



THE GAUHATI HIGH COURT AT GUWAHATI
(The High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh)

ITANAGAR PERMANENT BENCH

Writ Petition (C) No.198 (AP)/2020

1. SHRI RAJO NATUNG,
S/O LATE TAGAM NATUNG,
R/O VILLAGE SEDE, PO PIJERANG, SEPPA,
EAST KAMENG DISTT, AP.

2. SHRI LAGUNG NATUNG,
S/O LATE BOGA NATUNG
R/O VILLAGE VIO
PO- PIJERANG
SEPPA, EAST KAMENG, AP.

3. SHRI DASAM TAYAM,
S/O LATE KAMU TAYAM
R/O VILLAGE TAROYAR
PO PIJERANG
SEPPA, EAST KAMENG DISTT, AP.

4. SHRI GUNIRAM NATUNG,
S/O LATE BABING NATUNG
R/O VILLAGE POTIWA
PIJERANG
PO PIJERANG
SEPPA, EAST KAMENG DISTT, AP.

..... Petitioners.

-Versus-

1. THE STATE OF AP,

TO BE REPRESENTED BY THE COMMISSIONER AND SECRETARY
TO THE GOVT OF AP, RWD, ITANAGAR, AP.

2. THE COMMISSIONER AND SECRETARY
PWD,
ITANAGAR
AP, PIN-791110.
3. THE CHIEF ENGINEER, PWD, ITANAGAR, ARUNACHAL PRADESH.
4. THE CHIEF ENGINEER, RWD, ITANAGAR, ARUNACHAL PRADESH.
5. THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY(DRDA)
ITANAGAR, AP, PIN-791110.
6. THE EXECUTIVE ENGINEER/PIU RWD,
PAKKE KESANG DISTT
HQ- LEMMI
AP, PIN-790103.
7. THE EXECUTIVE ENGINEER, PWD,
PAKKE KESSANG DISTT
HQ LEMMI
AP, PIN-79010.

..... RESPONDENTS.

Advocates for the petitioners	:	Mr. A. Kashyap, Mr. S.K. Deori and Mr. S. Mow.
Advocate for the respondents	:	Ms. G. Ete and Mr. G. Tarak.

BEFORE

HON'BLE MR. JUSTICE ROBIN PHUKAN

Date of Hearing : 08.06.2023.

Date of Judgment : 11.08.2023.

JUDGEMENT AND ORDER (CAV)

Heard Mr. A. Kashyap, learned counsel for the petitioners. Also heard Ms. G. Ete, learned Addl. Senior Govt. Advocate, for the State respondent Nos.2 & 3 and Mr. G. Tarak, learned standing counsel for the respondent Nos.1, 4, 5 & 6.

2. Four petitioners have approached this Court by filing the present petition, under Article 226 of the Constitution of India, challenging the e-procurement Notice, dated 22.06.2020, issued by the Executive Engineer/PIU, Pakke-Kessang for construction/up-gradation of roads from 27.00 KM of Sede to Pijiriang, under the Pradhan Mantri Gram Sadak Yojana –II (herein after PMGSY-II, Up gradation) and maintenance thereof, for five years, along with BID documents available from 23.06.2020, and to direct the respondent authorities to pay their land compensation as per the provisions of Right to Fair Compensation and Transparency as per the Land Acquisition, Rehabilitation and Resettlement Act, 2013 and to pass appropriate order or directions, as the Court deem fit and proper to grant adequate relief to the petitioners, for the ends of justice.

3. The background facts, leading to filing of the present petition are adumbrated here in below:-

"The Government of Arunachal Pradesh had sent a proposal to the Ministry of Road Transport and Highways (MoRTH) for laying out a highway from Seppa to Itanagar via Sede, Jollang, Nangyo, Chamte, Talin, Dwola-Tallong, Veo, Taroyar, Pijiriang and Pakro Villages. Accordingly, survey was carried out and by a notification, dated 18.12.2011, the land of the petitioners were to be acquired for the construction of the Two Lane National Highway along the old BRO Road, from Sede to Pakro i.e. from point 127 to 158 (point 27 to point 58 as per starting point used in impugned NIT).

