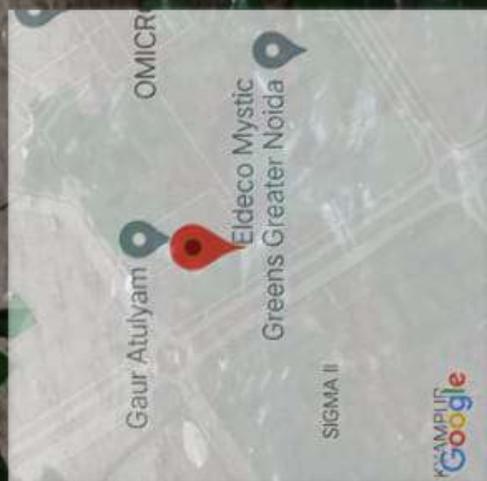
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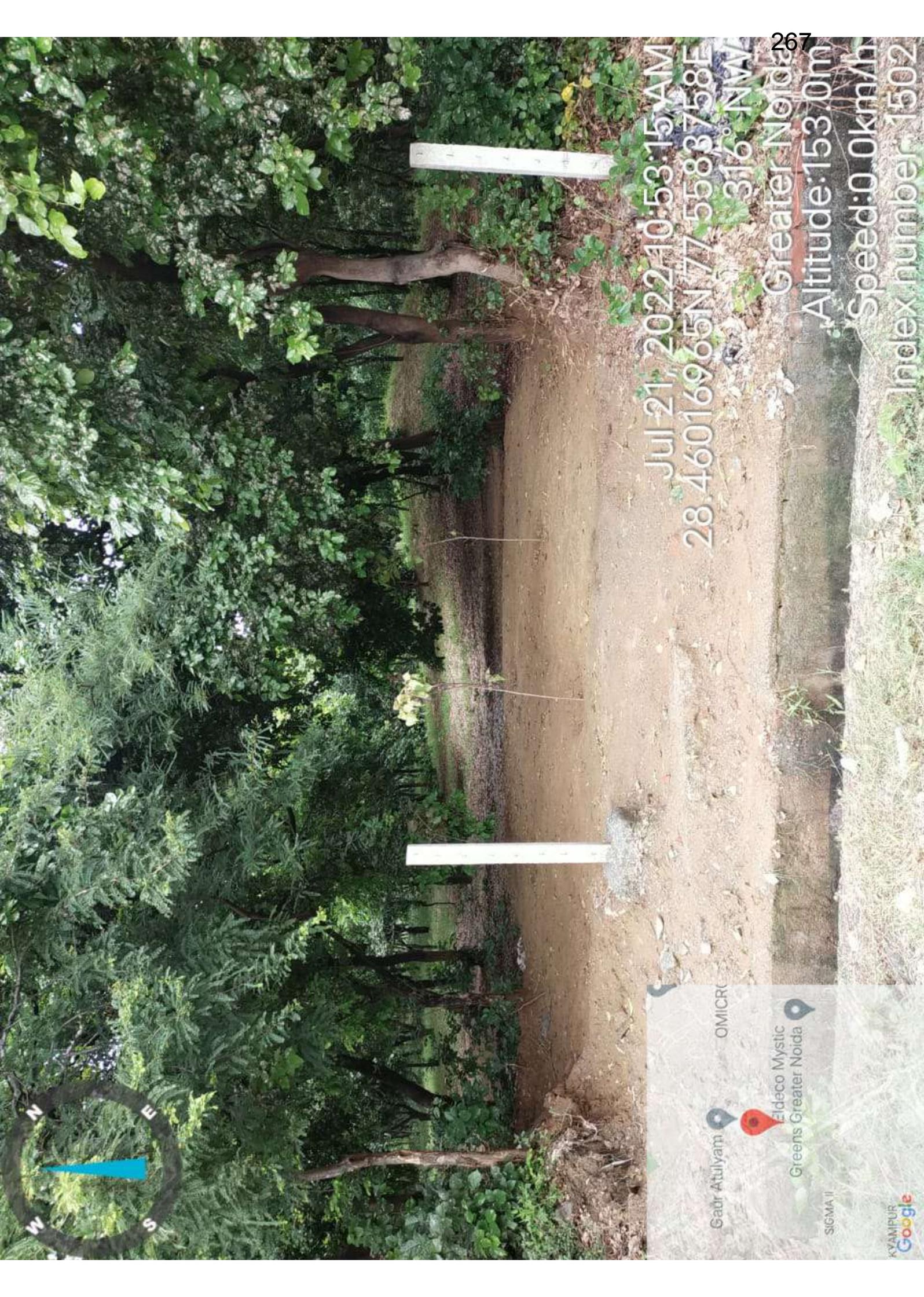
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ग्रेटर नौएडा औद्योगिक विकास प्राधिकरण
भूखण्ड संख्या -01, सेक्टर-के0पी0 -04 ग्रेटर नौएडा सिटी,
जिला- गौतम बुद्ध नगर, उत्तर प्रदेश
website : www.greaternoidaauthority.in

