



2026:DHC:2311



\$~115

* **IN THE HIGH COURT OF DELHI AT NEW DELHI****W.P.(C) 3310/2026**Date of Decision: **16.03.2026****IN THE MATTER OF:**

TPF GETINSA EUROESTUDIOS S L

.....petitioner

Through: Mr.K. K .Sharma Sr. Advocate with
Mr. Rajiv Bakshi and Mr. Ram
Pravesh Rai Advocates.

versus

NATIONAL HIGHWAY AUTHORITY OF INDIA

.....respondent

Through: Ms Neetika Sharma and Mr Naman
Saraswat Advocates.**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)****CM APPL. 16000/2026 (for exemption)**

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

W.P.(C) 3310/2026 and CM APPL. 16001/2026

1. The instant petition is for the following reliefs:-

“i) issue a writ of certiorari or any other appropriate writ, order or direction, quashing Office Circular/Order No. NHAI/NH- CHH P/3801 0/2/IE-Getinsa/Pkg-11/2024/18052 dated 03.02.2026 issued by respondent.

ii) pass any other or further order/s which this Hon'ble Court may deem fit and proper in the interest of justice.”

Signature Not Verified
Signed By: NEHA CHOPRA
Signing Date: 16.03.2026
17:30:27

Signature Not Verified
Signed
By: PURUSHAINDRA
KUMAR KAURAV



2026:DHC:2311



2. The facts of the case would indicate that the petitioner in association with Segmental Consultancy and Infrastructure Advisory Private Limited was awarded the work to act as Consultant/Independent Engineer to supervise the work of Four laning of Jhansi-Khajuraho section (Package-11) of NH-75/76 from Design Chainage Km. 76.3 (Existing Chainage 82.1 00) near village Chhatipahari to Design Chainage Km. 161.7 (Existing Chainage Km.57.9) near Bamitha town in the State of Uttar Pradesh & Madhya Pradesh under NHDP (Phase-11 I) on Hybrid Annuity Mode which was to be executed by Concessionaire under the Concession Agreement. On 12.03.2018, the petitioner mobilized and commenced consultancy services at the project site.
3. The dispute arose over the Right of Way (ROW) fencing work in the four-laning of the Jhansi-Khajuraho section (Package-11) of NH-75/76, that whether the Right of Way (ROW) fencing was within the scope of work of the petitioner, acting as Independent Engineer, or the concessionaire under the Concession Agreement, and whether the petitioner was required to ensure its execution.
4. There were concerns whether the petitioner failed to exercise due diligence in reviewing the plans, profiles, and supporting documents submitted by the concessionaire, which allegedly resulted in non-implementation of Right of Way (ROW) fencing and the respondent contends that this amounted to a breach of Clause 3.1.1 of the General Conditions of Contract and Section 6 of the Terms of Reference.
5. Thereafter, respondent issued a show cause notice on 28.09.2024 alleging that the petitioner failed to exercise the due diligence in reviewing

Signature Not Verified
Signed By: NEHA CHOPRA
Signing Date: 19.03.2026
17:30:27

Signature Not Verified
Signed
By: PURUSHAINDR
KUMAR KAURAV



drawings and documents submitted by the Concessionaire for ROW fencing along the four-laning of the Jhansi–Khajuraho section (Package-11).

6. Subsequently *Vide* the impugned order dated 03.02.2026 passed by the respondent, the petitioner has been declared ‘non-performer’ for a period of six months and a penalty of Rs.9,47,975/- has been imposed on it.

7. The aforementioned factual narration reveals that the work in question, which is the genesis of the entire dispute, has taken place outside the jurisdiction of this Court. The petitioner seems to have approached this Court merely on the ground that the impugned order has been passed in, and the office of the Respondent-Authority is situated at, New Delhi.

8. This Court in *The Indure Pvt. Ltd. v. Government of NCT of Delhi*,¹ took note of the decisions in *Shristi Udaipur Hotels v. Housing and Urban Development Corp.*,² *Riddhima Singh v. Central Board of Secondary Education*,³ *Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda and Ors.*,⁴ *Michael Builders and Developers Pvt. Ltd. v. National Medical Commission and Ors.*,⁵ which declare that the situs of the head office/registered office of the respondent, does not determine whether the Court has the requisite territorial jurisdiction to entertain a writ petition.

