

Bihar Communication Towers and Related Structures Rule, 2012

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Rule

BIHAR-COMMUNICATION-TOWERS-AND-RELATED-STRUCTURES-RULE, 2012

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Bihar Communication Towers and Related Structures Rule, 2012Published vide Notification No. 3692-UD & HD, dated 08.10.2012Last Updated 4th February, 2020No. 3692-UD & HD. - In exercise of powers vested under section 127 (1)(l) and section 419 of the Bihar Municipal Act, 2007, (as amended from time to time) the Governor of Bihar is pleased to make the following Rules, 2012 in respect of Tax on Communication Towers and Related Structure, the draft of which is previously published and objections disposed off as required by sub-section (1) of section 419 of the said Act namely :-

1. Short title, extent and commencement.

(1)These Rules may be called the Bihar communication Towers and Related Structures Rules, 2012.(2)It shall extend to the whole of the State of Bihar excluding cantonment areas therein.(3)It shall come into force at once.

2. Definition.

- In these Rules, unless otherwise required in the contest :-(a)"Act" means the Bihar Municipal Act, 2007;(b)"Section" means a section of the Act;(c)All words and expression used in these rules and not defined shall have the same meaning as assigned to them in the Act;(d)"Chief Municipal Officer" (CMO): means-(i)In relation to a Municipal Corporation, the Municipal Commissioner, and(ii)In relation to the Municipal Council or Nagar Panchayat, the Municipal Executive officer.(e)"Communication Tower" will include antenna fixtures, fabricated antenna, tower to install telephone lines and mobile transmission towers. This will not include the antennas installed for domestic purpose, namely television antennas or dish antennas.(f)"Municipality" means an

institution of Local Self-Government constituted under section 12 of the Act read with Article 243Q of the Constitution of India, and includes a Municipal corporation, a Municipal Council and a Nagar Panchayat, referred to in section 13 of Bihar Municipal Act, 2007.(g)"Operator" means and includes a person, firm, association of persons or company which installs communication tower for the purpose of its use either for itself or for other person, firm and associations of persons or company as mobile phone service provider, internet and data transfer services.

3.

Communication towers shall be permitted to be erected or installed only on a commercial building or a vacant land.

4.

No communication tower shall be installed within a radius of hundred meters from a school, college or a hospital.

5. Application for Registration with Municipality.

- Any operator, who has already erected in the past or intends to erect any communication tower shall make an application to the Municipality along with the following documents and requisite fee as prescribed:(i)Revenue documents in original.(ii)Site plan in the scale of 1: 200 and location plan in 1: 1000.(iii)Affidavit from the owner of the land containing his consent along with proof of ownership.(iv)Affidavit from the owner or the association of owners of the commercial building as the case may be, giving the consent.(v)Drawing of tower with complete details including the specifications of foundations and design parameters.(vi)Height of the tower along with its elevation.(vii)In case the tower is in the vicinity or adjoining to high or low tension electric line, then its distance from the same shall be clearly indicated in the drawings.(viii)Structural safety certificate of tower from a graduate structural engineer who is a member of institute of Engineers (India).(ix)Indemnity Bond to take care of any loss or injury due to accident caused by the tower (including a declaration to the effect that the applicant shall take special precaution for fire safety and lighting and he shall be solely responsible for paying all kinds of compensation and damages and would be responsible for any civil or criminal case arising therefrom).(x)Mobile companies shall indicate the capacity of towers or antenna in megawatt.(xi)The company shall produce certificate from concerned authority that the noise generated from the electrical equipment is within the limits fixed from time to time by Environment and Forest Ministry, Government of India, and Bihar State Pollution Control Board.(xii)In case the Mobile tower is proposed to be installed near any airport and is affected by the latest circular of AAI, permission of the Airport Authority shall have to be taken and submitted.(xiii)The Municipality shall prescribe the form of application for registration in which the above mentioned details will be incorporated.

