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

+ W.P.(C) 3513/2025 and CM APPL.16446/2025 (Stay)

M/S AK CONSTRUCTION COMPANY

.....Petitioner

Through: Mr. Nalin Kohli (Sr. Adv) along with
Ms. Nimisha Menon, Mr. Parmod
Kalirana, Mr. Amaya Vaid, Ms.
Shruti Agarwal, Adv.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA & ANR.

.....Respondents

Through: Mr. Apoorv Kurup (Sr. Adv.) along
with Mr. Samit Saxena, Adv.
Mr. Shashank Dixit (SPC), Mr.
Sanjay Pal (GP), for R-2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER
21.03.2025

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1. The present petition has been filed assailing the impugned letter/ communication dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/02A issued by the National Highway Authority of India [NHAI / respondent no.1] in regard to Mohtara Fee Plaza (Annexure-P1), letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/02B issued in regard to Kadiashena Fee Plaza (Annexure-P2), letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/02C issued in regard to Bhojpuri Fee Plaza (Annexure-P3), letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/02D in regard to Zidda Fee Plaza (Annexure-P4), letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/ 02



E issued in regard to Turup Fee Plaza (Annexure-P5) [the impugned communication]

2. *Vide* the above impugned communications, the following action has been taken against the petitioner –

- (i) the ongoing contract agreements between the parties, pursuant to which the petitioner operates the Mohtara Fee Plaza, Kadiashena Fee Plaza, Bhojpuri Fee Plaza, Zidda Fee Plaza and the Turup Fee Plaza as the user fee collection agency, have been terminated in terms of Clause 35(3) of the Contract Agreement between the parties;
- (ii) the petitioner has been debarred from participating in future tender/s issued by the respondent no.1 for a period of two years in terms of Clause 21(i) of the Contract Agreement and Clause 3.1 & 3.2 of the Request for Qualification dated 01.01.2021 (RFQ) between the petitioner and the respondent;
- (iii) on the basis of the above, the performance securities with respect to the contract agreements for operating each of the aforesaid fee plazas, deposited by the petitioner in terms of Clause 2.4 of the RFQ, have been sought to be encashed.

3. Learned senior counsel for the petitioner submits that the impugned action has been taken on the basis of separate and identical show cause notices issued on 25.01.2025 where, apart from a cryptic reference to an investigation by the Uttar Pradesh Special Task Force (UPSTF) resulting in an FIR No. 0017 filed on 22.01.2025 at P.S. Lalganj, Distt Mirzapur, Uttar Pradesh, no specific attribution/ lapse against the petitioner has been pointed out.

4. Further, it is submitted that a detailed response to the said show cause



notice/s, was submitted *vide* communication dated 31.01.2025 wherein the following points were raised:-

- i. That there is no specific averment either in the FIR or in the show cause notices as regards the petitioner, or any attribution of any fraudulent activity against the petitioner.
- ii. That nothing was found during search conducted by UPSTF at the Baleni Fee Plaza which was managed by the petitioner.
- iii. There is no co-relation between the petitioners and the individuals arrested by UPSTF.
- iv. That the user fee collection work at the plazas is taking place strictly in accordance with the provisions of the contractual agreement between the parties and under the supervision and continuous monitoring of project directors, system integrators, IHMC and the continuous monitoring of the concerned officials of the respondent no.1, and, therefore, there is no scope for any wrong doing.
- v. It was further emphasised that there has been no violation of Clause-21 of the contract agreement between the parties.

It is submitted that the impugned letter/s fails to even notice much less deal with the elaborate submissions made by the petitioners in response to the show cause notices.

5. Further, it is brought to the attention of this Court that whereas the show cause notice/s sought to debar the petitioner only for a period of one year, the impugned letter purports to terminate the contract and also debar the petitioner for a period of two years.

6. It is further submitted that the show cause notice/s made no reference



to any termination action by the respondent.

7. Lastly, it is submitted that the impugned communications have been passed in utter violation of the principles of natural justice inasmuch as no hearing whatsoever was afforded to the petitioner. This is not refuted by learned counsel for the respondent.

8. Issue notice.

9. Learned counsel, as aforesaid, accept notice on behalf of the respondents.

10. Respective counsel for the parties have been heard at some length.

11. Considering the aforementioned discrepancies in the impugned communication/s, and particularly considering that no opportunity for personal hearing was afforded to the petitioner prior to issuance thereof, the same is clearly unsustainable in law. Accordingly, the impugned communication/s are set aside. However, it is clarified that the same shall not preclude the respondent/s from issuing a fresh show cause notice, followed by an opportunity of hearing to the petitioner, and thereafter pass a speaking order. Let the said exercise be done as expeditiously as possible.

12. It is made clear that the respondents are at liberty to take appropriate action as may be warranted, albeit after following a proper procedure, in consonance with law and in compliance with the principles of natural justice.

13. With the above directions, the present petition is disposed of. Pending application also stands disposed of.

SACHIN DATTA, J

MARCH 21, 2025/uk