



\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 3638/2025 and CM APPL.17003/2025

M/S ANIL KUMAR SHUKLA

.....Petitioner

Through: Mr. Nalin Kohli, Sr. Adv., Ms. Nimisha Menon, Mr. Parmod Kalirana, Mr. Manish Choudhary, Ms. Amaya Vaid and Ms. Shruti Agarwal, Advs.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIARespondent

Through: Mr. Apoorv Kurup, Sr. Adv., Mr. Namit Saxena and Ms. Isha Nagpal, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

28.03.2025

%

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/04 issued by the National Highway Authority of India [NHAI / respondent] in regard to Navasari Fee Plaza (Annexure-P1).

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

- i. the ongoing contract agreement dated 03.04.2024 between the parties, pursuant to which the petitioner operates the Navasari Fee Plaza as the user fee collection agency, has 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 security/bank guarantee 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, has been sought to be encashed.
3. Learned senior counsel for the petitioner submits that the impugned action has been taken on the basis of a show cause notices issued on 25.01.2025 (hereinafter '*the show cause notice*') 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 was submitted vide communication dated 30.01.2025 wherein the following points were emphasised:-
 - 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. There is no co-relation between the petitioners and the individuals arrested by UPSTF.



- iii. That no other software was being used by the petitioner at the aforesaid fee plaza except for the software approved by the NHAI and that all the transactions including cash are processed as per the NHAI guidelines.
- iv. It was further emphasised that there has been compliance with the Clause-21 of the contract agreement between the parties.
5. It is submitted that the impugned letter fails to even notice much less deal with the elaborate submissions made by the petitioners in response to the show cause notice.
6. Further, it is brought to the attention of this Court that whereas the show cause notice 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.
7. It is further submitted that the show cause notice made no reference to any termination action by the respondent.
8. 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.
9. The respondent seeks to justify the impugned order on the basis of the statement made by one Mr. Alok Kumar Singh to the UPSTF. The same is, however, vehemently denied by learned senior counsel for the petitioner.
10. Respective counsel for the parties have been heard at some length.
11. It is noticed that communication / letter issued by the NHAI which are similar to the impugned communication in the present case and were issued



in an identical factual matrix, have been set aside by this court vide order dated 21.03.2025 in W.P.(C) 3513/2025 and W.P.(C) 3515/2025.

12. 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.

13. However, it is clarified that the same shall not preclude the respondent 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.

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

SACHIN DATTA, J

MARCH 28, 2025/dn