पत्रांक- ग्रेनो/वाणिज्यिक/2022/2047

दिनांक 05/07/2022

सेवा मे,

M/s Indus Tower Ltd.,
DLF Cyber City,
Tower 10B, 9th Floor,
Gurgaoun-122002

आवंटन पत्र

महोदय,

कृपया अपने आवेदन पत्र दिनांक 08.06.2021 का सदर्थ ग्रहण करने का कष्ट करें, जिसके माध्यम से ग्रेटर नौएडा प्राधिकरण क्षेत्र के कतिपय स्थलों पर मोबाईल टॉवर्स की स्थापना हेतु अनुरोध किया गया था। प्राधिकरण क्षेत्र में निम्नलिखित लोकेशनों को चिन्हित करते हुए मोबाईल टॉवर्स की स्थापना हेतु स्वीकृति प्रदान की गई है:-

S.No.	Name of Sector	Plot No/Tower No	Area In (Sqm.)
1.	Green Belt Infront of Amarpali Dream Valley	74	25.00
2.	Green Belt Infront of Apex Golf Avenue	75	25.00
3.	Green Belt Near Jyoti Kiran Society	76	25.00
4.	Divider Infront of Eldeco Freen Meadows	77	25.00
5.	Green Belt Infront of Gaur Atulyam	78	25.00
6.	Divider Infront of Purvanchal Silver City	79	25.00

तत्कम में प्राधिकरण के संख्या ग्रेनो/वाणिज्यिक/2022/1611 दिनांक 10.03.2022 के द्वारा आपको मोबाईल टावर की स्थापना हेतु उक्त चिन्हित भूखण्ड के सापेक्ष धनराशि जमा कराये जाने हेतु सूचित किया गया-

उपरोक्त के क्रम में आपके द्वारा उक्त तालिका के क्रम सं0 01 व 06 पर उल्लिखित भूखण्डों के सापेक्ष धनराशि जमा न कराते हुए क्रम सं0 02 से 05 पर उल्लिखित भूखण्डों की धनराशि निम्नानुसार जमा करायी गयी है-

S.No.	Name of Sector	Plot No/Tower No	Area In (Sqm.)	Total Premium	LeASE Rent One Time
1.	Green Belt Infront of Apex Golf Avenue	75	25.00	15,50,000/-	4,26,250/-
2.	Green Belt Near Jyoti Kiran Society	76	25.00	16,00,000/-	4,39,999/-
3.	Divider Innfront of Eeldeco Freen Meadows	77	25.00	16,00,000/-	4,39,999/-

7/5/2022

4.	Green Belt Infront of Gaur Atulyam	78	25.00	15,50,000/-	4,26,250/-
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उपरोक्त धनराशि के साथ-साथ आवेदन फार्म शुल्क के रूप में ₹0 1,100/- प्रति भूखण्ड एवं आवेदन शुल्क ₹0 1,00,000/- (एक लाख) प्रति भूखण्ड जमा कराए जाने हेतु भी आपको सूचित किया गया था। आपके द्वारा उपरोक्त वर्णित समस्त धनराशि प्राधिकरण के पक्ष में जमा करा दी गई है। अतः प्राधिकरण की 95वीं बोर्ड बैठक में अनुमोदित नीति के क्रम में उपरोक्त तालिका में उल्लिखित 04 भूखण्डों पर मोबाईल टॉवर स्थापित किए जाने की अनुमति निम्न नियम एवं शर्तों के अधीन प्रदान की जाती है-

