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

+ **W.P.(C) 4548/2025 and CM APPL.21037/2025 (Stay)**

ALOK BUILDTECH PRIVATE LIMITEDPetitioner

Through: Mr. Nalin Kohli, Sr. Advocate along
with Mr. Harshvardhan Agarwal, Ms.
Nimisha Menon, Mr. Parmod
Kalirana, Ms. Shruti Agrawal, Mr.
Manish Choudhary and Ms. Ameya
Vaid, Advocates.

versus

**NATIONAL HIGHWAYS AUTHORITY OF INDIA THROUGH
ITS CHAIRMAN**Respondent

Through: Mr. Namit Saxena and Ms. Isha
Nagpal, Advocates for NHAI.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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09.04.2025

CM APPL.21038/2025 (Exemption)

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

W.P.(C) 4548/2025 and CM APPL.21037/2025 (Stay)

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/03 (hereinafter '*the impugned communication*') issued by the National Highway Authority of India [NHAI / respondent] in regard to the Kumbhari Fee Plaza (Annexure P2).
4. *Vide* the aforesaid impugned communication, the following action has been taken against the petitioner –



- i. the ongoing contract agreement between the parties, pursuant to which the petitioner operates the Kumhari 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 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 (RFQ) between the petitioner and the respondent;
 - iii. on the basis of the above, the performance securities / bank guarantees 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, have been sought to be encashed.
5. Learned senior counsel for the petitioner submits that in identical circumstances, the show cause notices and communications issued by the NHAI have been set aside by this Court *vide* various orders including order dated 28.03.2025 in W.P.(C) 3639/2025, order dated 28.03.2025 in W.P.(C) 3986/2025 and order(s) dated 21.03.2025 in W.P.(C) 3513/2025 and W.P.(C) 3515/2025.
6. Learned senior counsel for the petitioner further submits that the facts in the present case are even more exacerbating inasmuch as a communication dated 17.03.2025 has been issued by the Project Director of the Project Implementation Unit (PIU), NHAI a day prior to the issuance of the impugned communication whereby the following observations were made –



- i. that an inspection was carried out by a team comprising of officials of the PIU, NHAI, Raipur and the independent engineer on behalf of the M/s LASA at the two toll plazas operated by the petitioner i.e. the Kumhari Fee Plaza and the Tarpongi Fee Plaza and that nothing untoward was found during the inspection;
- ii. that proper fee receipts were being issued by the petitioner agency and the same has been verified from the server installed at the aforesaid fee plaza/s; and
- iii. that entries of all the vehicles were being made into the software duly provided by the system integrator appointed by M/s IHMCL.

It is submitted that despite the aforesaid observations, the impugned order was issued on the next day i.e. 18.03.2025.

7. Issue notice.
8. Learned counsel, as aforesaid, accepts notice on behalf of the respondent.
9. Respective counsel for the parties have been heard at some length.
10. While it is undisputed that the aforesaid order/s in W.P.(C) 3639/2025 and other matters have been passed in an identical factual context, the petitioner while assailing the impugned communication does not assail the termination action, since the contract agreement between the parties which has now expired with efflux of time on 08.04.2025. As such, the issue of validity of the termination of the contract agreement between the parties has become moot.
11. Learned senior counsel for the petitioner confines himself to assailing the debarment of the petitioner *vide* the impugned communication dated



18.03.2025, and further seeks that the amount realized by the respondent by way of the encashment of the bank guarantee bearing BG no.734GT02240900001 issued on 30.03.2024 be refunded to it.

12. The impugned communication dated 18.03.2025 is set aside to the aforesaid extent in line with the order(s) passed in W.P.(C) 3639/2025 and connected matters.

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. It is further directed that in line with the order dated 28.03.2025 in W.P.(C) 3639/2025 passed by this Court in a similar context, the respondent is directed to refund the said amount expeditiously and preferably within a period of four weeks from today. It is also directed that the petitioner shall furnish fresh bank guarantee/s in lieu of the encashed bank guarantee.

15. The present petition is disposed of in the above terms. Pending applications also stand disposed of.

SACHIN DATTA, J

APRIL 9, 2025/dn