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

+ **W.P.(C) 3814/2025 & CM APPL. 17741/2025**

WESTWELL IRON AND STEEL PVT LTDPetitioner

Through: Mr. D.N. Goburdhun (Sr. Adv) along
with Mr. Samrat Pasriccha, Ms.
Chanya Jaitly, Advs.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA & ANR.

.....Respondents

Through: Mr. Namit Saxena, Ms. Isha Nagpal,
Advs.

Mr. Arjun Mahajan, Mr. Chetan
Jadon, Ms. Shivani Rajawat, Adv. for
R2.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

26.03.2025

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CM APPL. 17740/2025 –Exemption

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 3814/2025

3. The present petition has been filed assailing the impugned letter/communication dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/13 issued by the National Highway Authority of India [NHAI / respondent no.1] in regard to Tand Balidih Fee Plaza (Annexure-P1).

4. *Vide* the above impugned letter/communication, the following action has been taken against the petitioner:-

(i) the ongoing contract agreement dated 06.06.2024 (hereinafter '*the contract agreement*') between the parties, pursuant to which the



petitioner operates the Tand Balidih 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 agreement for operating the aforesaid fee plaza, deposited by the petitioner in terms of Clause 2.4 of the RFQ, has been sought to be encashed.

5. 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.

6. Further, it is submitted that a detailed response to the said show cause notice was submitted *vide* communication dated 31.01.2025 wherein the following points were emphasised:-

- i. That nothing was found during surprise inspections carried out by NHAI Officials, internal auditors, non Fastag Cash Auditors at the Tand Balidih Fee Plaza or any other fee plaza managed by the petitioner.
- ii. No fraudulent activities were found at the Tand Balidih Fee



Plaza even during 16 inspections carried out by the internal team/ officials of the petitioner.

- iii. That the technical support and managing software/server which is used for collecting toll fees at the Tand Balidih fee plaza is entirely controlled by another company namely 'Bisotech' and the said software/server is only handled by the engineers of 'Bisotech'. As such, there has been no report from any engineers from Bisotech regarding installation of any separate or parallel software in any of the systems used at the Tand Balidih fee plaza.
- iv. The collection of toll fees as reflected in the 'Monthly User Fee Collection Statement' for the last 20 months during which period the petitioner has been operating the fee plaza is only marginally different as compared to the collection of toll fees by the agency which managed the fee plaza prior to the petitioner.
- v. That the user fee collection work at the fee plaza is taking place in accordance with Clause 24(a) and (b) of the contractual agreement between the parties.

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.

7. 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 agreement and also debar the petitioner for a period of two years.



8. It is further submitted that the show cause notice made no reference to any termination action by the respondent.
9. Lastly, it is submitted that the impugned letter/communication has been passed in utter violation of the principles of natural justice inasmuch as no hearing whatsoever has been afforded to the petitioner. This is not refuted by learned counsel for the respondents.
10. Issue notice.
11. Learned counsel, as aforesaid, accept notice on behalf of the respondents.
12. Respective counsel for the parties have been heard at some length.
13. It is also noticed that communications similar to the impugned communication in the present petition have been set aside by this Court *vide* order dated 21.03.2025 passed in W.P.(C) 3513/2025 and W.P.(C) 3515/2025 as well as *vide* order dated 24.03.2025 in W.P.(C) 3579/2025.
14. Considering the aforementioned discrepancies in the impugned communication, and particularly considering that no opportunity for personal hearing was afforded to the petitioner prior to issuance thereof in the present case as well, the same is clearly unsustainable in law. Accordingly, the impugned communication is set aside.
15. 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.
16. With the above directions, the present petition is disposed of. Pending application also stands disposed of.

MARCH 26, 2025/uk

SACHIN DATTA, J