- यदि भविष्य में उक्त प्रस्तावित लोकेशनों के अन्तर्गत प्राधिकरण की कोई परियोजना आती है या कोई परियोजना प्रभावित होती है तो जीबीएम की लोकेशन को कम्पनी द्वारा स्वयं के व्यय पर स्थानान्तरित किया जाना होगा।
- टॉवर लगाने हेतु भूखण्ड की लीज की अधिकतम अवधि 30 वर्ष की होगी। 15 वर्ष उपरान्त लीजरेन्ट में वृद्धि के साथ मुख्य कार्यपालक अधिकारी के अनुमोदनापरान्त लीज का नवीनीकरण किया जायेगा।
- आवंटित भूखण्ड पर केवल उतना ही निर्मित क्षेत्रफल अनुमन्य होगा जितना टॉवर, गार्ड रूम, डी0जी0 सेट एवं अन्य उपकरण लगाने हेतु न्यूनतम आवश्यकता होगी। मोबाईल टॉवर के संचालन हेतु न्यूनतम आवश्यक निर्माण के अतिरिक्त किसी भी प्रकार का निर्माण अनुमन्य नहीं होगी।
- प्राधिकरण द्वारा टॉवर लगाने हेतु अनुमति पत्र जारी होने के उपरान्त एक माह के अन्दर आवेदनकर्ता द्वारा भूखण्ड का पट्टा प्रलेख निष्पादित कराया जायेगा अन्यथा टॉवर लगाने की अनुमति निरस्त कर दी जायेगी।
- भूखण्ड आवटन के उपरान्त नियमानुसार कम्पनी द्वारा प्राधिकरण से मानचित्र स्वीकृत कराना होगा।
- सेल्यूलर टॉवर हेतु लगाए जाने वाले जनरेटर का अनापत्ति प्रमाण पत्र यदि आवश्यक हो तो उत्तर प्रदेश प्रदूषण नियंत्रण बोर्ड से प्राप्त करना अनिवार्य हो तथा सयन्त्र स्थापित करने हेतु कोई अनापत्ति वांछित है तो आवेदक द्वारा प्राप्त की जायेगी।
- प्रदान की गई अनुमति जनहित में किसी भी समय निरस्त की जा सकती है। अनुमति निरस्त करने की दशा में प्राधिकरण द्वारा कोई भी वित्तीय क्षति देय नहीं होगी। कम्पनी/पट्टाधारक को अनुमति निरस्त करने हेतु जारी पत्र के दिनांक से 30 दिन के अन्दर कम्पनी के समस्त उपकरण सील से हटाना अनिवार्य होगा।
- मुख्य कार्यपालक अधिकारी अथवा अन्य प्राधिकृत अधिकारी को पूर्ण अधिकार होगा कि उसके द्वारा न्यायसंगत तथा उचित समझे जाने पर समय-समय पर आवटन की शर्तों में कोई परिवर्तन या सशोधन का निर्णय ले सके।
- इस नियम व शर्तों के सबंध में किसी भी प्रकार का स्पष्टीकरण अथवा उसकी व्याख्या के सबंध में मुख्य कार्यपालक अधिकारी का निर्णय अन्तिम होगा और आवेदक मानने के लिए बाध्य होगा।
- किसी दैवीय आपदा अथवा प्राधिकरण के नियंत्रण के बाहर किसी भी परिस्थिति के फलस्वरूप प्राधिकरण आवटन देने अथवा कब्जा प्रदान करने में असमर्थ होता है तो सम्पूर्ण जमा राशि को आवटी को, 4 प्रतिशत वार्षिक साधारण ब्याज सहित वापिस की दी जायेगी।