The land of the petitioners lie along the BRO Road from Sede to Pakro section point 127 to 158, which was covered by the notification dated 18.12.2011 and accordingly, they have, along with the affected villagers, received compensation. However, finally, an alternative alignment was adapted from Sede to Pakro and the villages of the petitioners, which lie along the old BRO Road, were excluded. Being aggrieved by the said act of the respondents, some affected people approached the High Court by filing the PIL No.101/2013, alleging inter alia that the new shortened alignment of the National Highway from Sede to Pakro, is in violation of the plan, proposed by the Government of Arunachal Pradesh and the petitioners of the PIL sought a direction from the Court to set aside the changed alignment between Sede to Pakro and to construction of the National Highway on Sede-Pakro segment, as per the existing BRO Road alignment.

It is the pleaded case of the petitioners that prior to sending its proposal to the MoRTH, steps were taken by the State Government to acquire the land needed for upgrading the existing BRO Road on Sede-Pakro segment and the compensation amount was assessed and deposited with the authorities for disbursement to the land owners.

In the PIL, the respondent authorities filed an affidavit admitting that survey was conducted by the Government to upgrade the BRO Road on Sede-Pakro segment to make it a two-lane road and also to pass through the villages as stated by the petitioners and in pursuant to survey, lands have been acquired and compensation has been assessed and deposited with the authorities for disbursement to the land owners. However, it is stated that the MoRTH did not find the proposal of the State Government a feasible one.

It is also the case of the petitioners that by the order dated 18.09.2014, passed in the PIL No.101/2013, this Court casts responsibility on the State Government to upgrade and complete the alignment along BRO Road of 31 KM, in 2 years to National Highway Two Lane specification. However, the State Government had failed to comply with the order dated 18.09.2014, passed in the PIL No.101/2013. Rather, the impugned e-procurement Notice dated 22.06.2020, issued by the Executive Engineer/PIU, Rural Works Division, Seijosa, for up gradation under the PMGSY -II Road of the existing road from Sede to Pijiriang, which is a segment of BRO Road from Sede to Pakro.

According to the petitioners, the NIT and PMGSY website reporting on the project have wide discrepancies, which indicates either a careless attitude or an ulterior motive, in preparation of the NIT and the project proposal, and this is in direct contravention of the authority's own stand, in view of order dated 27.12.2017, and also the order of Division bench of this Court in the PIL No. 101 of 2013."

4. Being aggrieved, the petitioners have instituted the present petition seeking the relief(s) as aforesaid.

5. The respondent Nos.1, 4, 5 & 6, have submitted an affidavit-in-opposition denying the assertions, so made in the writ petition and contended that the allegations to be false. It is stated that the e-procurement Notice dated 22.06.2020, issued by the respondent No.6, was duly approved by the competent authority. It is stated by the respondents that the petitioners cannot challenge the action of the respondent No.6 on the garb of judicial order dated 18.09.2014, passed in the PIL No.101/2013, as the deponents have not been made a party to the said case. Moreover, there is always a difference in the width of the PMGSY Road and other projects. It is to be noted here that no affidavit-in-opposition has been filed on behalf of the respondent Nos.2 & 3.

