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

+ **O.M.P.(I) (COMM.) 438/2017**

BAHARAMPORE- FARAKKA HIGHWAYS LTD. Petitioner

Through Mr. Rajiv Nayar, Sr. Advocate with
Mr. Rishi Agrawala and
Ms. Malavika Lal, Advocates

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA

..... Respondent

Through Ms. Tanu Priya Gupta and Mr. Nand
Kumar, Advocates

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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31.10.2017

I.A. 12653-12654/2017 (Exemptions)

Allowed, subject to all just exceptions.

O.M.P.(I) (COMM.) 438/2017

By this petition, the petitioner prays for restraining the respondent from taking any further action or acting in furtherance of notice dated 24.08.2017 bearing No. NHAI/Tech/BOT/WB/NH-34/2017/PQ-03/417/Vol.III/104846.

By the abovementioned notice, the respondent has alleged that the petitioner/concessionaire has failed to cure the defaults within the stipulated period of 60 days and has granted 15 days' time to the petitioner to make a representation as to why the respondent should

not proceed with termination of the Concession Agreement. A copy of the notice has also been sent to the lenders so as to afford an opportunity to make a representation on behalf of the lenders stating the intention to substitute the concessionaire in accordance with the Substitution Agreement. The petitioner has filed its reply to the said notice. I am informed that even the lenders have made submissions to the respondent in this regard.

Learned counsel for the respondent is present on advance notice. I am informed by learned counsel for the respondent that the reply submitted by the petitioner, pursuant to the above notice, is still under consideration with the respondent.

Keeping in view the above facts, in my opinion, the present petition is pre-mature. The respondent would be free to take a final decision on the notice issued by it, however, to balance equities between the parties, it is directed that in case any adverse decision is taken against the petitioner, the same shall be kept in abeyance for a period of 07 (seven) working days and no coercive steps would be taken against the petitioner during the said period so as to enable the petitioner to seek its remedies in accordance with law.

At this stage, learned Senior Counsel for the petitioner submits that the contents of the present petition, along with its annexures, may be considered by the respondent as an additional representation against the impugned notice. Let a copy of the same be placed before the Competent Authority of the respondent, which shall also consider the same before passing an order on the abovementioned notice dated 24.08.2017. A copy of the present petition along with its annexures

will be given by the petitioner to the respondent within a period of 24 hours.

The petition is disposed of with the above direction.

No orders as to costs.

Order *Dasti* under the signatures of Court Master.

NAVIN CHAWLA, J

OCTOBER 31, 2017

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