

**IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR**

**WP(C) 72/2022
CM(109/2022)**

M/S Allied Builders and Engineers Private Limited ...Petitioner(s)

Through: Mr. Irfan Ahmad Mir, Advocate vice
Mr. Sheikh Manzoor, Advocate

Vs.

Union of India and Ors.

...Respondent(s)

Through: Ms. Bisma Ali, Advocate vice
Mr. T.M. Shamsi, DSGI

CORAM:

HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

ORDER

20.08.2025

1. The institution of this writ petition by the petitioner proceeded on a purported cause of action when petitioner's name as a contractor came to figure in Appendix 'C' to Communication No. 42594/WLR/'A' to 'D', 'S'/958/E8 dated **07.01.2021** issued by the Headquarters HQ Chief Engineer Northern Command, for the notice of all Military Engineering Services (MES) Formations.

2. The communication above referred is bearing the following subject "*Work Load Return of 'A' to 'D' & 'S' Class and unenlisted contractors having total work load*

more than Rs. 50 lakhs and upto Rs. 15 crore in hand for the quarter ending September 2021”.

3. The communication was only meant to report the Work Load Return (WLR) favourable or adverse of the enlisted contractors of MES for the quarter ending September 2021. The adverse remark against the petitioner figuring at serial No. 5 of Appx ‘C’ is to the effect that “Contracts were cancelled in CE 31 Zone”.

4. In its writ petition, the petitioner has come up pleading that the construction work of Administration Blocks and Garages for HQ Infantry Division at Baramulla allotted to it could not be completed in target time for which extension of time for completion of contract was applied for but declined thereby dislodging the petitioner from the contract when 76% of the contract work had already been executed and the contract stood cancelled against the petitioner for which the petitioner invoked arbitration proceedings reported to be pending before the sole arbitrator appointed by virtue of order dated **09.10.2020** in AA No. 18/2019.

5. The petitioner has assailed the adverse reference with respect to it in the Work Load Return (WLR) of

the Quarter ending September, 2021 on the basis of the grounds set out in Para VII of the writ petition, stating that the cancellation of contract in reference was arbitrary and adverse. It is further urged that the Work Load Return (WLR) entry was against the rules of natural justice, fairness and so on and so forth.

6. The petitioner cannot be heard to agitate this adverse reference against it for the simple reason that the same is not subjective in context of evaluation of its work performance as a contractor with ongoing projects/contracts/works in hand, but is based on the objective fact that a contract allotted to the petitioner stood cancelled and that is a factor which *per se* counts itself to be mentioned with respect to the track record of the petitioner for the self-consumption of Chief Engineer Northern Command and MES Establishment.

7. Given the fact that the petitioner has already invoked arbitration clause in the matter assailing the cancellation of the contract in order to salvage its rights and reputation as a contractor, the outcome of the said arbitration is going to determine the petitioner's future course of relationship with the MES Establishment and, therefore, this writ petition cannot

come to the assistance of the petitioner in striking out the adverse reference in the impugned communication relatable to the petitioner.

8. Accordingly, this writ petition is dismissed, however, without prejudice to the outcome of the arbitration proceedings initiated by the petitioner against the respondents relatable to the cancellation of the contract regarding which the adverse entry is obtaining against the petitioner.

9. Otherwise also, the petitioner has the remedy of seeking interim relief/measures under section 17 of the Arbitration and Conciliation Act, 1996 relatable to the effects of the entry otherwise impugned in this writ petition and this Court leaves it to the discretion of the petitioner. In case if the arbitration is still going on, then the dismissal of the writ petition will not prejudice the said right.

10. The writ petition is, accordingly, **dismissed**.

(RAHUL BHARTI)
JUDGE

SRINAGAR:

20.08.2025

"Mir Arif"