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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision: 18.08.2026

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CNR No. DLHC010384122026

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W.P.(C) 11940/2026 CM APPL. 55323-24/2026

MS STERLING INDO TECH CONSULTANTS PVT LTD

.....Petitioner

Through: Mr. Rajive R. Raj, Ms. Pragati
Keshri, Mr. Amit Kumar, Ms. Ishika
Keshri, Advs.

versus

NATIONAL HIGHWAY AUTHORITY OF INDIA Respondent

Through: Mr. Abhay Gupta, Mr. Hrithik
Saxena, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed with the following prayers:

“Issue an appropriate writ, order or direction in the nature of Certiorari quashing and setting aside the impugned communication/order dated 27.07.2026 issued by Respondent whereby Tender ID No. 2026-NHAI-268092-I has been cancelled/annulled;

b. Issue an appropriate writ, order or direction in the nature of Certiorari quashing and setting aside the impugned Notice Inviting Tender (NIT) dated 29.07.2026 issued by Respondent



for inviting fresh bids for the very same project;

c. Issue appropriate writ, order or direction directing the respondent to forthwith issue letter of award and execute Contract Agreement in favour of petitioner pursuant to intimation of H-1 ranking bidder dated 05.06.2026 which was accepted by Petition on 08.06.2026;

d. Direct the respondent to produce complete file pertaining to aforesaid tender before this Hon'ble court;

e. Pass an order allowing the costs of the present petition in favour of petitioner and against the respondent;

f. Pass such other or further orders as this Hon'ble Court may deem just and proper in the facts and circumstances of the case or in the interest of justice."

2. The petitioner is challenging the decision of the respondent dated 27.07.2026 whereby the respondent has decided to annul the tender which was issued by the respondent for Supervision Consultancy Service for rehabilitation and strengthening of the existing service road & construction of new service roads, RCC drains along with overlay on main carriageway and other ancillary works.

3. At the outset, the learned counsel for the respondent would submit that the present petition by the petitioner shall not be maintainable for the reason that the bid for the aforesaid work was submitted by the petitioner with two different entities as joint venture being M/s. Yongma Engineering Co. Ltd. and M/s Manglam Infra & Engineering Limited, who have not filed the petition.

4. Mr. Rajive R Raj, learned counsel for the respondent states, he does



not have instructions on the reason for annulment.

5. In any case, he states, M/s Yongma Engineering Co. Ltd. has been debarred by the NHAI as being a non-performer under Clause 7.4.2 of the Consultancy Agreement for participation in the future bids of the NHAI for a period of six months from the date of the notice.

6. The learned counsel for the petitioner would submit that this annulment is not a *bonafide* one, inasmuch, as the joint venture having been declared as H-1/successful bidder, the only requirement for the respondent was to issue Letter of Award (LoA) in favour of JV and could not have, without specifying the reasons, annul the tender. He relies upon the instructions issued by the Department of Expenditure, Government of India to say that debarment could not have a retrospective effect inasmuch as the JV having been found to be successful, and only LoA was to be issued, this debarment shall not have any bearing insofar as the award of this tender is concerned.

7. On the other hand, Mr. Abhay Gupta, the learned counsel for the respondent has placed before us the letter dated 18.07.2026 of the NHAI addressed to M/s. Yongma Engineering Co. Ltd. debarring the said company would state that the same being on the ground of non-performance shall have a bearing insofar as the present tender is concerned. According to him, even assuming the JV was declared to be a successful tenderer, no LoA was issued before 18.07.2026, as such the said ground to annul the tender shall be valid.



8. In this regard, he has drawn our attention to page 49 more specifically Clause 1.4 of the agreement to contend that the respondent has reserved its right to annul the selection process at any time prior to the award of the contract without thereby incurring any liability to the Consultants.

9. Having heard the learned counsel for the parties, insofar as the submission of the learned counsel for the respondent that the present petition shall not be maintainable at the behest of one partner of the joint venture is concerned, the same is appealing. It is a conceded case that the bid was submitted by a joint venture consisting of three partners i.e., the petitioner; M/s. Yongma Engineering Co. Ltd and M/s. Manglam Infra & Engineering Ltd. Concedingly, M/s. Yongma, and M/s. Manglam are not the petitioners in the present writ petition.

10. The petitioner has prayed that the respondent should issue LoA and execute the contract agreement in favour of the petitioner being the H-1 ranking bidder. Such a prayer cannot be granted in the favour of the petitioner that too in the absence of the other two partners of the joint venture as parties in the present writ petition, who were part of the JV, which submitted the bid.

11. On a specific query to the counsel for the petitioner, whether M/s. Yongma has challenged the debarment, the learned counsel for the petitioner submits he has no instructions in that regard. If that be so, the petition is not maintainable at the behest of the petitioner who is one of the partners of JV.

12. Even otherwise, Mr. Raj relying on the instructions issued by the



Department of Expenditure contend that, on the date of opening of the tender, M/s. Yongma was not debarred as such the respondent could not have annulled the tender on that ground. We are not in agreement with the said submission. Assuming the debarment was the ground to annul the tender, as the Clause also stipulates ‘not debarred’ on the date of contract, concedingly, the contract having not been executed on 18.07.2026, the debarment could have taken place, resulting in annulment of the tender. Clause 7(b) reads as under:

“b) No contract of any kind whatsoever shall be placed with a debarred firm, including its allied firms, after the issue of a debarment order by the entities in the jurisdiction mentioned in the order. Bids from only such firms shall be considered for placement of contract, which are neither debarred on the date of opening of tender (opening of first bid, normally called as technical bid, in case of two packet/two stage tendering) nor debarred on the date of contract (i.e., date of issue of Letter of Acceptance). Even in the cases of risk purchase, no contract should be placed on such debarred firms.”

(Emphasis supplied)

13. In fact, LoA was not issued on the date of debarment i.e. 18.07.2026, which precedes the execution of the contract. If that be so, between the period when the tender was opened, as the eventuality of debarment of one of the JV partners of the bidder has taken place, that would be a sufficient ground for the respondent to take action. Even the Standard Operating Procedure referred to by the counsel for the petitioner which has been issued in the year 2022, reveals a similar position as per Clause 10.1, which we reproduce as under:-



“10.1 Upon declaration of non-performer, the AE/IE/CSC/PMC will not be able to participate in any bid for National Highways projects with MoRTH or its executing agencies till such time the debarment persists or the AE/IE/CSC/PMC is removed from the list of non-performers. In bidding for a particular project, bids from only such firms should be considered for placement of contract, which are neither debarred on the date of opening of tender nor debarred on the date of issue of Letter of Acceptance (LoA). Contracts concluded before the issue of the debarment/declaration as non-performer order shall, not be affected by the debarment order(s) issued subsequently.”

14. In view of above discussion, we are of the view that the petition apart from being not maintainable by the petitioner is also devoid of merits and is liable to be dismissed. We order accordingly.

15. At this stage, the counsel for the respondent states that the sole petitioner shall be within its right to participate in the tender which the respondent has issued, wherein the last date for submitting bids is 24.08.2026. The submission is taken on record.

16. The pending applications are dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

AUGUST 18, 2026/rt