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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **O.M.P.(I) (COMM.) 40/2020 & IA. NO 1887/2020**

**PANIPAT JALANDHAR NH-1 TOLLWAY PVT.
LTD**

..... Petitioner

Through: Mr. C.A. Sundaram, Sr. Adv. with
Mr. Dharmendra Rautray, Ms. Tara
Sahani, Mr. Shinansh Jolly,
Ms. Pragya and Mr. Aayush Marwah,
Advs.

versus

**NATIONAL HIGHWAYS AUTHORITY OF
INDIA**

..... Respondent

Through: Mr. Sanjay Jain, Mr. Jos Chiramal,
Mr. Ramesh Kumar and Mr. Arkaj
Kumar, Advs.

**CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO**

ORDER
10.02.2020

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IA. NO 1887/2020 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

O.M.P.(I) (COMM.) 40/2020

1. The present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to grant injunction or restraint order as prayed for below:

- (i) Grant an ad-interim stay and/or stay the termination of the Concession Agreement by the Respondent;*
- (ii) Direct, injunct and /or restrain the Respondent from taking any coercive measures including termination of the Concession Agreement without directions of the*

Arbitral Tribunal to be constituted in respect of disputes arising after 30.9.2015; and
(iii) pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the interest of justice;

It is prayed accordingly.”

2. It is the submission of Mr. C.A. Sundaram, learned Sr. Counsel appearing for the petitioner that the respondent has issued a communication dated January 28, 2020 expressing its intention to terminate the concessionaire agreement. He concedes to the fact that a reply to the same has been given by the petitioner to the respondent and a final order has not been passed. It is his contention that in the notice of termination more specifically in Para 10, the respondent has finally concluded against the petitioner and the final order is a mere formality. In other words, he states, respondent is bound to terminate the contract, which shall cause great prejudice to the petitioner.

3. Mr. Sanjay Jain, learned ASG appearing for the respondent Authority states as a decision on the notice based on the reply given by the petitioner is yet to be taken, the petition is premature. He further states that Para 10 has to be read in conjunction with Para 9 and 11 of the notice of termination. According to him, Para 10 is a part of the narrative before conveying its intention through Para 11.

4. In view of the fact that no decision has been taken by the respondent on the notice of termination to which a reply has been given and keeping in view the submission made by Mr. Sundaram, this court directs that the respondent shall take a decision on the reply given by the petitioner to the notice of termination without being influenced by the contents in Para 10 of

the notice of termination dated January 28, 2020. It is expected that the authority will take an expeditious decision on the reply given by the petitioner to the notice of termination dated January 28, 2020.

5. It goes without saying that if any order is passed, petitioner shall be at liberty to seek such remedy as available in law.

6. Petition stands disposed of.

7. It is made clear that this court has not expressed any opinion on the merit of the controversy.

A copy of this order be given *dasti* under the Signature of the Court Master.

V. KAMESWAR RAO, J

FEBRUARY 10, 2020/jg