



2026:DHC:3742



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 29th April, 2026+ **W.P.(C) 16518/2025, CM APPL. 67692/2025 & CM APPL. 67693/2025**

SUNIL TYAGI & ORS.

....Petitioners

Through: Mr. Pradeep Dubey and Mr. Sahil
Sharma, Advocates.

versus

MUNICIPAL CORPORATION OF DELHI, THROUGH THE
DEPUTY COMMISSIONER (SOUTH) & ORS.RespondentsThrough: Mr. Tushar Sannu and Mr. Parvin
Bansal, Advocates for MCD.Mr. Abhinav Singh, Ms. Prapti Jain
and Ms. Mansi Sharma, Advocates
for GNCTD.

Mr. Izhar Ahmad, Advocate for UoI.

Mr. Chander M. Lall, Sr. Advocate
with Ms. Mehul Parti, Mr. Ashwani
Malhotra, Ms. Shivangi Bajpai and
Mr. Gyanendra Singh, Advocates for
R-6.**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present writ petition has been filed seeking a direction to the respondents to stop the ongoing installation of a mobile telecommunication tower ('mobile tower') being carried out by respondent no.6 on the terrace of the premises of respondent no.5 bearing *H.No.408, Kh.No.60, Ambedkar*



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Colony, Chattarpur, New Delhi-110074 (hereinafter ‘subject property’).

2. The petitioners are residents of the locality, where the mobile tower is being installed and they have filed a complaint with the respondent no.1/ MCD against the installation of the said tower.

3. It is the case of the petitioners that the building on which the mobile tower is being installed is in a dilapidated condition and therefore, the installation of a mobile tower causes risk to the structural stability of the building. Respondent no.1/ MCD has granted permission for installation to the respondent no.6 without conducting any proper survey or site inspection and that the said mobile tower is hazardous to human health as it emits harmful electromagnetic radiation.

4. It is also the case of petitioners that the said installation of mobile tower by respondent no.6 is in non-compliance of Telecommunications (Right of Way) Rules, 2024 (‘RoW Rules’/ ‘Telecom Rules’)

5. In the counter affidavit filed on behalf of respondent no.6, it has been stated as under:

5.1. Prior to taking any steps towards installation of the tower in question, a Compensation Agreement dated 21st June, 2025 was executed between respondent no.5 and respondent no.6, wherein respondent no.5, in his capacity as the owner of the subject property, granted permission to respondent no. 6 to install and operate a telecommunication tower on the terrace of the Property for a period of 10 years, on payment of a monthly/ annual license fee of INR 22,000/-.

5.2. In terms of Rule 15 of RoW Rules, a survey of the site property was conducted on 24th June, 2025 and on the basis of the survey, a Structural Stability Report dated 25th June, 2025 was issued by a Structural Engineer



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registered with MCD. The said report recorded that the building was found to be safe for the proposed installation.

5.3. Accordingly, on 11th July, 2025, an intimation letter was sent by respondent no.6 to MCD in terms of Rule 15(4) of the RoW Rules. Along with the intimation letter, the respondent no.6 also sent the Compensation Agreement dated 21st June 2025 and a copy of the Structural Stability Certificate dated 25th June, 2025.

6. Mr. Chander M. Lall, senior counsel appearing on behalf of respondent no.6 submits that in terms of the Rule 15 of RoW Rules, for the purposes of installation of a mobile tower, no permission is required from MCD and the respondent no.6 was only required to send an intimation along with a Structural Stability Certificate. He submits that this has duly been complied by the respondents. Additionally, the respondent no.6 has also obtained a Structural Stability Certificate from IIT, Bhubaneswar.

7. The counsel for petitioner submits that the Structural Stability Certificate obtained by respondent no.6 for installation of the mobile tower records that the surveyor has not checked the structure against earthquake load and has failed to ascertain the details of the building's foundation. He also submits that the mobile tower will cause fire hazard as it will impede the movement of fire trucks, ambulances, and other emergency services in the said locality.

