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

+ WP(C) 4101/2020 , C.M. Nos.14703-704/2020

PATIL CONSTRUCTION AND INFRASTRUCTURE LTD.

..... Petitioner

Through: Mr. P. S. Narasimha, Sr. Advocate with
Mr. Srinivas R Rao, Mr. Abid Ali Beeran P,
Ms. Sindoorra, Mr. Sarath Janardhanan and
Mr. Praveen, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vikram Jetly, CGSC for R-1/UOI
Mr. Narender Hooda, Sr. Advocate with
Ms. Padma Priya, Advocate for R-2 to R-6.

AND

+ WP(C) 4034/2020, C.M. Nos.14467-468/2020

PATIL CONSTRUCTION AND INFRASTRUCTURE LTD.

..... Petitioner

Through: Mr. P. S. Narasimha, Sr. Advocate with
Mr. Srinivas R Rao, Mr. Abid Ali Beeran P,
Ms. Sindoorra, Mr. Sarath Janardhanan and
Mr. Praveen, Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Vikram Jetly, CGSC for R-1/UOI
Mr. Narender Hooda, Sr. Advocate with
Ms. Padma Priya, Advocate for R-2 to R-6.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
% **10.07.2020**

HEARD THROUGH VIDEO CONFERENCING.

1. The petitioner/Patil Construction & Infrastructure Ltd. has filed two petitions praying *inter alia* that two NITs both dated 09.06.2020, published by the respondents No. 2 to 6, be quashed on the ground that the contracts awarded in favour of the petitioner, subject matter of the two NITs, are still valid and subsisting. Besides the aforesaid common prayer, the petitioner has prayed for several other reliefs in both the petitions.
2. At the outset, we have requested Mr. P.S. Narasimha, learned Senior Advocate appearing for the petitioner to indicate the date on which W.P.(C) No.4034/2020 was filed in this Court, the date on which a petition for similar relief was filed by the petitioner before the Bombay High Court, the date on which an application was moved before the Bombay High for seeking withdrawal of the said petition and the date on which appropriate orders were passed by the Bombay High Court granting such a permission.
3. Mr. Narasimha, learned Senior Advocate states on instructions from Mr. Abid Ali Beeran P, the counsel on record, that the first petition filed by the petitioner was before the Bombay High Court and W.P.(C) No.4034/2020 was filed subsequently, i.e., on 02.07.2020 but on that date, the petition before the Bombay High Court was still alive and pending. It was only after filing the captioned petition in this Court did the petitioner approach the Bombay High Court on 6.7.2020 asking for permission to withdraw the said petition and the permission was granted only on

09.07.2020, i.e., yesterday.

4. If the aforesaid position is correct, then we are compelled to observe that the petitioner has made false averments in the writ petition to the effect that it had withdrawn the petition filed before the Bombay High Court before approaching this court for relief. The powers of judicial review vested in this Court under Article 226 of the Constitution of India being discretionary in nature, can be refused to be exercised on taking note of the conduct of the petitioner who in our opinion, has tried to mislead us and has deliberately withheld the relevant orders passed by the Bombay High Court in the earlier petition filed by it that was withdrawn well after filing WP(C) 4034/2020. We have indicated to learned counsel for the petitioner that for the aforesaid reasons, we are not inclined to entertain the present petitions.

5. At this stage, Mr. Narasimha, learned Senior Advocate appearing for the petitioner states on instructions that the petitioner may be permitted to withdraw both the petitions.

6. Before granting leave to the petitioner to withdraw the petitions, we have inquired from Mr. Narender Hooda, learned Senior Advocate appearing for the respondents No.2 to 6 as to whether both the contracts granted in favour of the petitioner stand terminated or not. Learned Senior Advocate states on instructions that the contracts are still subsisting. He is unable to explain as to how, during the subsistence of the two contracts in favour of the petitioner, the respondents No.2 to 6 have proceeded to issue fresh NITs on 09.06.2020, for a part of the very same work. An assurance is given on behalf of the respondents No.2 to 6 that both the NITs dated 09.06.2020 shall be immediately withdrawn and appropriate action shall first be taken *qua* the petitioner in respect of the two contracts, subject matter of

the present petitions, under written intimation to it, after considering its representation.

7. While binding the respondents No.2 to 6 to the aforesaid submission, the petitioner is permitted to withdraw the present petitions, along with pending applications and it is cautioned to be more careful in the future.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

JULY 10, 2020

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