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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3987/2025, and CM APPLs.18522/2025, 18523/2025,
18524/2025

R K JAIN INFRA PROJECTS PRIVATE LIMITEDPetitioner
Through: Mr. Vedant Sharma, Mr. Ashish
Kumar Pandey, Mr. Siddharth
Sharma, Mr. Yashwant Singh and Ms.
Gauri Anand, Advs.

versus

NATIONAL HIGHWAY 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 letter/communication dated 18.03.2025 bearing no. CODIV-11036/2/2025-CO Division/Debar/09-B issued by the National Highway Authority of India [NHAI / respondent] in regard to Guabari 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 19.09.2024 (hereinafter '*the contract agreement*') between the parties, pursuant to which the petitioner operates the Guabari 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 2.10 of the Request for Proposal dated 13.08.2024, has been sought to be encashed.

3. Learned counsel for the petitioner submits that the impugned action has been taken on the basis of a show cause notice dated 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 response to the said show cause notice was submitted vide communication dated 27.01.2025 wherein it was emphasised that the user fee collection work at the toll plaza is being carried out using the authorised software provided by the NHAI and that no fraudulent activity has been found by the NHAI during routine inspection/s of the said toll plaza in the past.

It is submitted that the impugned letter fails to even notice much less deal with the aforesaid submission/s made by the petitioner in response to the show cause notice.

5. 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.

6. It is further submitted that the show cause notice 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 respondent.

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

11. It is noticed that a communication / letter issued by the NHAI with respect to another fee plaza, wherein the petitioner is the user fee collection agency and wherein an identical factual matrix exists, has also been set aside by this Court *vide* order dated 21.03.2025 in 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 is 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 applications also stand disposed of.

SACHIN DATTA, J

MARCH 28, 2025/dn