6. In reply to the affidavit-in-opposition, filed by the respondent Nos.1, 4, 5 & 6, the petitioners have filed their rejoinder, wherein the petitioners have reiterated that the respondent No.1 represents the

State Government and the respondent Nos.4, 5 & 6 are instrumental agencies and officials under the respondent No.1 and cannot deny their responsibility, being the instrumental agencies, under the respondent No.1, who had sent a proposal to the MoRTH, for laying out highway from Seppa to Itanagar, via Sede, Jollang, Nangyo, Chamte, Talin, Dwola-Tallong, Veo, Taroyar, Pijiriang and Pakro Villages. Accordingly, survey was carried out and as per the notification dated 18.12.2011, the land of the petitioners were to be acquired for construction of a Two Lane National Highway along the BRO Road from Sedde to Pakro. However, the final alignment was adopted, excluding the villages of the petitioners on old BRO road. Being aggrieved by the said act of the respondent authorities, the petitioners filed the PIL No.101/2013, praying for setting aside the changed alignment between Sedde to Pakro and to direct the respondent authorities to construct the Two Lane National Highway on Sedde-Pakro segment, as per the existing BRO Road alignment.

7. It is further contended by the petitioners in their reply to the affidavit-in-opposition, filed by the respondent Nos.1, 4, 5 & 6, that the respondent authorities have admitted by filing affidavit in the PIL No.101/2013, that the survey was conducted by the Government to upgrade the BRO Road from Sedde - Pakro segment to make it two lane road and also pass through the villages, as stated by the petitioners and this Court, vide order dated 18.09.2014, in the PIL No.101/2013, directed the Government of Arunachal Pradesh to take up the project and construct the road as per its proposal sent to the MoRTH, within a period of two years and also directed to complete

the said road project, simultaneously with the Sedde-Pakro approved road.

8. Mr. A. Kashyap, the learned counsel for the petitioners, submits that vide Notification No. LM-465/2011, dated 18.12.2011, the Government of Arunachal Pradesh, i.e. the respondent No. 1 had acquired land of East Kameng Seppa for construction of a road from Sepa to Itanagar via Sede, Jollang, Nangyo, Chamte, Talin, Dwola-Tallong, Veo, Taroyar, Pijiriang and Pakro villages and the aforesaid project was undertaken as per direction of this court in PIL No. 101/2013, dated 18.09.2014. But, in contravention of judgment of this court in the aforesaid PIL and also ignoring the guidelines issued in PMGSY-I, the respondent authorities have issued an E-Procurement Notice, dated 22.06.2022, for upgradation of existing segment of road from Sede to Pijiriang, which is a segment of BRO Road from Sede to Pakro and the said E-Procurement Notice suffered from many contradictions in respect of the value of the contract, width of the road and it also contravene the guideline of PMGSY-II 2013 and the e-procurement Notice was issued without preparation of any DPR and therefore, Mr. Kashyap contended to set aside the impugned E-Procurement Notice dated 22.06.2022, and to direct the respondent authorities to construct 2 Lane National Highway as directed in the PIL No. 101/2013. Mr. Kashyap also submits that in connection with the violation of the direction of this court in PIL No. 101/2013, one Contempt petition No. 58/2020, has already been filed and the same is pending before this court. Mr. Kashyap has also referred one case of Hon'ble Supreme Court of India in **Union of India [UoI] and Ors. vs. Ashok Kumar Agarwala** reported in **(2013) 16 SCC 147**

to contend that an order passed by any authority in spite the knowledge of the order of the Court, is of no consequence as it remains in nullity and any subsequent action thereof would also be a nullity and since the order of this Court in PIL No. 101/2013 attained finality, having not been challenged by the respondent the same is binding on them. Mr. Kashyap also referred to another case law of Hon'ble Supreme court in **Lalaram and Ors. vs. Jaipur Development Authority and Ors.** reported in **(2016) SCC 31** to contend that where the Government is bound by the promise and such promise would be enforceable against the Government at the instance of the promisee and the Government cannot claim immunity from the doctrine of promissory estoppels. Mr. Kashyap also referred to a case of Hon'ble Supreme Court in **Babu Verghese and Ors. vs. Bar Council of Kerala and Ors.** reported in **(1999) 3 SCC 422** and submits that if the manner of doing a particular act is prescribed under any statute the act must be done in that manner or not at all.

