

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Panchayat Raj & Rural Development Department – Rules relating to Andhra Pradesh Gram Panchayat (Erection of Telecommunication Towers) Rules – Orders – Issued

PANCHAYAT RAJ AND RURAL DEVELOPMENT (Pts.IV) DEPARTMENT

G.O.Ms.No. 334

Dated:-09.10.2012
Read the following:-

1. From the Commissioner, PR&RE, Hyderabad, Lr.No.9444/ CPR&RE/ D2/2007, dt.14.12.2010.
2. From the Commissioner, PR&RE, Hyderabad, Lr.No.9953/ CPR&RE/ D2/2007, dt.08.07.2011.
3. From the Hon'ble High Court of AP., Hyd., Order dt.17.12.2009 in W.P.M.P.No.15912/2009 in 12314/2009.
4. From the Director of Town and Country Planning, Hyderabad, Lr.Roc.No.7818/2011/P, dt.05.12.2011.

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ORDER:

Government have accorded permissions to the BSNL, M/s Reliance and M/s Telecom and Tower Infrastructure Pvt. Ltd., telecommunication Companies / Operators exempting from building permissions and land use conversions for installation of Ground based Towers / Roof top Towers/ Poles and other infrastructure like Diesel Generations, Containers etc., under the administrative control of Gram Panchayats / Mandal Praja Parishad / Zilla Praja Parishad after entering into an agreement with District Collectors concerned / owners of the building and land lords concerned subject to following certain conditions referred to therein. As a result, the Gram Panchayats are not being involved in the process of scrutinizing the proposals in terms of the Andhra Pradesh Panchayat Raj Act 1994 provisions contained in the chapters “ public safety, convenience and public Health” and the Gram Panchayats also incurred revenue loss for levying and collecting the installation charges and annual license fee on the telecommunication structure erected in the Gram Panchayats.

2. Series of Court cases have been filed by some of the building owners / land lords and the service providers on various issues including the installation and license fee charges etc. before the Hon'ble High Court of Andhra Pradesh, Hyderabad and the Hon'ble High Court in its Order dt.17.12.2009 in W.P.M.P.No.15912/ 2009 in W.P.No.12314/2009 has observed on the jurisdiction of the Government in exempting the Companies from obtaining permission, in the context of Municipalities which has relevance to the Gram Panchayat as well.

3. Government have examined the above issue keeping in view of the observations / directions of the Hon'ble High Court of A.P., and the discussions held in the Hon'ble Andhra Pradesh Legislative Council with the provisions contained under Section 119 of the Andhra Pradesh Panchayat Raj Act'1994 and also the rules followed by the neighboring States like Tamilnadu, Karnataka and Kerala and adoptability of such rules in the Andhra Pradesh context. Government after careful examination have decided and hereby issue the following rules.

4. The following Notification will be published in an Extraordinary Issue of the Andhra Pradesh Gazette dated: 11th October 2012.

NOTIFICATION

In exercise of the powers conferred under sub-section (1) of section 268 read with Section 119 of the Andhra Pradesh Panchayat Raj Act'1994 (Andhra Pradesh Act No.13 of 1994), the Government of the Andhra Pradesh hereby makes the following rules.

RULES

1. Short title:

1. These rules may be called the Andhra Pradesh Gram Panchayat (Erection of Telecommunication Towers) Rules' 2012.
2. These rules shall come into force with immediate effect. However, the Ground based telecom structure already erected in the Gram Panchayats which are not covered under these rules are leviable for payment of Rs.10,000/- as one time fee to regularize them as per these rules.

2. Mandatory to obtain preliminary approval / permission etc.:

The applicants (service providers) shall obtain necessary preliminary approval from the Executive Authority of Gram Panchayat concerned before erecting telecommunication towers and related structures and the structural stability certificate from the respective technical authority before granting final permission and license for usage who intent to erect the telecommunication towers in the respective Gram Panchayats subject to fulfilling the other conditions on the following;

- (i) The applicant shall obtain approval of Air Traffic Controller, Airport Authority of India for exempting of roof top antenna from height restriction, in case such exemption is required.
- (ii) The Applicant shall take special precaution for fire safety and lightening etc.,
- (iii) The Applicant shall furnish a legally valid undertaking that they are solely responsible for any damage to the building and for public safety.
- (iv) The Applicant shall furnish NOC from the surrounding building owners, and from the concerned building owners in case rooftop installations.

