



CWP No. 3123 of 2021

28.06.2021 Present:

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Ms. Vandan Misra, Petitioner-in-person.

Mr. Ashok Sharma, A.G. with Mr. Vinod Thakur, Mr. Shiv Pal Manhans, Mr. Vikas Rathore, Addl. A.Gs. and Mr. Bhupinder Thakur, Dy. A.G., for the respondents-State.

Mr. Balram Sharma, ASGI, for respondent No.-4 Union of India.

Mr. Chander Mohan, General Manager (Mobile), BSNL, Shimla with Mr. Rajiv Jiwan, Sr. Advocate with Mr. Vijay Kumar Arora, Advocate, for respondent No.-6-BSNL.

Mr. Ashuhotsh Kalia, Legal Head, Airtel and Mr. Birender Mahendroo, Sr. Legal Head, Airtel with Mr. Abhishek Banta Sood, Advocate.

Mr. B. C. Negi, Sr. Advocate, with Mr. Suneet Goel, Advocate, for respondent No.-8, Reliance, Jio Infocomm Ltd.

Mr. Sanjeev Maria, Chief Engineer (Op. South) and Mr. Sant Ram Sharma, Dy. Secretary (Law), HPSEBL with Mr. Tara Singh Chauhan, Advocate, for HPSEBL.

Heard further. It appears that one of the major issues of inadequate bandwidth and/or broadband signal is erratic supply of electricity in backward and far flung areas of the State, more particularly, the tribal areas.

2. We are informed by the official of the BSNL that even though they have solar back up but the same is based on outdated and obsolete technology using Lead Acid Battery (Vral Battery). Therefore, in the given circumstances, we are of the considered view that old and outdated technology needs to be phased out gradually and the batteries need to be replaced by Lithium-Nickle-Cobalt-Aluminium (NCA) Lithium-Nickle-Magnese-Cobalt

(NMC), Lithium-Iron-Phosphate batteries or any other batteries with latest technology in a phased manner. ◊

3. We accordingly direct the BSNL to prepare a road map for installing the solar latest panels initially with regard to 191 towers, which are situated in extremely backward areas of Himachal Pradesh and thereafter get the same approved from the concerned quarters within a period of one month from today and report compliance on the next date of hearing.

4. On the previous date(s) of hearing, we had asked the learned Standing Counsel for the HPSEBL to obtain instructions, as to why, there are frequent shut downs of the main transmission line for carrying out even minor repairs in one of the distribution lines.

5. Today, Mr. Sanjeev Maria (Op. South), has apprised this Court that HPSEBL is already seized of the matter and would be resolving this issue shortly by constructing sub-stations. He further informs that much progress could not be achieved for want of adequate work force, which now has been made available to the Board with appointments of 1800 Assistant Linemen and appointment letters having been issued to 250 newly appointed Junior Engineers. The progress report in this regard be submitted to the Court on the next date of hearing.

6. During the course of hearing, it is pointed out that some of the service providers TOCO/IPs, i.e. Indus

Tower Ltd., BBT 1st Floor, Tower-A, Industrial Plot No. 1, Phase-9, Sector-66, Mohali, Punjab, American Tower Company, Sebiz Square, Plot No. IT-C-6, IT Park, Sector-67, Mohali-160062, Punjab and Tower Vision India, E-178, Phase-7, Industrial Area, Sector - 73, SAS Nagar, Mohali-160062, Punjab, have constructed/erected the towers and are maintaining the same. Since, the aforesaid service providers are necessary parties, they are ordered to be arrayed as party respondents and shall now figure as respondents No. 10, 11 and 12.

7. Issue notice to the newly added respondents, returnable for 26.07.2021, on taking steps within two days.

8. We also find that rates for laying cables in this State are probably the highest in the Country at Rs.1600/- per metre. Learned Advocate General, prays for and is granted four weeks' time, to apprise this Court regarding this aspect of the matter.

9. It appears that the State has formulated Right to Way Policy, 2021, which envisages the establishment of online portal. The State shall ensure that such portal is to be set up at the earliest and in no event later than on or before next date of hearing.

10. We are further informed that despite the judgment rendered by this Court in **CWP No. 8283 of 2012, titled as Vijay Verma vs. State of H.P. and other connected matters, decided on 30.11.2015,**

wherein it was clearly held that the telecom towers do not emit radiation which can be termed to be 'harmful' yet. many of the Courts are still passing restraint orders only because the plaintiffs therein have alleged that the setting up of towers emit harmful radiations.

11. Once this issue has already been covered under the judgment passed by this Court in **Vijay Verma's case (supra)**, we really wonder how such suits are being entertained. Therefore, let the records of the following cases be requisitioned to this Court.

Sl. No.	Case tile	Case number	Name of Court where the cases are pending
1.	Munish & others Vs. Reliance JIO & others	Civil Suit No. 450 of 2020	Civil Court, Theog, Shimla
2.	Dev Raj & others Vs. Ajay Kumar & others	Civil Misc. Application No. 323 of 2020	Civil Court Badsar, Hamirpur, H.P.
3.	Suresh Thakur & another Vs. Ms. Jio Pvt. Ltd. & others	4 of 2019	SDM Court Theog, District Shimla, H.P.
4.	Lalit Thakur etc Vs. Sarban Kumar	Civil Suit No. 103 of 2019	Civil Court, Kullu, H.P.
5.	General Public Vs. Subhash Sood & Others		Court of SDM, Kullu, H.P.

List on 26.07.2021.

**(Tarlok Singh Chauhan),
Judge**

**(Chander Bhusan Barowalia)
Judge**

June 28, 2021 (Sanjeev)