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

+ **W.P.(C) 4295/2024 & CM APPLs. 17615/2024, 27171/2024**

PUNIA CONSTRUCTION CO

..... Petitioner

Through: Ms. Ruby Sharma, Mr. Himanshu
Upadhyaya and Mr. Amit Kumar,
Advocates.

versus

UNION OF INDIA/NORTHERN RAILWAY

..... Respondent

Through: Mr. Rishabh Sahu, Sr. Panel Counsel
with Mr. Sameer Sharma, Advocates.
Mr. Vijay Joshi, SPC with Mr. Mohit
Joshi, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

08.05.2024

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1. The Petitioner has approached this Court for quashing notice dated 19.02.2024 by which the Respondents have initiated debarment proceedings against the Petitioner.
2. A perusal of the communication dated 19.02.2024 indicates that the Petitioner participated in a tender for construction of two lane ROB at shifted location Km.200/19-21 with span (1x76.08m C/C Bow string Girder) + (6x25.08M C/C Steel composite Girder) along with LHS of size 4.00 x 2.65m at km.200/15-17 in lieu of L-xing No.96-C including its approaches in Railway land on SRE-UMB section on DFCCIL route invited vide tender Notice No.74-W-1-1-516-WA-UMB dated 20.04.2023 opened on 16.05.2023.



3. It is stated that, in the said tender, the Petitioner has given incorrect, false information in Annexure-H. This Court on 21.03.2024 directed the Petitioner to provide Annexure-H of the tender document.

4. A perusal of the statement of charge of the misconduct against the Petitioner finds fault with the following information given in Annexure-H. The statement of charge reads as under:-

“M/s. Punia Construction Company, House No. 30, Sector 13, part-2, Hisar, Haryana had participated in the following works tender invited by Chief Administrative Officer/Construction, / Northern Railway, Kashmere Gate, Delhi-06:

<i>S. N.</i>	<i>Name of work</i>	<i>Tender Notice No.</i>	<i>Opened on</i>
<i>1</i>	<i>Construction of two lane road over bridge at shifted location Km. 200/19-21 with span (1x76.08m C/C Bow string Girder) + (6x25.08 C/C Steel composite Girder) along with LHS of size 4.00 x 2.65m at Km.200/15-17 in lieu of LXing No. 96-C/including its approaches in Railway land on SRE-UMB section on DFCCIL route”</i>	<i>74-W-1-1-516-WA- UMB dated 20-04-2023</i> <i>Value= Rs.3969.59 lakhs</i>	<i>16.05.2023</i>

As mentioned above, you had participated in the aforesaid tender vide Bid No.15181215. In support of Bid Capacity, you have submitted Annexure-H i.e. “Statement of existing commitments and balance amount of ongoing works with tenderer of all works in progress and also the works which are awarded to tenderer but yet not started upto the date of invitation of tender” duly certified by Chartered Accountant M/s



Dhruv Girdhar & associates Hisar (UDIN-23552210BGXGUT 961 7,M No.552210).

However, it is observed that one contract under execution with CAO/C/NR Kashmere Gate, Delhi- 06 awarded to M/s Punia Mohla Construction Co. (JV with 51% share of M/s Punia Construction co.) is not reflecting in Annexure-H.

Dy CE/C/CSB-II has submitted the status of above work vide letter dated 04.07.2023 wherein it is mentioned that work is in progress and there is a pending liability against this contract. The details of the same is under:

<i>S. N.</i>	<i>Name and place of work</i>	<i>Date of award</i>	<i>Date of completion (original/ extended)</i>	<i>Agreement cost of work Rs.</i>
<i>1.</i>	<i>Construction of two lane Road Over Bridge in lieu of existing Level crossing No 43A at Km. 99 1-2 with composite girder and level crossing no. 41 at Km. 93/3-4 & Level Crossing No. 46 at Km. 104/6-7 bow string girder bow shaped Truss along with construction of LHS by pushing method and replacement of railway portion of</i>	<i>29.09.2020</i>	<i>28.11.2021 /30.04.2023/ subsequent extension up to 15.09.2023 is under process.</i>	<i>29.7979 Cr.</i>



	<i>ROB No. 54 t Km. 123/0-Iwith Bow – string girder/Bow shaped Truss along with other allied works on Ghaziabad- Saharanpur section</i>			
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Hence it is clear that you have submitted incorrect/false information in Annexure-H with respect to ‘Statement of existing commitments and balance amount of ongoing works with tenderer of all works in progress and also the works which are awarded to tenderer but yet not started upto the date of invitation of tender’, required for calculating the Bid Capacity of the tenderer.

As per para no. 6 & 8 of annexure-M submitted by the tenderer, the tenderer is fully responsible for the correctness of the information and documents submitted by the firm along with the offer. Further if the certificates regarding eligibility criterion submitted by the firm are found to be forged/false or in correct at any time during process for evaluation of tenders, it shall lead to forfeiture of the tender Bid Security besides banning of business on entire Indian Railways.

Thus, you have violated the stipulation of Annexure-M.”

5. The Petitioner has filed Annexure-H to state that the date of completion of the contract has been mentioned which is at variance with the statement of charge.
6. In view of the fact that the challenge of the Petitioner is only against a



notice and not against a final order of debarment, this Court finds that the writ petition is premature at this juncture.

7. This Court is not inclined to go into the correctness or otherwise of Annexure-H as submitted in this Court.

8. Liberty is granted to the Petitioner to file Annexure-H filed in this Court along with its reply to the show cause notice issued by the Respondents.

9. Liberty is granted to the Petitioner to raise all contentions available to him including those raised in this writ petition in the reply to be filed to the show cause notice issued by the Respondents.

10. Though the period given to file the reply under the show cause notice has expired, the Petitioner is given 30 days' time from today to file the reply along with the annexures filed in this Court. The Respondent is directed to take into consideration the new annexures along with the reply before taking a decision on debarment.

11. It is made clear that this Court has not made any observation on the merits of the case.

12. The writ petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MAY 8, 2024

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