

HIGH COURT OF TRIPURA

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WP(C) No.165 of 2023

For Petitioner(s)	:	Mr. Indraneel Chowdhury, Advocate. Mr. S. Chakraborty, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI. Mr. D. Sarma, Addl. G.A. Mr. N. Majumder, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE ARINDAM LODH

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22/03/2023

Heard Mr. I. Chowdhury, learned counsel assisted by Mr. S. Chakraborty, learned counsel appearing for the petitioner. Also heard Mr. B. Majumder, Deputy SGI, Mr. D. Sarma, learned Addl. G.A. and Mr. N. Majumder, learned counsel appearing for the respondents.

The petitioner has prayed for the following reliefs:

“In the premises aforesaid, it is therefore respectfully prayed that Your Lordships may be pleased to admit this petition, call for the records and issue rule calling upon the respondents show cause as to why a writ in the nature of,

i. Certiorari shall not be issued to set aside/quash the impugned order of debarment issued vide No. NHIDCL/Tripura/Manu-Simlung/DPR/NH-44A/994 dated 16.03.2023 (Annexure-Y) by which the petitioner has been debarred for a period of 3 months from participating in future projects of NHIDCL/MoRTH, and/or

ii. Mandamus shall not be issued directing the respondents authorities to recall/rescind and/or otherwise forbear from giving effect to the impugned order of debarment issued vide No. NHIDCL/Tripura/Manu-Simlung/DPR/NH-44A/994 dated 16.03.2023 (Annexure-Y) by which the petitioner has been debarred for a period of 3 months from participating in future projects of NHIDCL/MoRTH, and/or

upon cause/causes that may be shown, after hearing the parties and upon perusal of the records be pleased to make the rule absolute and/or to pass any other appropriate order or direction as to Your Lordships may deem fit and proper in the facts and circumstances so as to give full and complete relief to the petitioner.

AND

Pending disposal of the rule, Your Lordships may be pleased to stay/suspend the impugned order of debarment issued vide No. NHIDCL/Tripura/Manu-Simlung/DPR/NH-44A/994 dated 16.03.2023 (Annexure-Y) by which the petitioner has been debarred for a period of 3 months from participating in future projects NHIDCL/MoRTH from the

date of its issuance, and to pass such further or other order(s) as Your Lordships may deem fit proper.”

The petitioner in the present writ petition was awarded a work for providing consultancy services for preparation of Feasibility Study and Detailed Project Report for 2 laning with paved shoulder of Manu-Simlung section of NH-44A (86 KM) in the State of Tripura on EPC Mode and an agreement for the same were executed on 10.12.2015. The petitioner prepared the land acquisition plan which was approved by the revenue authorities of the Government of Tripura and thereafter land acquisitions were done. The petitioner also prepared DPRs why back in the year 2017 and thereafter works were awarded to various contractors.

After a lapse of more than three years on 09.06.2021, the respondent authorities issued a show-cause notice to the petitioner alleging therein there were lapses in the land acquisition, incorrect maps were being prepared, there were wrong assessment of trees and structures, the alignment of the proposed right of way was incorrect etc. the petitioner replied to the aforesaid show-cause notice wherein it is stated that the lapses so alleged were not attributable to it.

It further assured that defects, if any, would be rectified by it at its own cost. In spite thereof, the respondent authorities imposed a penalty of Rs.1 lakh upon the petitioner. Subsequent thereto, the respondent authorities issued two other show cause notice on 17.06.2022 on the same set of charges. In the first show-cause notice the penalty proposed was debarment while in the second show cause notice a penalty of 5% of contract price was proposed. The petitioner replied to the aforesaid show-cause notices.

However, the authorities without considering such reply vide letter dated 21.10.2022 imposed the penalty of 5% of contract price. Surprisingly, after imposition of such penalty, the impugned order dated 16.03.2023 was issued by which the penalty of debarment for a period of 3 months was imposed upon the petitioner on the same set of charges. Such, repeated imposition of penalties on the same set of charges is clearly violative

of Article-20(2) of the Constitution of India apart from causing serious prejudice to the petitioner.

Hence, the present petition has been filed by the petitioner before this Court for redress.

Without going into the facts, prima facie, this Court is not convinced with the arguments advanced by the counsel for the respondents. Since both the impugned orders dated 21.10.2022 and 16.03.2023 issued by the respondents are not self explanatory, the same need to be set aside and thus, ordered. The matter is remitted back to the respondent-authorities to pass a reasoned order as expeditiously as possible.

Accordingly, the present writ petition stands disposed of. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

JUDGE

CHIEF JUSTICE (ACTING)

A. Ghash



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