9. Per-contra, Mr. G. Tarak, learned counsel for the State respondent Nos. 3 -7, submits that the petition become infructuous as the road has already been constructed and though this court has directed vide order dated 18.09.2014, to construct a 2 Lane National Highway, yet, alternative road was constructed in view of the report of the local MLA of RWD department. Mr. Tarak further submits that a sum of Rs. 9 Crore was sanctioned and that the RWD officials were not a party to the PIL and therefore, they were not aware of the order so passed by this court in the said PIL. Mr. Tarak also submits that the petitioners have not challenged the NIT and they have not participated in the said process and that they were not proper

representative of the villagers and there are two departments involved in the aforesaid project and it is not cleared from the petition against which department they have raised their grievance and therefore, it is contended to dismiss the petition.

10. On the other hand, Ms. G. Ete, the learned Additional Senior Government Advocate, had advanced two-fold argument. Firstly, Ms. Ete submits that the road has already been constructed under the PMGSY. Secondly, Ms. Ete submits that the petitioners have not made PWD Highway and the Deputy Commissioner, East Kameng District as party in this petition. Ms. Ete further submits that the Chief Engineer Highway ought to have been made a party. Ms. Ete also submits that on this twin ground, this petition is bound to fail and the petition becomes infructuous and therefore, it is contended to dismiss the petition.

11. In view of the assertions made in the pleadings of the parties and also in view of the submissions of learned Advocates of the concerned parties, the issues, that have arisen for consideration of this court is formulated as under:-

- (i) Whether the final alignment of road between Sedde to Pakro adopted by the respondent authorities, excluding the villages of the petitioners along old BRO road, contravenes the directions of this court in the PIL No.101/2013 ?
- (ii) Whether the E-Procurement Notice, dated 22.06.2022, issued by the respondent authorities for up gradation of

existing segment of Sede to Pijiriang road which is a segment of BRO Road from Sede to Pakro, suffered from self contradictions in respect of the value of the contract, width of the road and it was also issued in contravention of the PMGSY-II 2013 guideline and also prepared without any DPR and on such count the said Notice is liable to be set aside ?

(iii) Whether the road has already been constructed by the respondent authorities and on such count this petition becomes infructuous ?

12. Having heard the submissions of learned counsel for all the parties, I have carefully gone through the petition and the documents placed on the record. Also perused the case laws referred by Mr. Kashyap, the learned counsel for the petitioner.

13. Since Contempt petition No. 58/2020, has already been instituted by the petitioners with regard to the alleged violation of the direction of this court in PIL No. 101/2013, and indisputably, the same is pending for adjudication, the issue No. I, so formulated herein above, to the considered opinion of this court, requires no adjudication, as the relief sought in the said petition will definitely be dealt with by this court.

14. It is the categorical stand of Mr. G. Tarak the learned standing counsel for the respondent Nos.1, 4, 5 & 6 and also of Ms. G. Ete, learned Addl. Senior Govt. Advocate, for the State respondent Nos.2

& 3, that the petition becomes infructuous, as the construction of the road is already completed. The petitioners have not disputed this stand of the respondents. If construction of the road has already been completed, then the question of interfering with the E-procurement Notice, to the considered opinion of this court, at this stage, does not arise. Thus, there is substance in the submission Mr. G. Tarak and Ms. G. Ete, the learned counsel for the state respondents.

15. It is also the categorical stand of the respondents No. 1,4,5 and 6 that the e-procurement Notice dated 22.06.2020, issued by the respondent No.6, was duly approved by the competent authority. Moreover, it appears that the petitioners cannot challenge the action of the respondent No.6 in view of the order of this court, dated 18.09.2014, in the PIL No.101/2013, as they were not party to the said case. Moreover, there is always a difference in the width of the PMGSY Road and other projects. It also appears from the contentions of the respondents that they have not willfully violated any of the judicial order, but, acted as per instruction of Hon'ble MLA vide No. U.O. No. BR/PK-09/2018, dated 05.07.2018 (Annexure - I of the Affidavit in opposition) and the same was duly certified by the Deputy Commissioner on 17.05.2019.

