



\$~137 & 143

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

W.P.(C) 5212/2026 and CM APPL. 25493-25494/2026

Date of Decision: **20.04.2026**

IN THE MATTER OF:

VISHWA SAMUDRA KANNUR EXPRESSWAY PRIVATE LIMITED

.....Petitioner

Through: Mr. Nalin Kohli, Sr. Adv. with Mr. Nilava Bandyopadhyay, Mr. Kumar Shashwat Singh Sawno, Ms. Nikhat Jamal, Ms. Surabhi Rana, Mr. Harsh Parakh, Mr. Ashutosh Chaudhary, Advs.

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA

.....Respondent

Through: Mr. Santosh Kumar with Mr. Adithya Ramani and Mr. Ritik Dwivedi, Advocates for NHAI.

W.P.(C) 5237/2026 and CM APPL. 25597-25598/2026

VISHWA SAMUDRA ENGINEERING PRIVATE LIMITED

.....Petitioner

Through: Mr. Dayan Krishnan, Sr. Adv. with Mr. DS Parmar, Mr. Nilava Bandyopadhyay, Mr. Kumar Shashwat Singh Sawno, Ms. Nikhat Jamal, Ms. Surabhi Rana, Mr. Harsh Parakh & Mr. Ashutosh Chaudhary, Advs.

Signature Not Verified

Signed By:AMIT KUMAR

SHARMA

Signing Date:25.04.2026

14:17:52

W.P.(C) 5212/2026

Page 1 of 8

Signature Not Verified

Signed

By:PURUSHAINDR

KUMAR RAURAV



versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA

.....Respondent

Through: Mr. Santosh Kumar with Mr. Adithya Ramani and Mr. Ritik Dwivedi, Advocates for NHAI.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. These writ petitions are for setting aside show-cause notices dated 04.02.2026 and 06.02.2026 and the consequential communication dated 13.04.2026 issued by the National Highways Authority of India ('NHAI'), whereby, the petitioners have been debarred from participating in NHAI projects for a period of one year, and penalty has been imposed.
2. The impugned communication arises out of the contracts dated 08.02.2021 and 31.03.2021 executed between NHAI and the petitioners, with respect to 'Six Laning of Thaliparamba to Muzhapilangad Section of NH-17 (New NH-66) from Ch.137+900 to Ch. 170+600 under Bharatmala Pariyojna in the State of Kerala on Hybrid Annuity Mode'.
3. It appears that Show Cause Notices dated 04.02.2026 and 13.04.2026 ("**Impugned SCNs**") were issued to the petitioner on the basis of certain inspections undertaken by the respondents, contending, *inter alia*, that the petitioner "*has failed to carry out the construction activities in accordance with the standards and specifications and the codal provisions*", and that "it

Signature Not Verified

Signed By:AMIT KUMAR

SHARMA

Signing Date:25.04.2026

14:17:52

W.P.(C) 5212/2026

Page 2 of 8

Signature Not Verified

Signed

By:PURUSHAINDRA

KUMAR KAURAV



is evident that the performance of the ground improvement works executed in the stretch from Ch. 146+100 to Ch. 150+600 is not satisfactory and does not conform to the expected performance requirements, thereby raising serious concerns regarding safety, serviceability and long-term stability of the embankment and associated structure.”

4. The Impugned SCNs seem to have culminated into the order dated 13.04.2026, whereby, the petitioner was debarred for a period of 1 year and a penalty equivalent to 5% of the Current Value of the failed works or 0.5 percent of the Contract Value of the whole work, whichever is higher, was imposed. The said order, was rendered on the basis of the following conclusion reached by the respondent-authority:

“6.2. The Authority is of the considered view that the defences raised are untenable and that the defective construction and lapses have caused major structural failure and put the project completion in jeopardy. The Authority has also taken into consideration the safety implications of the distress for the embankment and associated structures, and the need to ensure accountability and adherence to standards in execution of National Highway Infrastructure Projects.”

5. Mr. Dayan Krishnan and Mr. Kholi, learned senior counsel on behalf of the petitioners, submit that the entire grievance of the petitioner is with respect to its debarment by NHAI, and therefore, the entire cause of action has arisen within the jurisdiction of this Court. In order to substantiate his submission he places reliance on the decisions passed by the Division Bench of this Court in ***Subodh Chandra Saha v. Punjab National Bank and Anr.***,¹ and ***M/s Vedanta Ltd. v. Nominated Authority Ministry of Coal, Govt. Of India and Ors.***²

¹ LPA 134/2026, order dt. 17.03.2026.