8. The writ petition came up for hearing before this Court on 31st October, 2025. While issuing notice, MCD was directed to get the property inspected by an independent Structural Engineer and place the report before this Court. In the meanwhile, status quo with regard to installation of the mobile tower was ordered.



9. In the subsequent order passed by this Court on 12th March, 2026, it was noted that a fresh inspection could not be conducted by a Structural Engineer as the petitioner failed to pay the requisite charges. Respondent no.1/ MCD was directed to examine the Structural Stability Certificate issued by IIT, Bhubaneswar.

10. Pursuant to the aforesaid order, a fresh status report has been filed on behalf of the respondent no.1/ MCD, wherein it is stated that the said Structural Stability Certificate issued by IIT, Bhubaneswar has been found to be satisfactory.

11. I have heard the counsel for the parties and examined the record.

12. At the outset, a reference may be made to Rule 15 of the RoW Rules, which reads as under:

“15. Establishment of telecommunication network in property other than public property. – (1) Any facility provider desiring to enter any immovable property, for the purposes specified under sub-section (2) of section 12 of the Act, shall do so with the prior consent and enter into an agreement with the person who has ownership, control, or management over such property:

Provided that such person and the facility provider may mutually decide whether to get the agreement registered under the provisions of the Registration Act, 1908 (16 of 1908), pursuant to sub-section (3) of section 14 of the Act.

(2) An agreement under sub-rule (1) shall provide for matters relating to-

(a) the time and manner of entry of the facility provider into the property, and advance notice, if any, to be provided for such entry;

(b) the consideration to be payable by the facility provider;

(c) the steps to be taken in the event of any damage to the property, including restoration of the property to its state as it existed prior to the undertaking of such activities, failing which, the facility provider shall pay compensation for such damage as may be mutually agreed; and

(d) specify other conditions including measures to mitigate any inconvenience and enhance safety, including structural safety, as well as measures relating to maintenance of the telecommunication



network so established.

(3) A public entity shall not levy any fees, charges, rent, annuity, compensation or require any bank guarantee or any other financial contribution, for the establishment, operation and maintenance of telecommunication network in property other than public property.

(4) In the case of establishment, operation and maintenance of mobile tower or pole over such property, the facility provider shall, prior to commencement of such establishment, submit information in writing, the form provided for this purpose on the portal, to the concerned public entity along with details of the building or structure where the establishment of the mobile tower or pole is proposed, and a copy of certification by a structural engineer authorised by a public entity, attesting to the structural safety of the building or structure where the mobile tower or pole is proposed to be established.”

[emphasis supplied]

13. A plain reading of Rule 15 demonstrates that the following requirements are prescribed for installation of a mobile tower on a private property:

- (i) Obtaining prior consent and entering into written agreement with the owner.
- (ii) Procuring a Structural Stability Certificate from a Structural Engineer authorized by a public entity.
- (iii) Submitting information/ documents to the concerned public entity on the portal which would include the Structural Stability Certificate, prior to commencement of installation.

14. It is clear from a reading of the aforesaid rules that that for the purposes of installation of a mobile tower in a private property, no permission is required from the statutory authorities. The only requirement is to send an intimation to the statutory authorities.

15. A similar issue with regard to regulatory approvals for setting up a mobile tower came up before this Bench in W.P.(C) 13577/2025 titled as ***Harjit Singh v. Municipal Corporation of Delhi through its Commissioner***



& Ors. In the said case, Court noted that the telecom provider therein had obtained the consent and entered into an agreement with the owner of terrace of the subject property, where the mobile tower was sought to be installed. Further, a Structural Safety Certificate was duly obtained. The writ petition was dismissed by this Court *vide* judgment dated 19th February, 2026, while observing that requirements laid down under Rule 15 of RoW Rules have been duly complied with.

