



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**REVIEW APPLICATION (CIVIL) NO. 129 OF 2020
IN WP/12042/2018**

**NATIONAL HIGHWAYS AUTHORITY OF INDIA
THROUGH AJAY P GADEKAR**

VERSUS

ABHAY MADHUKARRAO NAIK AND OTHERS

Advocate for Applicant : Mr. Manorkar Deepak S.
Addl.GP for Respondents/State : Mr. A.S. Shinde
Advocate for Respondent No.1 : Mr. Tungar Nikhilesh K .

**CORAM : S. G. MEHARE AND
SHAILESH P. BRAHME, JJ.**

DATE : 12th FEBRUARY 2025

PER COURT :

1. Heard the learned respective Counsels.
2. The applicant – National Highways Authority of India seeks review of the order dated 04.03.2019 mainly on the ground that the Counsel who had waived the notice for it, was not the panel lawyer and had no instruction from respondent no.4. However, on the basis of his statement, the order under review dated 04.03.2019 is passed. Counsel for the review applicant would submit that the award on the basis of which the amount was sought has already been impugned before the Arbitrator and it is pending.
3. Learned Counsel for the original petitioner, herein non-applicant submits that there may be a communication gap while waiving notice for respondent no.4. No immediate updates were

lodged. The arbitration proceeding is already pending. Therefore, the order could not be said to be bad in law and apparently incorrect.

4. We admit the submission of the learned Counsel for the review applicant that the Counsel who had waived the notice for respondent no.4 i.e. present applicant, was not the panel lawyer. So he cannot be a agent for it. Therefore his statement does not bind the review applicant. Otherwise, also the petition was not decided on merit. It was decided on the basis of the statement made by the Counsel for the present review applicant. Apparently the statement was made without any authority which does not bind applicant. Therefore for the ends of justice, we are of the opinion that the order dated 04.03.2019 which was not decided on merit, is liable to be called back and the writ petition be restored to its original position. Hence the following order :

ORDER

- (i) The Review Application is allowed.
- (ii) The order dated 04.03.2019 passed in Writ Petition No.12042/2018 is called back and the said writ petition is restored to its original position.
- (iii) Learned Counsel Mr. Manorkar Deepak waives service for respondent no.4 (present review applicant) in Writ Petition.
- (iv) List the said writ petition after the circulation is sought.

[SHAILESH P. BRAHME, J.]

[S. G. MEHARE, J.]