16. It also appears that the E-Procurement Notice, dated 22.06.2020, was issued by the respondent authority in consonance with PMGSY norms, on being requested by the local MLA. It is to be noted here that Annexure-I at page No.6 of the Affidavit in opposition, read as under:-

ARUNACHAL PRADESH

The road from Side to Pijeraing could not be included in the alignment of Trans Arunachal High Way due to obligatory or other reason by NHAI. As such, that portion of road is in deplorable condition and not traffic worthy. The local people are facing a lot of difficulty.

Therefore, this road may be taken up under PMGSY and included in PMGSY-II package for top priority.

*SD/
12th Pakke Kessang (ST), A/C
Arunachal Pradesh*

CE, RWD, PMGSY, Govt. of A.P., Itanagar
U.O. NO.BR/PK-09/2018, Date 05.07.2018

Copy to:

- 1. EE(RWD) Pakke-Kessang Division for information.*

17. A cursory perusal of the note of the local MLA, reveals that he had issued the same in the public interest. While the NHAI could not include the road from Side to Pijeraing, in the alignment of Trans Arunachal High Way, due to obligatory or other reason and that portion of road was in deplorable condition, and not traffic worthy, for which the local people were facing lots of difficulties, he had issued the note asking the Chief Engineer RWD, PMGSY, Govt. of A.P., Itanagar to take up the road under PMGSY and include the same in PMGSY-II package for top priority. Thus, any arbitrariness or

mala-fides seems to be absent in the action of the authority, which is required to be established by the parties so as to invoke the writ jurisdiction, under Article 226 of the Constitution of India, as held by Hon'ble Supreme Court in plethora of cases.

18. While dealing with judicial review of contractual matters in the case of **N.G. Projects Ltd. v. Vinod Kumar Jain**, reported in **(2022) 6 SCC 127**, Hon'ble Supreme Court, endorsing its decision in **Uflex Ltd. vs. State of T.N.** reported in **(2022) 1 SCC 165**, has held as under:-

"21. Since the construction of road is an infrastructure project and keeping in view the intent of the legislature that infrastructure projects should not be stayed, the High Court would have been well advised to hold its hand to stay the construction of the infrastructure project. Such provision should be kept in view even by the writ court while exercising its jurisdiction under Article 226 of the Constitution of India.

22. The satisfaction whether a bidder satisfies the tender condition is primarily upon the authority inviting the bids. Such authority is aware of expectations from the tenderers while evaluating the consequences of non-performance. In the tender in question, there were 15 bidders. Bids of 13 tenderers were found to be unresponsive i.e. not satisfying the tender conditions. The writ petitioner was one of them. It is not the case of the writ petitioner that action of the Technical Evaluation Committee was actuated by extraneous considerations or was mala fide. Therefore, on the same set of facts, different conclusions can be arrived at in a bona fide manner by the Technical Evaluation Committee. Since the view of the Technical Evaluation Committee was not to the liking of the writ petitioner, such decision does not warrant for interference in a grant of contract to a successful bidder.

23. In view of the above judgments of this Court, the writ court should refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court does not have the expertise to examine the terms and conditions of the present day economic activities of the State and this limitation should be kept in view. Courts should be even more reluctant in interfering with contracts involving technical issues as there is a requirement of the necessary expertise to adjudicate upon such issues. The approach of the Court should be not to find fault with magnifying glass in its hands, rather the Court should examine as to whether the decision-making process is after complying with the procedure contemplated by the tender conditions. If the Court finds that there is total arbitrariness or that the tender has been granted in a mala fide manner, still the Court should refrain from interfering in the grant of tender but instead relegate the parties to seek damages for the wrongful exclusion rather than to injunct the execution of the contract. The injunction or interference in the tender leads to additional costs on the State and is also against public interest. Therefore, the State and its citizens suffer twice, firstly by paying escalation costs and secondly, by being deprived of the infrastructure for which the present day Governments are expected to work.