- सभी विवादों का आवंटन/पट्टे के संबंध में किसी भी विवाद के लिए न्याय का क्षेत्राधिकार समबद्ध जिला न्यायालय, जहाँ सम्पत्ति स्थित है का होगा।
- आवंटी पर उत्तर प्रदेश औद्योगिक क्षेत्र विकास अधिनियम सन् 1976 (यू0पी0 एक्ट न0 1976) के प्राविधान तथा उसके तहत गठित नियम/विनियम लागू माने जायेंगे।
- निर्मित टॉवर का प्रयोग विज्ञापन लगाने अथवा वाणिज्यिक प्रयोग के लिए नहीं किया जायेगा।
- कम्पनी को सैल्यूलर टॉवर निर्माण/स्थापना/संचालन हेतु भारत सरकार के मानकों के अनुरूप संबंधित विभागों से आवश्यक प्रमाण पत्र आवश्यक हो तो उसके निर्माण प्रारम्भ करने/संचालन से पूर्व स्वयं प्राप्त कर प्राधिकरण में जमा कराकर अनापत्ति प्राप्त करनी होगी।
- सैल्यूलर टॉवर कम्पनी को प्राधिकरण की लागू भवन विनियमावली मान्य होगी।
- ड्रेन टॉप से टॉवर की ऊंचाई 30मीटर या इससे अधिक होने पर प्रार्थी को स्वीकृति से पूर्व एयरपोर्ट एथॉरिटी से एन0ओ0सी0 प्राप्त करनी होगी।
- आवंटी/कम्पनी द्वारा 2जी, 3जी, 4 जी 5जी, की सेवाएँ बन्द की जाती है तो ऐसी दशा में उनके द्वारा किया गया कोई भी भुगतान की देयता प्राधिकरण स्तर पर नहीं होगी। तथा भूखण्ड का कब्जा प्राधिकरण को हस्तान्तरण करना होगा।
- भूखण्ड का हस्तान्तरण/संविधान परिवर्तन/अशुद्धांतरित परिवर्तन अनुमन्य नहीं होगा।
- भूखण्ड का कब्जा प्राप्त करने की तिथि से 6 माह के अन्दर प्राधिकरण से अनापत्ति प्राप्त कर संचालन प्रारम्भ करना होगा। इसमें किसी भी दशा में समय विस्तार अनुमन्य नहीं होगा। समर्यान्तगत क्रियाशील न होने की स्थिति में समस्त जमा धनराशि जब्त करते हुए आवंटन निरस्त कर दिया जायेगा तथा प्रश्नगत भूखण्ड को रिक्त मानते हुए आवंटन अन्य को कर दिया जायेगा।
- आवेदक द्वारा इस सम्बन्ध में जारी समस्त नियम/विधि/मा0 न्यायालय द्वारा पारित आदेशों का अनुपालन सुनिश्चित किया जायेगा।

Signed by
Sudhir Kumar Bhati
Manager
05/07/22 15:58:40

भवदीय,

प्रबन्धक (वाणिज्यिक)

प्रतिलिपि:

1. महाप्रबन्धक (परियोजना) ग्रेटर नौएडा प्राधिकरण को इस अनुरोध के साथ प्रेषित है कि सदभित भूखण्डों के लीजप्लान प्राथमिकता के आधापर पर तैयार कराने हेतु सम्बन्धित को आदेशित करते हुए वाणिज्यिक अनुभाग को उपलब्ध कराने का कष्ट करें।
2. प्रभारी महाप्रबन्धक (नियोजन) ग्रेटर नौएडा प्राधिकरण को सूचनार्थ प्रेषित।

प्रबन्धक (वाणिज्यिक)

GREATER NOIDA INDUSTRIAL DEVELOPMENT
AUTHORITY

Plot no 01, Sector –KP-04 Greater Noida City, District-
Gautam Budh Nagar , Uttar Pradesh

Website:- www.greaternoidaauthority.in

Letter no :-Greno/commercial 2022/2047 dated
5.7.2022

To,

M/s Indus Tower Ltd

DLF Cyber City

Town 10B, 9th floor

Gurgaoun-122002

Allotment letter

Sir,

Kindly take reference of your letter dated 8.6.2021 vide
which request was made for installing of mobile towers
at certain places under Greater Noida Authority area.

Following places have been identified and permission has been granted for installation of mobile towers.

S no	Name of sector	Plot No/ Tower No	Area (in Square meter)
1.	Green belt in front of Amarpali Dream valley	74	25.00
2.	Green belt in front of Apex Golf Avenue	75	25.00
3.	Green belt near Jyoti Kiran Society	76	25.00
4.	Divider in front of Eldeco Freen Meadows	77	25.00
5.	Green belt in front of Gaur Atulyam	78	25.00
6.	Divider In front of Purvanchal Silver city	79	25.00

In sequence thereof, vide letter no GN/commercial /2022 /1611 dated 19.3.2022, you were informed to deposit money for installation of mobile tower against above said demarcated sites.