16. The aforesaid judgment was taken up in appeal by the petitioners therein being LPA 117/2026. The Division Bench, *vide* judgment dated 12th March, 2026, dismissed the said appeal making the following observations:

“8. The submissions made by the learned Counsel for the Appellant, however, do not persuade us to interfere with the Impugned Order in the present Appeal for the reasons which are as follows:

- a) The Parliament, for the purpose of providing a comprehensive legislation for the Telecom sector has enacted the Telecommunications Act, 2023 (“Act”). For the purposes of permitting right of way and other ancillary requirements of the service providers in the Telecommunication sector, the Central Government has framed the Telecom Rules being the Telecommunications (Right of Way) Rules, 2024. The Telecom Rules inter alia govern the establishment, operation and maintenance of underground Telecommunication Network in public properties; establishment, operation and maintenance of overground Telecommunication Network in public properties; and establishment, operation and maintenance of Telecommunication Network in properties other than the public properties.*
- b) Admittedly, the Subject Premises in the instant case is not a public property rather a private property and, therefore, establishment, operation and maintenance of Telecommunication Network in such a property will be governed by Chapter V of the Telecom Rules. Sub-rule 4 of Rule 15 of the Telecom Rules requires that in case any service provider intends to establish, operate and maintain a mobile tower or a pole over a private property, prior to commencement of such establishment, it shall submit information in writing to the concerned public entity along with the details of the building or structure where the*



establishment of the mobile tower or pole is proposed. The said Rule further requires that along with information to be submitted to the public entity, a copy of certification by a Structural Engineer authorized by a public entity attesting to the structural safety of the building or structure, where the mobile tower or pole is proposed to be established, is also required to be furnished.

There is no dispute that the ‘public entity’ where the information is to be submitted in terms of the requirement of Rule 15(4) of the Telecom Rules in the instant case is the MCD. As a matter of fact, the phrase ‘public entity’ occurs at two places in Rule 15(4) of the Telecom Rules. As per the requirement of Rule 15(4) of the Telecom Rules, the service provider intending to establish and operate a mobile tower has to furnish certain information including the certification by a Structural Engineer authorized by ‘a public entity’ attesting to the structural safety of the building or the structure concerned. The phrase ‘public entity’ occurring at the latter part of Rule 15(4) of the Telecom Rules is preceded by the letter ‘a’. Accordingly, we are of the considered opinion that the phrase ‘a public entity’ occurring in Rule 15(4) of the Telecom Rules would include a public entity other than the MCD as well, insofar as the instant case is concerned.

- c) **Public entity has though not been defined in the Telecom Rules, however, in terms of Section 10(1)(b) of the Act, public entity would mean:** (i) the Central Government; (ii) the State Government; (iii) local authority; (iv) any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or (v) any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central Government. Section 10(1)(b) of the Act is extracted hereinbelow:

“10. Definition of terms used in this Chapter.—For the purpose of this Chapter,—

(b) “public entity” means,— (i) the Central Government; (ii) the State Government; (iii) local authority; (iv) any authority, body, company or institution incorporated or established by the Central Government or the State Government, or under any statute; or (v) any non-government entity vested with the ownership, control or management of any public facility or class of public facilities, as may be notified by the Central



Government;”

A perusal of the definition of ‘public entity’ occurring in Section 10(1)(b) of the Act reveals that other than the Central Government, State Government or a local authority, public entity would also mean an authority established by the Central Government under any statute. Accordingly, in furtherance of the requirement of Rule 15(4) of the Telecom Rules, if a certification by a Structural Engineer authorized by a public entity created or incorporated under a statute is given attesting the structural safety of the building or structure concerned, in our opinion, the same would fulfil the requirement of Rule 15(4) of the Telecom Rules read with Section 10(1)(b) of the Act. Insofar as the instant case is concerned, the certification as enclosed by Respondent No. 5 along with its Application submitted to the MCD, in fulfilment of requirement of Rule 15(4) of the Telecom Rules, was issued by the IIT-Roorkee, which has been incorporated under a Parliamentary enactment known as Institutes of Technology Act, 1961 and the Institutes of Technology (Amendment) Act, 2002. Since, IIT-Roorkee has been incorporated under the aforesaid enactments, it will be ‘a public’ entity within the meaning of said term occurring in Section 10(1)(b) of the Act.