24. The State has paid over a sum of Rs 3,98,52,396 to the appellant till date, though the stand of the appellant is that it had submitted bills of work of Rs 8.5 crores. The termination of contract would cause additional financial burden on the State and also deprive the amenity of road for a longer period. The learned counsel for the appellant has stated that it shall not claim escalation of costs for the period when the writ petition before the High Court was pending and there was a stay granted.

19. It is to be mentioned here that in the case of **Uflex Ltd.** (supra) Hon'ble Supreme Court, in para No. 2,3 and 42, has held as under:-

"2. The judicial review of such contractual matters has its own limitations. It is in this context of judicial review of administrative actions that this Court has opined that it is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. The purpose is to check whether the choice of decision is made lawfully and not to check whether the choice of decision is sound. In evaluating tenders and awarding contracts, the parties are to be governed by principles of commercial prudence. To that extent, principles of equity and natural justice have to stay at a distance. [Jagdish Mandal v. State of Orissa, (2007) 14 SCC 517]

3. We cannot lose sight of the fact that a tenderer or contractor with a grievance can always seek damages in a civil court and thus, 'attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted'. [Jagdish Mandal v. State of Orissa, (2007) 14 SCC 517]

42. We must begin by noticing that we are examining the case, as already stated above, on the parameters discussed at the inception. In commercial tender matters there is obviously an aspect of commercial competitiveness. For every succeeding party who gets a tender there may be a couple or more parties who are not awarded the tender as there can be only one L-1. The question is should the judicial process be resorted to for downplaying the freedom which a tendering party has, merely because it is a State or a public authority, making the said process even more cumbersome. We have already noted that element of transparency is always required in such tenders because of the nature of economic activity carried on by the State, but the contours under which they are to be examined are restricted as set out in Tata Cellular [Tata Cellular v. Union of India, (1994) 6 SCC 651] and other cases. The objective is not to make the Court an appellate authority for scrutinising as to whom the tender should be awarded. Economics must be permitted to play its role

for which the tendering authority knows best as to what is suited in terms of technology and price for them.”

20. In Galaxy Transport Agencies v. New J.K. Roadways (2021) 16 SCC 808, a three-Judge Bench in paras 17-18 & 20 held as under:-

“17. In accordance with these judgments and noting that the interpretation of the tendering authority in this case cannot be said to be a perverse one, the Division Bench [New JK Roadways v. UT of J&K, 2020 SCC OnLine J&K 733] ought not to have interfered with it by giving its own interpretation and not giving proper credence to the word “both” appearing in Condition No. 31 of the NIT. For this reason, the Division Bench's conclusion that JK Roadways was wrongly declared to be ineligible, is set aside.

18. Insofar as Condition No. 27 of the NIT prescribing work experience of at least 5 years of not less than the value of Rs 2 crores is concerned, suffice it to say that the expert body, being the Tender Opening Committee, consisting of four members, clearly found that this eligibility condition had been satisfied by the Appellant before us. Without therefore going into the assessment of the documents that have been supplied to this Court, it is well settled that unless arbitrariness or mala fide on the part of the tendering authority is alleged, the expert evaluation of a particular tender, particularly when it comes to technical evaluation, is not to be second-guessed by a writ court. Thus, in Jagdish Mandal v. State of Orissa, reported in (2007) 14 SCC 517] , this Court noted : (SCC pp. 531-32, para 22).

