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

+ W.P.(C) 304/2024 & CM APPLs. 1396/2024, 37200/2024, 40598/2024, 23015/2025 and 23016/2025

MS GREAT INDIA CONTRACTION LLPPetitioner

Through: Mr. Sambit Nanda, Ms. Samaya Khanna, Mr. Sumit Singh, Advocates.

versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Balendu Shekhar, CGSC with Mr. Raj Kumar Maurya, Ms. Tanisha Samanta, Advocates for R-1.

Mr. Sanjay Poddar, Sr. Adv. with Mr. Shivam Goel, Mr. Anil Kumar Goyal, Advocates for R-2/NHAI. Ms. Avni Singh, Advocate for GNCTD with Mr. Hemant Yadav. Mr. Manish Kaushik, Mr. Mishal J., Advocates for Poonam Sharma.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **22.04.2025**

1. Further to the earlier orders passed in the present proceedings, the issue of access to the petitioner's land has fortunately been resolved.
2. A status report dated 19.04.2025, has been filed by the Additional Chief Secretary, Irrigation & Flood Control Department, Government of National Capital of Territory of Delhi ["I&FC"], with which minutes of a



meeting held on 17.04.2025 has been annexed. The meeting was attended by officers of I&FC Department, National Highways Authority of India [“NHAI”], Revenue Department and the petitioner’s representative. It was noted that the petitioner’s land had become landlocked due to the construction of the Dwarka Expressway on one side, the Bijwasan Bund on the other, and the private land on the remaining sides. After considering various options, the following conclusions were recorded in the minutes: -

“5. Conclusion:

The I&FC Department agreed to provide access to the petitioner’s land via the Bijwasan Bund, subject to the following conditions:

A formal recommendation is provided by the Revenue Department certifying that no alternate access exists.

The petitioner shall deposit the full estimated cost for the construction of the culvert and access road in advance.

Alternatively, if the petitioner undertakes the construction at their own cost, they must apply for and obtain an NOC/permission from the I&FC Department prior to commencing the work.

Post-construction, the structure shall be maintained by the petitioner at their own expense, and they shall be responsible for its safety.

The maintenance cost of the road shall also be borne by the petitioner.”

3. In the abovementioned status report also, it is stated that the aforesaid agreement was reached with the consent of all parties present, and subject to the following conditions: -

“3. As can be seen from a perusal of the annexed document, the following solution has been reached in the meeting with the consent and agreement of all parties present and subject to fulfilment of the conditions mentioned therein:

(i) The I&FC Deptt. will issue a formal request to the Revenue Dept for a No Objection for construction over the Bijwasan Bund Drain, who will provide the same after certifying that no alternate access exists.



(ii) The cost of the construction is to be borne by the Petitioner, who may recover the same in the arbitration proceedings between NHAI and Petitioner.

(iii) The construction of the access road may be done by the Petitioner themselves after seeking prior approval from I&FC or they may request for the same from the I&FC Deptt provided the full estimated cost is deposited in advance.

(iv) Post-construction, the structure shall be maintained by the Petitioner at their own expense and they shall be responsible for its safety.

(v) The maintenance cost of the road shall also be borne by the Petitioner.”

4. Having regard to these documents, the writ petition is disposed of in terms of the paragraph 3 of the status report.

5. Two aspects are further clarified, at the request of learned counsel for the parties:

A. If the petitioner seeks to recover the cost of construction from NHAI, it may do so in accordance with law. I am informed that an arbitration is already pending between the petitioner and NHAI, and therefore the petitioner may apply for enhancement of its claim in the same arbitration. Mr. Sanjay Poddar, learned Senior Counsel for NHAI, states that NHAI will not object to such a claim on the ground of maintainability of arbitral proceedings or limitation. On the other hand, if the petitioner institutes fresh arbitration proceedings in respect of the said claim, no ground of limitation will be taken by NHAI.

B. Paragraph 3 (iii) of the status report records that the construction of the access road may be done by the petitioner after approval from I&FC or it may request I&FC to do the same, provided the estimated cost is deposited in advance. It is made clear that this



option has been given to the petitioner, and it is for the petitioner to decide which of the two methods of construction it chooses.

6. In view of the urgent nature of the task, it is expected that parties will cooperate for expeditious implementation of these directions.

7. Until alternative access is provided, NHAI will continue to provide access to the petitioner in terms of the arrangement recorded in paragraph 9 of the order dated 11.03.2025.

8. A third-party, being Ms. Poonam Sharma, who claims to be the owner of some land in the vicinity, has filed applications for impleadment [CM APPL. 23015/2025] and directions [CM APPL. 23016/2025]. She is at liberty to file her own writ petition for the relief sought, which will be considered on their own merits. CM APPL. 23015/2025 and CM APPL. 23016/2025 are disposed of.

9. The writ petition, alongwith pending applications, is disposed of in these terms.

PRATEEK JALAN, J

APRIL 22, 2025

'Bhupi/AD'