In sequence thereof, you while not depositing the amount against the plot mentioned from S no 1 to 6, have got deposited amount against S no 2 to 5 as under:-

S no	Name of sector	Plot no /Tower No	Area (In square meter)	Total premium	Lease rent one time.
1.	Green belt in front of Apex Golf Avenue	75	25.00	15,50,000/-	4,26,250/-
2.	Green belt near Jyoti Kiran Society	76	25.00	16,00,000/-	4,39,999/-

3.	Divider in front of Eldeco Freen Meadows	77	25.00	16,00, 000/-	439,99 9/-
4.	Green belt in front of Gaur Atulyam	78	25.00	15,50, 000	4,26,25 0/-

Along with above said amount, you were also informed to deposit form fee amount of Rs 1100/- per plot and Rs 1,00,000/- (One Lakh) per plot as application fee. You have got deposited above detailed entire amount with Authority. Hence in sequence of the approved policy of Authority approved in the 95th Board Meeting , permission to install mobile tower at above said demarcated 04 plots is granted subject to following terms and conditions:-

- If in future, any project of Authority falls under the above said proposed location or any project is

affected, company shall relocate the GBM Location at its own cost.

- Maximum period of lease of plot for installation of tower shall be 30 years. After 15 years, renewal of lease shall be done after the recommendation of chief executive officer along with due increase in lease rent.
- Only that much constructed area on allotted plot shall be allowed minimum which would be necessary for the purposes of construction of Tower Guard room, DG set and other instruments. Any other type of construction would not be permissible other than the minimum construction required for the purposes of operation of mobile tower.
- After receipt of permission letter from Authority for installation of tower , lease deed of plot shall be got executed by the applicants within one month period. Else permission to install tower shall be cancelled.

- In case of allotment of plot, Company shall be required to get the lay out plan approved in accordance with rules.
- No objection certificate of generator to be installed for the mobile Tower purposes, if so required, shall be required to be obtained from Uttar Pradesh Pollution Control Board and if any other no objection is required for installing of machinery, applicant shall also obtained the same.
- Permission so granted, can be cancelled at any time in public interest. In case of cancellation of permission, no any financial loss/damages shall be payable by the Authority in any circumstances. Company/ lease holder shall be required to remove all the instruments from the site within 30 days of issuance of letter of cancellation.
- Chief Executive officer or any other Authorized officer shall have full authority that they if it is

think necessary and justified , can take a decision regarding any change, amendment etc in the terms and condition of allotment.

- Decision of Executive officer with regard to any interpretation or explanation of these terms and conditions, shall be final and applicant shall be bound to abide by it.
- If authority fails to deliver possession due to any act of God or in circumstances beyond control of Authority, entire deposited amount shall be refunded to the applicant along with 4% simple annual interest.
- In case of any dispute qua the allotment/ lease etc, concerned District Court shall have jurisdiction , where property is situated.
- Provisions of Uttar Pradesh Industrial Area Development Act year 1976 (UP Act no 1976) and rules and regulations framed under it, shall be applicable to the allottee.

- Constructed tower shall not be used for the purposes of advertisement or for commercial use.
- If It is necessary for company to obtain certificates from the concerned Departments as per the standard of Government of India with respect to cellular Tower construction /establishment/ operation etc, same shall be obtained prior to start of construction work etc/operation and shall be submitted with authority and no objection shall be required to obtain.
- Applicable building regulation shall also apply to the cellular tower company.
- In case of height of tower is 30 meter or more from the drain top, prior to its approval, applicant shall be required to obtain NOC from Airport Authority of India.
- If allottee /company closes 2G/3G services, then in such situation, payability of amount paid by them shall not be at the level of Authority and

possession of plot shall be required to be handed over to the authority.

- Transfer/description/ change in sharing of plot shall not be permissible.
- Operation shall be required to start within 6 months of receiving of possession of plot after obtaining permission from the Authority. In which extension of time will not be permissible in any circumstances. In case of non functioning with the fixed time period, while forfeiting entire deposited amount, allotment shall be cancelled and while considering the plot in question as vacant, allotment shall be made to other.
- Applicant shall ensure to comply all the rules/Law/orders passed by the Hon'ble Courts. and law issued in this regard.

