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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3639/2025, CM APPL. 17005/2025, CM APPL. 18481/2025

M/S SPC INFRASTRUCTURE PRIVATE LIMITEDPetitioner

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

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1. The present petition has been filed assailing the impugned letters/ communications issued by the National Highway Authority of India [NHAI / respondent] including the letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/10-A issued in regard to Balchera Fee Plaza (Annexure-P1) and letter dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/10-B issued in regard to the Kuchadi Fee Plaza and Okhamdi Fee Plaza (Annexure-P2).

2. *Vide* the above impugned letters / 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 Balchera Fee Plaza, Kuchadi Fee Plaza and Okhamdi 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 / bank guarantees 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 a show cause notice 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 response to the said show cause notice was submitted *vide* communication dated 29.01.2025 wherein it has been stated that the petitioner regularly monitors its toll booths in accordance with Clause 21 of the contract agreement/s between the parties and that the show cause notice issued by the respondent fails to provide any specific allegations as regards the fraudulent activity alleged to be carried out at the aforesaid fee plazas.
5. It is submitted that the impugned letter/s fail to even notice much less deal with the submissions made by the petitioner 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 communications / letters issued by the NHAI which are similar to the impugned communication/s 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. In the circumstances and 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. There is one other aspect of the matter. *Vide* order dated 24.03.2025, it was, *inter alia*, directed as under:-

“4. In the light of order dated 21.03.2025 passed in W.P.(C) 3513/2025 and W.P.(C) 3515/2025, it is directed that no further precipitative steps shall be taken by the respondent, including by way of encashment of the performance securities/ bank guarantee, which are subject matter of the present petition.”

15. Learned senior counsel for the petitioner submits that despite the aforesaid directions, the bank guarantee/s furnished by the petitioner *viz.* BG No. 7708IGP002078224 dated 18.03.2024 came to be encashed by the respondent on 24.03.2025 itself.

16. It is therefore sought that the respondent be directed to refund the amount realized by it by way of the encashment of the aforesaid bank guarantee. Clearly, the encashment of the aforesaid bank guarantee is in the teeth of the order dated 24.03.2025 passed by this Court. The same is even otherwise unjustified in view of the circumstances set out hereinabove.

17. In the circumstances, the respondent is directed to refund the amount realized by it by way of the encashment of the bank guarantee subject to the petitioner furnishing fresh bank guarantee/s to the respondent.

18. Let the requisite amount be refunded to the petitioner, as expeditiously as possible, upon the petitioner furnishing fresh bank guarantee/s in lieu of the encashed bank guarantee. The same shall be subject to the outcome of any further show cause notice/s and/or any further action taken by the respondent pursuant to the aforesaid directions.

19. The present petition is disposed of in terms of the above. Pending



applications also stand disposed of.

MARCH 28, 2025/dn

SACHIN DATTA, J