



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

WRIT PETITION NO. 2233 OF 2025

K & J Projects Pvt. Ltd., Nagpur, through its
Authorised Signatory, Mr. Milind Nemidas Jawade

..Petitioner

versus

National Highways Authority of India, New Delhi
through its Chairman and others.

..Respondents

Mr. R.D. Bhuibhar, Advocate for petitioner.
Mr. A. A.Kathane, Advocate for respondent nos. 1 to 6.

CORAM :- NITIN W. SAMBRE AND M. M. NERLIKAR, JJ.

DATE :- 11th JULY, 2025

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Heard learned counsel for the parties.

2. Pursuant to the letter of invitation issued by the first respondent on 23.12.2016 through e-Tender process for selection of technical consultant to prepare a detailed project report for the work of 'Consultancy Services for preparation of DPR for Review of Capacity of Nagpur-Bhandara Road NH-53 (Old NH-6) in the State of Maharashtra including designing of Bhandara City by-pass road through a bridge over 'Wainganga River', the petitioner-Company submitted its bid. The letter of acceptance was issued to the petitioner on 01.03.2017.

3. In view of the aforesaid letter of acceptance, on 27.03.2017 the Consultancy Agreement came to be executed between the fifth respondent and the petitioner-company and in compliance thereof a Detailed Project Report was submitted by it on 28.09.2021.

4. Accordingly, the first respondent entered into Engineering, Procurement and Construction Agreement with a private contractor.

5. The third respondent on 22.06.2023 caused a show cause notice pointing out deficiencies/discrepancies in the Detailed Project Report, which, according to the said respondent, amounts to errors which are pointed out by the contractor who was executing the project.

6. The petitioner-Company replied back to the said show cause notice on 15.07.2023 thereby denying the alleged defaults.

7. The first respondent passed an order on 23.02.2024 thereby debarring the petitioner-Company for a period of one year from future works in NHAI from the date of notice pursuant to Clause 7.4.2 of the General Conditions of Contract of the Consultancy Agreement and also imposed a fine of Rs.Fifty Lakhs in terms of Clause 7.3.1 of the said General Conditions. Such debarment order which was subject matter of challenge in Writ Petition No.1594 of 2024 was quashed and set aside on 01.04.2024 with a direction to the respondents to grant opportunity of personal hearing to the petitioner-Company.

8. As a sequel of above, the second show cause notice was issued alleging discrepancies which otherwise should have been addressed by the petitioner- Company in terms of the Consultancy Agreement. The petitioner-Company was offered an opportunity of hearing 26.06.2024 based on the reply submitted by it. The Coram of second and fourth respondent offered personal hearing to the petitioner-Company based on the explanation that it has submitted on 06.07.2024.

9. The Officer who was occupying the position of the fourth respondent and the Officer who was occupying the position of the second respondent were either transferred or ceased to be Member in the capacity which they were holding at the time when they granted such hearing. The impugned order dated 08.04.2025 came to be issued/passed after almost nine months of the hearing granted to the petitioner-Company. As such, this petition.

10. The submissions are, the hearing was granted by the second and the fourth respondent whereas, the order impugned is passed by some other respondent, that too after a delay of nine months which amounts to denial of hearing as it is in violation of the principle of natural justice and against the principle of 'one who hears must decide'.

11. As against above, the counsel for the respondents has claimed that in the case of an institutional hearing, it is hardly a matter of importance who granted hearing as long as the institution passes an order.

12. We have considered the said submissions.

13. It is borne out of the record that the hearing was granted to the petitioner-Company by the second and fourth respondent on 26.06.2024 and the order pursuant to such hearing ought to have been passed within a reasonable period of time, maximum period could be 60 days i.e. by the end of August, 2024. The impugned order of debarment came to be passed on 08.04.2025 i.e. almost after nine months period.

14. It is a settled position of law that delay in deciding the proceedings after a lapse of long time from date of grant of hearing amounts to denial of opportunity of hearing.

15. Apart from above, in the case of grant of institutional hearing, it is necessary that the Authority who is passing the order must look into the notice drawn during the personal hearing and deal with the issue canvassed by the party like the petitioner-Company. In the case in hand, neither the notice prepared by the second and fourth respondents was placed before the Authority, who has passed the order, nor the contentions raised by the petitioner-Company in the reply are considered.

16. In such an eventuality, it has to be held that the order impugned dated 08.04.2025 is in violation of the principles of natural justice and as such, same is not sustainable in law.

17. That being so, the order impugned dated 08.04.2025 is hereby quashed and set aside.

We permit the petitioner-Company to appear before the respondent Authority on **04.08.2025** who has issued the show cause notice.

The said respondent after due compliance with regard to grant of sufficient personal hearing to the petitioner-Company, shall conclude the proceedings and pass a fresh order within a period of four months from the date of appearance of the petitioner-Company before it.

18. The writ petition stands allowed in above terms. No order as to costs.

(M.M.NERLIKAR, J.)

(NITIN W. SAMBRE, J.)

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