Truly yours

Manager (C)

Signed by

Sudhir Kumar Bhati

Manager 5.7.2022 15:58:40

Copy to:-

1. General Manager (project) Greater Noida Authority, forwarded with request that in order to prepare lease plan of the referred plots at priority basis, while directing the concerned , same also informed to the Commercial section.

2. In charge Chief Manager (Employment) Greater Noida for information.

Sd/-
Manager (C)

(True translated copy)

Agreement Award

**Indian-Non Judicial Stamp
Haryana Government**

Date : 18/12/2020

Certificate No. G0R2020L30

Stamp Duty Paid : ₹ 101
(Rs. Only)

GRN No. 68624327



Penalty : ₹ 0

(Rs. Zero Only)

Seller / First Party Detail

Name: Indus towers ltd Formerly known as Bharti infratel ltd
 H.No/Floor : 9 Sector/Ward : 30 LandMark : Park centra nh 8
 City/Village : Gurugram District : Gurugram State : Haryana
 Phone: 98*****00

**Buyer / Second Party Detail**

Name : Na
 H.No/Floor : Na Sector/Ward : Na LandMark : Na
 City/Village : Na District : Na State : Na
 Phone : 98*****00

Purpose : Power of Attorney

The authenticity of this document can be verified by scanning this QrCode Through smart phone or on the website <https://egrashry.nic.in>**POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS THAT, Indus Towers Ltd. (formerly Bharti Infratel Limited), a company incorporated under the Companies Act, 1956 and having its registered office at 901 Park Centra, Sector-30, Gurugram-122001, India and its circle office at Building No. 10, Tower-B, 9th Floor, DLF Cyber City, Gurugram-122002, Haryana, India (hereinafter referred to as the "Company") acting through **Mr. Rajiv Arora, General Counsel and the Authorized Person** of the Company, vide Board Resolution dated 19th November, 2020, executed in his favour and clause XII thereof hereby nominate, constitute and appoint **Mr. Vikram Singh, Head Legal & Regulatory of Delhi Telecom Circle** as its true and lawful Attorney (hereinafter referred to as the "Attorney") to do, represent, execute and perform all or any of the following acts, deeds, matters and things subject to and in accordance with the delegation of powers and the directions, policies, regulations, limits of the Company in the **Delhi Telecom Circle (including Gurugram, Noida, Faridabad, Ghaziabad & Greater Noida)** namely:

1. To receive service of the writ or summons/notice on behalf of the Company in respect of any suit/s or other proceedings that may be instituted against the Company or otherwise.



05 JAN 2021

2. To appear on behalf of the Company and represent the Company in all courts (civil, labour, revenue or criminal whether original or appellate) tribunals, judicial or quasi judicial authorities and before Government, State, District Board, Municipal Corporation or any other local or public body/ies or authority/ies whatsoever including State or public financial institutions or banks for any purpose connected with the business, affairs or property of the Company as may be necessary or expedient;
3. To retain, employ, authorise and remunerate solicitors, counsel, advocates, attorneys, pleaders, authorised representative or other person or persons on such terms in relation to or in furtherance to all or any of the purposes herein only and to institute, prosecute and defend all actions, suits, appeals or any other legal proceedings whatsoever in relation to the business and affairs of the Company between the Company and any person or persons, in such manner and in all respects, as it required to safeguard the legal & financial interests of the Company.
4. Apply for inspection of and to inspect judicial, semi-judicial revenue or municipal or other statutory records and to obtain copies thereof.
5. To represent the Company before the concerned office of sub registrar of the assurances or other registration office(s) / courts for the purpose of registration of any document(s) on behalf of the Company and for the said purpose to present, execute, sign, submit, etc. the necessary documents, deeds, etc. and to do all such other acts that may be required in this regard, from time to time, including payment of stamp duty, procuring stamp papers/ duty, making appearance, applying obtaining and receiving registered deed in originals or as certified copies.
6. To execute and sign deeds, agreements, contracts, and / or other legal documents, including but not limited to vendor contracts, lease deeds/leave and license agreements, compensation agreement for cell sites, office spaces, warehouses etc. on behalf of the Company;
7. Do all such other acts, deeds, matters and things for the proper conduct of all legal matters and to safeguard the legal interests of the company in any manner whatsoever.
8. To ask, demand, recover and receive of and from all persons, companies and bodies corporate liable to pay to the Company all sums of money, funds, rent, licence fees, income, interest and debts due to the Company.
9. To open, sign and conduct correspondence with State Government of India or with any person, firm, body corporate, financial institutions, public or local body or other authority for or in relation to all or any of the purposes herein;
10. To ensure compliances of all laws, by-laws, rules, regulations, notifications, policies, guidelines etc. as applicable to the Company and to abide by any communication issued by the Executant;
11. The Attorney as it may deem fit & proper further delegate powers only for the specific purpose of executing and registering the lease deeds for cell sites on behalf of the Company, to the designated advocates/ counsels. In such a case, the acts of such sub-