‘22. Judicial review of administrative action is intended to prevent arbitrariness, irrationality, unreasonableness, bias and mala fides. Its purpose is to check whether choice or decision is made “lawfully” and not to check whether choice or decision is “sound”. When the power of judicial review is invoked in matters relating to tenders or award

of contracts, certain special features should be borne in mind. A contract is a commercial transaction. Evaluating tenders and awarding contracts are essentially commercial functions. Principles of equity and natural justice stay at a distance. If the decision relating to award of contract is bona fide and is in public interest, courts will not, in exercise of power of judicial review, interfere even if a procedural aberration or error in assessment or prejudice to a tenderer, is made out. The power of judicial review will not be permitted to be invoked to protect private interest at the cost of public interest, or to decide contractual disputes. The tenderer or contractor with a grievance can always seek damages in a civil court. Attempts by unsuccessful tenderers with imaginary grievances, wounded pride and business rivalry, to make mountains out of molehills of some technical/procedural violation or some prejudice to self, and persuade courts to interfere by exercising power of judicial review, should be resisted. Such interferences, either interim or final, may hold up public works for years, or delay relief and succour to thousands and millions and may increase the project cost manifold. Therefore, a court before interfering in tender or contractual matters in exercise of power of judicial review, should pose to itself the following questions:-

**(i) Whether the process adopted or decision made by the authority is mala fide or intended to favour someone;
or**

Whether the process adopted or decision made is so arbitrary and irrational that the court can say: 'the decision is such that no responsible authority acting reasonably and in accordance with relevant law could have reached';

(ii) Whether public interest is affected.

If the answers are in the negative, there should be no interference under Article 226. Cases involving blacklisting or imposition of penal consequences on a tenderer /contractor or distribution of State largesse (allotment of sites/shops, grant of licences, dealerships and franchises) stand on a different footing as they may require a higher degree of fairness in action.'

21. Applying the aforesaid proposition of law to the facts and circumstances herein this case, this court is of the view that the E-Procurement Notice dated 22.06.2022, issued by the respondent authorities for upgradation of existing segment of Sede to Pijiriang, though it suffered from self contradictions in respect of the value of the contract, width of the road and contravention of the PMGSY-II 2013 guideline, cannot be quashed. I have considered the submission of learned counsel for the petitioners, in the light of facts and circumstances on the record, and I am unable to record concurrence with his submission in as much as he could not establish the arbitrariness, irrationality, unreasonableness, bias and mala fides on the part of the respondents. From the letter of the local MLA, dated 05.07.2018, U.O. NO.BR/PK-09/2018, it appears that he had requested to take up the road from Side to Pijeraing, under PMGSY, and to include the same in PMGSY-II package as top priority, as it was not included in the alignment of Trans Arunachal High Way due to obligatory or other reason by NHAI, and being that portion of road was in deplorable condition and not traffic worthy and on account of the same the local people were facing lots of difficulties. Thus, interference with the contract matters, under Article 226, of the Constitution of India, as held by the Hon'ble Supreme Court in the case of **Jagdish Mandal** (supra), is not called for, and on such count,

the writ jurisdiction of this court cannot be invoked. Thus, the answer to the issues, No. II and III, so formulated herein above, has to be answered in negative and accordingly the same stands answered.

22. I have considered the submission of Mr. Kashyap and also gone through case laws referred by him and I find that the ratio laid down in the case laws referred by Mr. Kashyap would not advance the case of the petitioner. And therefore, detailed discussion of the same is skipped for the sake of brevity. Though, Mr. Kashyap laid must emphasis on the order of this Court in PIL No. 101/2013, in respect of construction of road as per the proposal sent the MoRTH within a period of 2 years, yet, the affidavit of respondent Nos. 1, 4, 5 and 6 and the Annexure - 1 series, at page No. 6 of the said affidavit, reveals that the National Highway Authority of India due to obligatory or other reason, has not included the road from Sede to Pijeraing in the aliments of Trans Arunachal Highway, and the said proposal was not accepted on account of the same being found not feasible by the MoRTH, which is apparent from the affidavit filed by the State respondent in the PIL No. 101/2013.

23. In the result, I find this petition devoid of merit and accordingly the same stands dismissed, leaving the parties to bear their own costs.

JUDGE

Comparing Assistant