6. Fee.

(1)Registration and renewal fee shall be deposited at the following rates after the application for registration is approved:-(i)Municipal Corporation- Registration Fee @ Rs. 50,000/- per tower and annual renewal fee @ Rs. 15,000/- per annum per tower.(ii)Municipal Council- Registration Fee @ Rs. 40,000/- per tower and annual renewal fee @ Rs. 10,000/- per annum per tower.(iii)Nagar Panchayat- Registration Fee @ Rs. 30,000/- per tower and annual renewal fee @ Rs. 8,000/- per annum per tower.(2)The registration fee for the towers installed before the coming into effect of these Rules shall be the above indicated registration fees and renewal fees multiplied by the number of completed years the tower has been installed.Whereas "Complete" year means the installation period covering the entire fiscal year from April, 1 or March, 31st of the following year(s).(3)There shall be an option for lump sum payment of renewal fee given in block of 5 years (with 20% discount for upfront payment of the entire amount including renewal fees for 5 years). The renewal fee will increased by 25% after every 5 years.(4)An additional amount of registration and renewal fees @ 60% shall be levied for every additional antenna which shares the same tower.(5)The registration fees shall be a onetime payment.(6)The registration fees are payable immediately upon acceptance of the application for registration. If payment is not received by end of 30 days of the registration, the interest at the rate of one and half percent per month shall accrue and be payable.(7)The annual renewal fees are payable in advance for the full year of on pro-rata basis if the registration is approved during the course of the fiscal year. Annual Renewal fees are due on 1st April of each fiscal year. If payment of annual renewal fees is not received by April 30th of the fiscal year, the interest at the rate of one and half percent per month shall accrue and be payable.(8)Without payment of the registration fees, renewal fees and without the permission of the Municipality no communication tower should be installed and, all installation of communication towers without such permission shall be considered illegal.(9)In case of arrear in respect of registration fees and/or renewal fees for any tower, the Municipality reserves the right to seal the tower until the payment is received in full along with accrued interest.

7. Location.

- Location of communication towers is governed by radio frequency system and operators shall avoid residential areas for erection of the same. The location shall be decided on the following grounds :-(a)First preference shall be given to the location of tower in the open areas away from residential locations.(b)Erection of tower shall not be allowed within a radius of 100 meter from school, college and hospitals.(c)The above guidelines shall be applicable for all new installations after these Rules come into effect.

8. Installations.

(1)In order to avoid any eventuality due to thunder storm, lightening conductors have to be installed.(2)Generator set installed at the tower site to cater to the power requirements of the antenna shall conform to the noise and emission norms prescribed by the Bihar State Pollution Control Board.

9. Set Backs of Tower.

(1)The area equivalent to height of tower shall be left as set back around it.(2)The distance of tower from electric line or pole or tower there of shall not be less than height of tower plus requisite distance from respective high tension or low tension line.

10. Sharing of Sites.

- The telecom operators may share the towers for fixing their respective antennas. The same are however, required to adhere to the prescribed technical requirements, so as to curtail multiplicity of towers as well as to optimize the use of the existing ones.

11. Deemed Approval.

- A final decision by CMO of each municipality shall be taken within 30 days from the date of application along with submission of all the documents and certificates for which a receipt shall be given. In case the documents submitted for permission are complete in all respects and then decision is not conveyed within 30 days, deemed permission shall be assumed, provided that the same is in accordance with the prescribed Rules. The Telecom Operator shall then proceed to deposit the Registration Fees and Renewal Fees as mentioned in rule 6 of the Rules.

12. Penalty.

(1)If an operator violates any provision of these Rules it shall be liable to be punished with fine up to Rs. 5,000/- (Five Thousand) and his communication tower shall be sealed, seized and the operator may also be asked to remove the tower/antenna.(2)The CMO before passing such order of fine, sealing, seizure or removal shall give notice to the operator to this intension and provide reasonable opportunity to the operator to be heard.(3)After hearing the operator, the CMO shall pass necessary orders regarding fine, sealing, seizure and removal.(4)In the eventuality of the operator not removing the tower/antenna the municipality will get the tower/antenna removed and the cost of such removal will be realized from the operator.(5)The penalty imposed under these, the arrears of registration fees and renewal fees of the towers shall be treated as arrears "Property Tax" and shall be subject to recovery as such under Regulation made in this regard by Municipality under section 158 of the Bihar Municipal Act, 2007.

13. Appeal.

- An appeal against the order for the Municipality and the CMO/EO will lie before the Principal Secretary, UD & HD within 30 days of the order.