05 JAN 2021



[Handwritten signature]

delegatee, done in accordance with the law, shall be subrogatory of acts of the Attorney and shall bind the Company.

12. For the better and more efficiently doing, effecting, executing and performing the several acts, matters, deeds and things aforesaid, the Attorney may delegate (subject to such limitations or restrictions as the Attorney may deem fit) from time to time any of the above mentioned powers to officer(s) of the Company, to be executed by them individually or jointly. In such a case, the acts of such sub-delegatee shall be subrogatory of acts of the Attorney and shall bind the Company;

PROVIDED THAT this Power of Attorney shall be effective from 10th of December 2020 and shall cease to have effect and shall cease to be operative from the date (i) it is revoked; or (ii) when the Attorney ceases to be in the employment of the Company; or (iii) when the Attorney ceases to be in the role of Head Legal & Regulatory of Delhi Telecom Circle (including Gurugram, Noida, Faridabad, Ghaziabad & Greater Noida), whichever is earlier.

AND the Company do hereby agree and undertakes to ratify and confirm all and whatsoever acts, deeds and things the Attorney shall lawfully do or cause to be done for the Company or in the role of Head Legal & Regulatory of Delhi Telecom Circle (including Gurugram, Noida, Faridabad, Ghaziabad & Greater Noida), by virtue of this Power of Attorney.

IN WITNESS WHEREOF, the Company, through Mr. Rajiv Arora, General Counsel, hereunto execute this Power of Attorney at Gurugram on this 5th day of January, 2021.

For and on behalf of
Indus Towers Ltd. (formerly Bharti Infratel Ltd.)

I hereby accept this Power of Attorney

↓ **Rajiv Arora**
General Counsel (Executant)



Vikram Singh
Head Legal & Regulatory

WITNESSES:

1.

(MAHESH BEHERA)

2.

05 JAN 2021

ATTESTED
Yogeshwari
Advocate & Notary Public
Faridkot Courts, Gurugram

Sworn & Signed before me
MY COMMISSION
EXPIRES ON 10-01-2025



CERTIFIED TRUE COPY OF THE RESOLUTION PASSED IN THE MEETING OF BOARD OF DIRECTORS OF INDUS TOWERS LIMITED (FORMERLY BHARTI INFRATEL LIMITED) HELD THROUGH VIDEO CONFERENCING ON THURSDAY, NOVEMBER 19, 2020

“Resolved that the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, General Counsel and Company Secretary ("**Authorized Persons**") be and are hereby jointly/ severally authorized for managing the day-to-day business affairs and operations of the Company in the following manner:

- (i) To represent the Company before various statutory and government authorities (central, state as well as local), including but not limited to ministries, boards, departments, regulatory authorities including consulates, police authorities, municipal corporations, Registrar of Companies, Central Government, State Government, Ministry of Corporate Affairs, Regional Director, National Company Law Tribunal, Securities and Exchange Board of India (SEBI), Stock Exchanges, FRRO, RTO, Reserve Bank of India etc., and deal with the same including general communication, sign and file applications and other documents for registrations including but not limited to vehicle registration, provident fund, labour laws and other applicable welfare laws, licenses, approvals, sanctions, connections, etc., deposit of fees, charges, taxes, rates, cess, penalties, etc, periodic submissions and reporting, including statutory filings, and to take all other actions that may be required from time to time;
- (ii) To sign and file all applications, letters, papers, affidavit, certificate, undertakings, returns and other deeds and documents relating to tax i.e. Income Tax, Excise, Custom, Goods and Services Tax (including in on-going matters/assessments relating to Service Tax, Central Sales Tax, VAT), Octroi, entry tax, other State laws i.e. Professional Tax, Shop & Establishment, Trade license, etc., to represent the Company before the concerned Tax authorities, appoint consultants, advocates, etc., and to do all such acts, deeds and things that may be required in this regard;
- (iii) To file all forms, returns, applications, affidavits, declarations, certificates, disclosures, letters and other deeds and documents before any relevant state, central or local authority ('Appropriate Authority');
- (iv) To deal with the insurance authorities for the coverage of Company's assets, employees, their family members and relatives, etc. as the need may be, and to do all such acts that may be required in this regard including filing and settlement of claims, deposit of premia, etc;
- (v) To discuss, negotiate bids or tenders with various authorities or parties and execute agreements with a contract value not exceeding Rs.25 Crore in a single contract or a series of related contracts, payment of stamp duty, procuring stamp paper/duty, appearing before the registrar of assurances for registration of agreements, deeds, documents, etc, obtaining copies of the registered agreements, deed(s), documents, etc.;
- (vi) To represent the Company in respect of any litigation matters or instituting litigation in matters and for the said purpose to appoint, change advocates, pleaders, signing of applications, vakalatnamas, power of attorneys, affidavits, documents, pleadings, replies, give evidences, etc.;

Indus Towers Limited

(formerly Bharti Infratel Limited)

Corporate Office: Building No. 10, Tower A, 4th Floor, DLF Cyber City, Gurugram-122002, Haryana | Tel: +91 -124-4296766 Fax: +91124 4289333

Registered Office: 901, Park Centra, Sector 30, NH-8, Gurugram - 122001, Haryana | Tel: +91 -124-4132600 Fax: +91124 4109580

CIN: L64201HR2006PLC073821 | Email: compliance.officer@industowers.com | www.industowers.com



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- (vii) To appoint any Merchant Banker, Chartered Accountant, Advocate, Company Secretary, Engineer, Technician, Consultants and / or Professionals for undertaking any assignment for and on behalf of the Company;
- (viii) To enter into, sign, execute and deliver all contracts for and on behalf of the Company;
- (ix) To represent the Company and attend and vote on behalf of the Company at all shareholders' meetings, creditors' meetings including adjournments thereof and exercise all rights and powers on behalf of the Company at such meetings;
- (x) To represent the Company and vote on behalf of the Company on any matter proposed for approval through postal ballot and or electronic voting;
- (xi) To issue certified copies of all documents including but not limited to board / committee resolutions, memorandum and article of association of the Company, various statutory and other documents etc.;
- (xii) To delegate all or any of the aforesaid powers to any officer, employee, representative, consultant, professional etc.
- (xiii) To maintain all registers, records and other deeds and documents; and
- (xiv) To do all such acts, deeds and things as may be required to be done to give effect to this resolution.

Resolved further that the Authorized Persons may act for and on behalf of the Company with respect to the above matters and, if required, Powers of Attorney(s) be issued in favour of the Authorized Persons by any one director and if required, common seal of the Company be affixed thereto."

For **Indus Towers Limited**
(formerly Bharti Infratel Limited)


Samridhi Rodhe
Company Secretary



Indus Towers Limited

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Skv Associates <skvka@skvassociates.com>**Advance Service | Reply in the matter of Gaur Atulyam v GNIDA & Anr. [Original Application No. 557/2022]**

1 message

Skv Associates <skvka@skvassociates.com>

Wed, Oct 19, 2022 at 2:31 PM

To: Maestro Legal <info@maestrolegal.in>, authority@gnida.in, ceo@gnida.in

Cc: SKV Associates <admin@skvassociates.com>, Kanika Agnihotri <kanika.agnihotri@skvassociates.com>

Sir,

Please find attached herewith the Reply being filed on behalf of the Respondent No. 2- M/s Indus Towers Ltd. in the captioned matter listed for hearing before the Hon'ble Tribunal on 21.10.2022.

Regards

Snehal Kaila

For Ms. Kanika Agnihotri

SKV ASSOCIATES

A-118, Third Floor

Defence Colony

New Delhi - 110024

(M.): +91 76697 00081

 **GAUR ATULYAM- Reply.pdf**
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