3. Norms for issuing license:

(a) The Inter- Ministerial Committee on EMF radiation in its report has recommended that mobile towers should not be installed near high density residential areas, schools, play grounds and hospitals. Accordingly, the Executive Authority of Gram Panchayat shall impose restrictions on installation of mobile towers near high density residential areas, schools, playgrounds and hospitals as far as possible.

(b) Every application filed by any Telecom company shall be scrutinized by the Executive Authority of Gram Panchayat in two (2) stages. In the first stage the Executive Authority of Gram Panchayat shall issue a preliminary license called "Temporary permit" to those telecom companies whose applications fulfilled the locational (site) norms. No public road shall be used for erection of telecom structures. However, other public sites (other than public roads) including the Gram Panchayat properties shall not be used for erection of Telecom structures without taking the site by the company on lease. The terms and conditions of lease shall be as per G.O.Ms.No.215 PR&RD(Pts-III)Dept., dt.25.06.2001.

(c) In every case, where the locational norms as prescribed in these rules and the Act are met by the Telecom Company, the Executive Authority shall issue a temporary permit to erect the towers and related structures.

(d) The Gram Panchayat may collect a fee of Rs.1000/- along with the application and grant a temporary permit to erect the towers and related structures to all eligible applicants who fulfilled the site norms prescribed above.

(e) In the second stage, on completion of the erection/installation work, the applicant should obtain and furnish a structural stability certificate to the Gram Panchayat, issued by a qualified Structural Engineer having license with the sanctioning authority of the respective Gram Panchayat and obtain a license to operationalize the structures. Gram Panchayat may levy installation and license renewal fee as per the following;-

Sl.No	Category	Fee to be levied by Gram Panchayats
1	Cell tower installation fee (One time) a) Ground based towers b) Roof top towers	Rs.15,000/- Rs.12,000/-
2	License renewal fee (Annual) for Land based / Roof top towers	Rs.1,000/-

(f) Apart from the installation and license fee levied by the Gram Panchayat the applicant will pay lease rent to the owner of land/building on which the structure will be put at a negotiated rate.

(g) Every application for renewal of license must be supported by an updated structural stability certificate issued by a qualified Structural Engineer having license with the sanctioning authority of the respective Gram Panchayat.

(h) In case the Executive Authority of Gram Panchayat fails to convey its decision within 30 days or rejected the application on certain grounds, the aggrieved party (Telecom Company) may prefer the first appeal before Gram Panchayat Committee, who decide the appeal based on the locational norms prescribed in these rules within 30 days of filing appeal. Further appeal on the decision of Gram Panchayat Committee shall lie to the Commissioner or his/her nominee within 30 days on which the authority shall pass orders within 30 days of receipt of such appeal. Final appeal on the orders of Commissioner or his/her nominee shall lie before the Government in the form of a Revision Petition under Section 264 of the Andhra Pradesh Panchayat Raj Act'1994.

4. Insurance / Compensation:

The applicant company should submit an undertaking to the Gram Panchayat to Provide safety and security nets by paying either Insurance premium or compensation at the rates prescribed by Government from time to time to deal with the damages caused to human and animal life [cases of causalities, injuries, etc.,) and damages to properties etc.,

5. Regulation of any matter:

The Government shall be the final authority in regard to regulation of any matter arising out of these rules.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**C.R. BISWAL
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The Commissioner, Printing, Stationery and Stores Purchase,
Chanchalguda, Hyderabad (With a request to publish the
Gazette Notification and furnish 1200 copies to Government immediately)

Copy to:

The Commissioner, Panchayat Raj & Rural Employment, Hyderabad
All the District Collectors in the State
All the Chief Executive Officers, Zilla Parishads in the State
All the District Panchayat officers in the State
P.S to Special Secretary to CM
P.S to Minister (PR&RWS)
P.S to Principal Secretary (PR)
Law (A) Department.

// FORWARDED BY ORDER//

SECTION OFFICER