

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

WP(C) 1846/2026 CM(4985/2026)

M/S ABDUL REHMAN NAJAR ...Petitioner(s)/Appellant(s).

Through: Mr. Aushaq Hussain Shah, Advocate.

Vs.

**UNION OF INDIA AND
OTHERS**

...Respondent(s).

Through: Ms. Masooda Jan, Sr. Advocate With
Ms. Nazima Yaqoob, Advocatez

CORAM:

HON'BLE MR. JUSTICE MOHD YOUSUF WANI, JUDGE

ORDER

21.09.2026

1. Ms. Masooda Jan, learned Senior Advocate appears and accepts notice in the matter for the respondents.
2. Heard the learned counsel for the petitioner in respect of his case.
3. The short grievance of the proprietor of the petitioner-Firm as agitated through the medium of the instant petition, filed under Article 226 of the Constitution of India, is that it was holding a valid MES Contractor Registration/License issued by the respondents which has expired and, as such, it applied for renewal of the same before the respondents. That it is a dully constituted partnership firm carrying on the business of execution of civil and allied works under the Military Engineering Service (MSE) since the year 1982. That it has successfully executed numerous government contracts to the complete satisfaction of the respondents and has maintained a good record without ever being blacklisted, debarred or found guilty of any contractual default. That in recognition of its

consistent performance, the firm successfully upgraded its enlistment from class 'F' to class 'A' thereby reflecting the confidence reposed in it by the respondents.

That before expiry of the validity of its enlistment, it submitted a complete application seeking renewal of its enlistment together with all requisite documents and prescribed fee in accordance with the applicable policy.

That due to the demise of the original proprietor of the partnership firm, the respondents accepted the change in the constitution of the firm and recognized the continuity of the petitioner firm. That it also furnished every document as well as clarification sought by the respondents from time to time but, unfortunately, despite complete compliance with all procedural requirements, the respondents' failed to take any final decision on its application for renewal of the MES contractor license.

That it has also earlier approached this Court through OWP No.1464/2018, which came to be disposed of with the direction to the competent authority to consider and decide its application by passing a reasoned speaking order. That pursuant to the said earlier order of this Court, the respondents passed a speaking order dated 24.09.2018 acknowledging that its renewal case will be considered after completion of certain formalities and upon obtaining the sanction from the engineer in Chief's Branch. That despite its fulfilling the requirements referred to hereinabove, the respondents have continued to keep the renewal proceedings pending for years together without assigning any lawful justification.

That meanwhile, the respondents have issued various notices inviting tenders as detailed in the petition and the petitioner firm being otherwise fully qualified, technically competent and financially capable intending to participate in the said tender processes, is not in a position to do the needful for want of the renewal license.

That it prays for an obnoxious relief of permitting it to participate in the tender processes at its own risk and responsibility and subject to the final outcome of its pending license renewal case. That it also undertakes that its participation in the tender processes shall remain subject to all other terms and conditions of the tender, as well as the decision to be taken by the competent authority regarding renewal of its enlistment.

4. The learned counsel for the petitioner firm during his preliminary submissions stated that it is a settled principle of law that no public authority can be permitted to take advantage of its default. That having failed to decide its application for renewal within a reasonable time as also in breach of the earlier directions of this Court, the respondents cannot rely upon the very consequence of their own inaction to deny the petitioner firm the opportunity to participate in public procurement. That the inaction on the part of the respondents is arbitrary, unreasonable and violative of Articles 14 and 19 (1) (g) of the Constitution of India, besides being contrary to the settled principles of fairness, good conscious and transparency.

It was further contended by the learned counsel that the petitioner firm has already demonstrated its financial capability by depositing an amount of Rs.9 lacs against the prescribed financial requirement of Rs.7

lacs under the tender conditions in connection with the renewal of its MES contractor's license/registration. It is further contended by the learned counsel that the petitioner firm, seeking provisional permission for participation in the tender processes, is likely to suffer irreparable loss, if the same is not granted.

5. The learned counsel further submitted that a Id. Coordinate Bench of this Court has already on 3.08.2026 allowed a similarly situated petitioner firm in WP(C) No.1834/2026 to participate in the tender processes at its own risk and responsibility subject to the outcome of his pending renewal case.
6. Per contra the learned counsel for the respondents submitted that petitioner has got no cause of action to file the petition before this Court as he has no right, under law, to seek the participation in the tender processes without a valid/renewed MES contractor's license. She further contended that the petitioner, despite being provided ample opportunities, did not comply with the statutory and procedural requirements which delayed the decision on its renewal case. The learned counsel seeks the dismissal in limni of the petition.
7. In the facts and circumstances of the case, this court is of the considered opinion that matter can be decided even at this threshold stage by passing of such appropriate orders which are not likely to prejudice the interest of any of the parties and which otherwise are meant to be complied with by the respondents out of their statutory obligations.
8. Accordingly, the instant petition is disposed of with the direction to the respondents to consider the participation of the petitioner firm in the

subject tender processes at its own risk and responsibility, subject to fulfillment of all required formalities and especially subject to the outcome of the pending renewal of MES Contractor license/registration case.

(MOHD YOUSUF WANI)
JUDGE

SRINAGAR
21.09.2026
Opinder