- d) The certification issued by IIT-Roorkee attesting to the structural safety of the Subject Premises is on record, which is dated 24.05.2025. The said certification clearly states that the Subject Premises had been surveyed, and feasibility was checked for installation of a 9 meter-high rooftop Delta with outdoor unit. The certificate also clearly states that the Subject Premises was found suitable in all respects as per the guidelines of the Bureau of Indian Standard (BIS) Codes.*
- e) From the discussion made above, it is apparent that IIT-Roorkee is a public entity and, therefore, any certification issued by an authority of IIT-Roorkee will fall within the requirement of Rule 15(4) of the Telecom Rules.*
- f) So far as the submission of the learned Counsel for the Appellant that in the survey conducted before issuance of such certificate relating to the structural safety of the Subject Premises, the Appellant was not associated is concerned, we are of the opinion that the certificate issued by IIT-Roorkee cannot be doubted for the reason that IIT-Roorkee is a premier technological institution of the country especially in the field of civil engineering.*
- Furthermore, the certificate itself clearly mentions that the Subject*



Premises was surveyed, and we have no reason to doubt the authenticity of such a survey. Moreover, so far as the Appellant is concerned, he cannot plead any right in respect of the rooftop of the third floor of the Subject Premises for the reason that he is the owner only of the ground floor. The rooftop of the third floor of the Subject Premises falls well within the right of the owner of the third floor, which, admittedly, is Respondent No. 6 and the agreement to install the tower has been entered into between Respondent No. 5 and Respondent No. 6. Thus, any such submission made by the learned Counsel for the Appellant is not acceptable.”

[emphasis supplied]

17. From a reading of the aforesaid extracts, it emerges that the Division bench has held that IIT is a public entity in terms of Section 10(1)(b) of the Telecommunications Act, 2023 ('Act'). Hence, any certification issued by an authority of IIT will fall within the requirement of Rule 15(4) of the RoW Rules.

18. In the present case, it is clearly established that respondent no.6 had obtained the consent of the respondent no.5/ owner of the subject property. The respondent no.6 also obtained the Structural Stability Report from a MCD authorised Structural Engineer. All the aforesaid documents along with the Intimation Letter were furnished to the respondent no.1/ MCD prior to the commencement of installation of the said mobile tower.

19. After obtaining the Structural Stability Report from the MCD authorised Structural Engineer, a Structural Stability Certificate has also been obtained from IIT, Bhubaneswar, wherein IIT, Bhubaneswar has certified that the building structure is stable and safe to take the additional load of the tower and equipment. Further, MCD in its status report stated that it had examined the said Structural Stability Certificate issued by IIT, Bhubaneswar and found it to be satisfactory.



20. Accordingly, the respondents no.6 have duly complied with the requirements laid down under Rule 15 of the RoW Rules for installation and erection of a mobile tower in a private property.

21. The contention of the petitioners regarding alleged health hazards posed by the mobile tower are in the nature of bald allegations and are not backed by any material. In *Kapil Choudhary v. Union of India*, 2016 SCC OnLine Del 2558, this Court, after due consideration of the issue, held as follows:

"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.

14. The writ petition being without merit is dismissed. "

[emphasis supplied]

22. This Court is also cognizant of the fact that the 'mobile towers' have been given the status of an 'infrastructure project' in terms of the Schedule appended to the Specific Relief Act, 1963. Sections 20A and 41(ha) of the Specific Relief Act, 1963, as amended by the Specific Relief (Amendment) Act, 2018, place a statutory bar on the grant of injunctions in respect of an infrastructure project specified in the Schedule, where such injunction would cause impediment or delay in progress or completion of such project.

23. In view of the discussion above, in my considered view, there is no impediment with the respondent no.6 in installing the mobile tower at the terrace of the subject property.

24. Accordingly, I do not find any merit in the present writ petition and



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the same is dismissed.

25. All interim orders stand vacated.

26. The pending applications stand disposed of.

AMIT BANSAL, J

APRIL 29, 2026

Vivek/-