9. The Court in *The Indure Pvt. Ltd.* importantly noted, at para. 36:

“36. A petitioner who approaches this Court to assail a decision of an authority situated in Delhi, when the underlying cause for the said decision lies elsewhere, effectively attempts to make this High Court a mini-pan-India Superior Court exercising jurisdiction over all events which take

¹ 2026:DHC:1605.

² 2014 SCC OnLine Del 2892.

³ 2023 SCC OnLine Del 7168.

⁴ 2024:DHC:6903-DB

⁵ 2024:DHC:7146.



place throughout this Country. There is no gainsaying with the proposition that every High Court is competent to adjudicate upon a lis which arises from events or actions taking place within its territory. Merely because the ultimate order, which is based on events taking place outside Delhi and takes cognizance of actions outside of Delhi, is passed within the jurisdiction of this Court, a writ petition ought not be entertained by this Court.”

10. On the issue of a claimant approaching this Court on the sole-ground of the respondent-authority, an arm of the union government, being situated within the jurisdiction of this Court, it was observed at para. 37-38:

“37. Naturally, being the capital of the Country, various authorities and bodies having pan-India jurisdiction would be located within the jurisdiction of this Court. Merely because the decision making authority happens to be in Delhi, ought not to be the sole reason to entertain a lis in this Court. The decision, no doubt, may be passed in the national capital, but it is usually against persons situated outside Delhi; and even more importantly, for actions which took place beyond the borders of this Court. The act of giving a hearing in Delhi, or the passing of an order in Delhi, is merely a result of a body/authority being situated in the national capital, it has nothing to do with the lis, the offending action, the legal injury or the foundational facts on the basis of which action is being taken.

38. The case-law cited above, makes repeated reference to “dominant facts”, and facts which are “material, essential and integral” to the lis in question. In most cases, the fact that the order is passed, or the head office is located, or that opportunity of hearing was afforded, within the jurisdiction of this Court is completely immaterial, non-essential, and non-integral to the dispute in question. Any of the aforementioned three aspects could very well have taken place in another part of the Country, it is for the sole reason that Delhi is the national capital, that, in most cases these factors get connected to the jurisdiction of this Court. From another lens, it may be seen that regardless of what the underlying facts or legal injury/infringement may be, the order impugned would, in an overwhelming number of cases be passed from Delhi. If this be the case, can this constant factum, which shall remain present in each case, be considered a “dominant fact” or a “material, essential and integral” fact? The answer must be in the negative.”

11. Ultimately, the Court concluded that the substance of a matter must be adjudged, and not the unchanging constant which is present in every petition



against a state-authority, to arrive at a conclusion on whether to entertain a petition in the context of territorial jurisdiction and *forum non conveniens*.

At para. 42 this Court observed:

“42. It is the substance of the matter which the Court must consider in determining the connection with Delhi. An order being passed by an authority in Delhi is an unchanging constant. This static/uniform facet, which is unmoved by the nature of the lis, ought not to determine where territorial jurisdiction would lie.”

12. In the facts of the instant case, there may be a part of cause of action which has arisen in Delhi, however, the same should not be the sole reason to entertain the instant petition.

13. The Supreme Court in the case of ***Kusum Ingots & Alloys Ltd. v. Union of India and Anr.***,⁶ has held that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of *forum conveniens*. The material portion of the aforementioned decision reads as under:

“Forum conveniens

30. We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. [See Bhagat Singh Bugga v. Dewan Jagbir Sawhney [AIR 1941 Cal 670 : ILR (1941) 1 Cal 490] , Madanlal Jalan v. Madanlal [(1945) 49 CWN 357 : AIR 1949 Cal 495] , Bharat Coking Coal Ltd. v. Jharia Talkies & Cold Storage (P) Ltd. [1997 CWN 122] , S.S. Jain & Co. v. Union of India [(1994) 1 CHN 445] and New Horizons Ltd. v. Union of

⁶ (2004) 6 SCC 254.



2026:DHC:2311



India [AIR 1994 Del 126] .]"

14. In view of the above, petition stands dismissed, along with the pending application. Liberty is, however, granted in favour of the petitioner to approach the jurisdictional High Court to agitate the instant *lis*, if so advised.

15. All rights and contentions of the parties are left open.

PURUSHAINDRA KUMAR KAURAV, J

MARCH 16, 2026

Nc

Signature Not Verified
Signed By: NEHA CHOPRA
Signing Date: 16.03.2026
17:30:27

Signature Not Verified
Signed
By: PURUSHAINDRA
KUMAR KAURAV