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

+ W.P.(C) 6199/2020 & CM APPL. 22224/2020 (for stay)

DANKUNI TOLL PLAZA (NH-2 DURGAPUR EXPRESS WAY)
CONTRACTUALS SECURITY AND CO-WORKER UNION,
THROUGH ITS GENERAL SECRETARYPetitioner

Through: Mr. Kirti Uppal, Senior Advocate
with Mr. Ujjwal Jha, Advocate

versus

NATIONAL HIGHWAY AUTHORITY OF INDIA, THROUGH
ITS SECRETARY & ANR.Respondents

Through: Mr. Saurabh Banerjee, Advocate for
R-1 with Mr. Ajay Mishra, General Manager,
NHAI, HQ.
Mr. Samir Tandon, Advocate for R-2.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER
17.09.2020

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HEARD THROUGH VIDEO CONFERENCING.

1. The petitioner/Union has filed the present petition praying *inter alia* that directions be issued to the respondent No.1/NHAI to specify the number of employees required as mentioned in Schedule III of the RFP documents as 166, instead of 109 on the ground that in a 6+6 lane toll plaza, the minimum requirement is of 166 employees and in the case of a 4+4 toll plaza, the minimum requirement is of 109 employees. In the instant case, the subject toll plaza is Dankuni Toll Plaza (NH-2 Durgapur Expressway, Hooghly, West Bengal), which as per the petitioner is a 4+4 lane highway with a 6+6 toll plaza

and therefore, it requires to be manned not by 109 employees, but by 166 employees.

2. Mr. Kirti Uppal, learned Senior Advocate appearing for the petitioner/Union submits that despite the aforesaid position, the bid documents issued by the respondent No.1/NHAI do not reflect the correct position at page 70, which is a part of Schedule III, that falls under Appendix 6 and refers to the personnel. He submits that the said Schedule states at the foot that the requirement of the staff mentioned at serial No.1-12, totalling to 109, is for a 4+4 toll plaza without clarifying that more staff would be required for a 6+6 toll plaza *viz-a-viz* a 4+4 lane plaza and similarly, more staff would be required for 8+8 toll plaza *viz-a-viz* 6+6 toll plaza. He submits that in view of the aforesaid ambiguity, invariably the contractor, who is awarded the tender, tries to exploit the labour engaged by it by disengaging some of them from time to time on the plea that respondent No.1/NHAI has permitted only 109 staff members to be employed at the toll plaza.

3. On the last date of hearing, we had granted time to Mr. Saurabh Banerjee, learned counsel for the respondent No.1/NHAI to obtain instructions. Today, he is present alongwith Mr. Ajay Mishra, General Manager, NHAI, HQ and states on instructions that the aforesaid ambiguity shall be taken care of in all Bid documents drafted in the future.

4. Mr. Kirti Uppal, learned Senior Advocate submits that the respondent No.1/NHAI did not even deem it fit to reply to the representation submitted by the petitioner/Union, last one dated 01.09.2020 (Annexure I).

5. Learned counsel for the respondent No.1/NHAI assures the court that the said representation dated 01.09.2020, shall be responded to by the NHAI. He also states that insofar as the subject toll plaza is concerned, a Letter of Award has been issued in favour of Eagle Infra Limited on 17.09.2020.

6. Mr. Samir Tandon, learned counsel for the respondent No.2 states that though the subject tender was earlier award to his client, but this time, it has not participated in the bid issued by the respondent No.1/NHAI for the subject NIT.

7. Needful shall be done within two weeks from today under written intimation to the addressee and counsel for the petitioner/Union. Necessary clarification shall be issued by the respondent No.1/NHAI with regard to the minimum requirement of staff in the case of 4+4 toll plaza, 6+6 toll plaza and 8+8 toll plaza.

8. In view of the order passed above, the present petition is disposed of alongwith the pending application.

HIMA KOHLI, J.

SUBRAMONIUM PRASAD, J.

SEPTEMBER 17, 2020

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