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

+ **O.M.P.(I) (COMM.) 397/2025 & I.A. 23608/2025**

M/S SAI GR IMPEX PVT LTD

.....Petitioner

Through: Mr. Sanjoy Ghosh, Sr. Adv, with Mr.
Anshul Gupta Adv., Mr Rishabh
Darira Adv

versus

**NATIONAL HIGHWAY AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED & ANR.**

.....Respondents

Through: Mr. Avneesh Garg, Mr. Utkarsh
Sharma, Mr. Sukreet Khandelwal,
Ms. Pavitra Singh, Ms. Iptisha, Ms.
Sneha Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

08.10.2025

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1. This is a petition filed under Section 9 of the Arbitration and Conciliation Act, 1996 seeking the following reliefs against the respondents:

“a. Direct the Respondent no. 1, restraining them from taking any coercive actions in furtherance of the impugned termination and debarment notice dated 23.08.2025.

b. Restrain the Respondent No. 1 from encashing the Performance Bank Guarantee bearing No. 069BG01202820002 amounting to INR 28,33,627/- (Indian Rupees Twenty Eight Lakhs Thirty Three Thousand Six Hundred and Twenty Seven Only) and



069BG01203520003 amounting to INR 28,33,628/- (Indian Rupees Twenty Eight Lakhs Thirty Three Thousand Six Hundred and Twenty Eight Only).

c. Direct the Respondent no. 1, to deposit the claim amount under Arbitration notice dated 27.08.2025 of Rs. 2,33,22,893/- (Rupees Two Crores Thirty Three Lakhs Twenty Two Thousand Eight Hundred and Ninety Three Only) plus the accrued interest as on date, before this Hon'ble Court."

2. This Court *vide* order dated 19.09.2025, on a *prima facie* view, was pleased to restrain the respondent No.1 from taking coercive action against the petitioner. The operative portion of the said order reads as under:-

"5. Prima facie, it seems that the action proposed to be taken by the respondent No. 1 is based on misappreciation of facts and for defaults occurring on the 'valley side' of the highway in question and not the 'hill side'. It is directed that till next date of hearing no coercive action shall be taken by the respondent No. 1 against the petitioner pursuant to the Show Cause Notice dated 23.08.2025."

3. I am informed that pursuant to the Show Cause Notice dated 23.08.2025, the petitioner has been heard and the decision on the Show Cause Notice is pending adjudication. If the decision taken pursuant to the Show Cause Notice is against the petitioner, the same shall not take effect for 5 days from the date of uploading of the order.

4. The said order is being passed in view of the fact that the petitioner has already been issued a completion certificate dated 26.04.2022. Some paragraphs of the reply dated 23.02.2024 filed by the respondent No. 1 before the National Green Tribunal read as under:



“(e) After following the due process of inviting bids, the Letter of Acceptance (LOA) dated 30.07.2020 was issued to the successful bidder, namely Sai GR Impex Private Limited. Thereafter, the contract was signed with the said contractor on 21.08.2020. The said contractor successfully completed the contract on 17.08.2022, pursuant whereeto, answering Respondent-NHIDCL issued Completion Certificate to the said contractor on 17.08.2022. The LOA dt. 30.07.2020 issued by Respondent No. 3 NHIDCL in favour of the Contractor is annexed herewith as ANNEXURE R-3/2.

....

(i) It is also pertinent to mention here that though the protection of the River Valley and its Slide was not in the scope of work entrusted to the answering Respondent-NHIDCL for the aforesaid stretch, yet the answering Respondent, through its aforesaid contractor, also provided basic sloping work towards valley side as on date. In fact, not only the slope work is done, but also a landslide gallery is constructed, so that the vehicles have a roof above them, while transiting from the higher risk prone areas earlier this area was prone to shooting stones.

(j) Apart from the aforesaid, the contract granted to the aforesaid contractor also envisages a Defect Liability and Maintenance Period of 5 years from the date of the completion, which, in the present case, ends on 28.04.2027.

(k) It is pertinent to mention here that the works completed by the contractor of the answering Respondent-NHIDCL are completely in consonance with the assignment entrusted to the answering



Respondent-NHIDCL by MORTH and there is no complaint of any shortcoming. In so far as “Formation Breach” mentioned in the petition at hand is concerned, it is submitted that the said incident was not exactly that of a formation breach, but was an incident of loosening and falling of small rocks/stretch of over-hanging soil at Valley Side on the aforesaid stretch of Barethi. As against this, the formation breach is an incident when a major portion of Valley Side sinks into the River, thereby creating a huge gap in the Road formation. In the present case, loosening of the said rocks is an entirely different process and the same has been repaired by the contractor at the instructions of the answering Respondent under the purview of the Defect Liability Period. As such, the said small falling of rocks has already been repaired by the concerned contractor.”

5. A perusal of the aforesaid paragraphs seems to suggest that the respondent No. 1 was primarily satisfied with the work performed by the petitioner and hence, issued the Completion Certificate. The dispute between the parties now primarily concern removal of defects during the defect liability period. The same would require a detailed hearing. In a connected matter in ARB.P. 1624/ 2025, an Arbitrator has been appointed to adjudicate the disputes between the parties arising out of Engineering, Procurement and Construction Agreement dated 21.08.2020

6. Since the Arbitrator has already been appointed, the present petition shall be treated as an application under Section 17 of the Arbitration and Conciliation Act, 1996 and the learned arbitrator shall adjudicate the same on own merits, uninfluenced by any observations made in this order.



7. The petition is disposed of along with applications, if any.
8. Order *Dasti*.

JASMEET SINGH, J

OCTOBER 8, 2025/DM