² 2026:DHC:3006-DB.



6. The sole reason to invoke the jurisdiction of this Court appears to be that the respondent i.e., the NHAI is situated within the jurisdiction of this Court.

7. This Court in *The Indure Pvt. Ltd. v. Government of NCT of Delhi*,³ took note of the decisions in *Shristi Udaipur Hotels v. Housing and Urban Development Corp.*,⁴ *Riddhima Singh v. Central Board of Secondary Education*,⁵ *Smt. Manjira Devi Ayurveda Medical College and Hospital v. Uttarakhand University of Ayurveda and Ors.*,⁶ *Michael Builders and Developers Pvt. Ltd. v. National Medical Commission and Ors.*,⁷ which declare that the situs of the head office/registered office of the respondent, does not determine whether a Court ought has the requisite territorial jurisdiction to entertain a writ petition.

8. 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 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.”

9. 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:

³ 2026:DHC:1605.

⁴ 2014 SCC OnLine Del 2892.

⁵ 2023 SCC OnLine Del 7168.

⁶ 2024:DHC:6903-DB



“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.”

10. 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.”

⁷ 2024:DHC:7146.



11. In the facts of the instant case, the project undertaken by the petitioner herein was in Kerala i.e., outside the jurisdiction of this Court. The inspections conducted by NHAI also concerned the said project, the deficiency highlighted in the Impugned SCNs concerned acts/omissions of the petitioner concerning the execution of the project in Kerala. It is, therefore, clear as day, that the material, essential and integral part of the cause of action has arisen outside the jurisdiction of this Court.

12. In *M/s Vedanta Ltd.* (supra), to support the entertainability of the petition before this Court, the following was submitted before the Division Bench:

“... Vedanta will be precluded from filing any writ petition before this Court despite the fact that entire cause of action including conduct of auction, acceptance of bid, allocation of coal block, execution of CMDPA, issuance of Vesting Order, issuance of Show Cause Notice, submission of reply to the Show Cause Notice, proceedings held by the Scrutiny Committee, decision to appropriate PBG and to initiate termination of CMDPA have taken in New Delhi and the Nominated Authority is having its permanent office solely within the territorial jurisdiction of this Court. Accordingly, this Court will have jurisdiction to entertain the Writ Petition, and the Impugned Orders have wrongly decided to the contrary.”

13. While rejecting the aforementioned submission and affirming the orders passed by this Court in *M/s Vedanta Ltd. v. Nominated Authority, Ministry of Coal*,⁸ the Division Bench held as under:

“41. In Sterling Agro Industries Ltd v. Union of India and Others, 2011 SCC OnLine Del 3162, the Full Bench of this Court has held that even if a minuscule part of cause of action arises within the jurisdiction of a High Court, a writ would be maintainable before that High Court, however that part of cause of action must constitute a material, essential, or integral part of the cause of action as laid down in Alchemist Ltd. v. State Bank of Sikkim, (2007) 11 SCC 335. It was further held that the location of the appellate or revisional authority alone would not constitute forum convenience as it will vary from case to case and depend upon the lis in question. Therefore, it was held that while exercising the writ jurisdiction, the doctrine of forum

⁸ W.P.(C) 1664/2026, orders dt. 07.02.2026 and 09.02.2026.



convenience and the nature of cause of action are required to be scrutinized by the High Court depending on the factual matrix of each case.

...
46. *Therefore, material, essential and dominant cause of action has not arisen within the jurisdiction of this Court and, accordingly, the submission of the Appellant that this Court ought to have exercised jurisdiction on the basis of issuance of SCN-III within the jurisdiction of this Court is untenable. By issuing SCN-III, no order has been passed and accordingly forum convenience would be in the jurisdictional High Court where the Tribunal is situated.*

47. *In view of the above, we concur with the view taken by the learned Single Judge in the Impugned Orders. Hence, the Appeal filed by Vedanta being LPA No. 83/2026 along with the pending applications deserves to be dismissed."*

14. ***Subodh Chanda Saha*** (supra) arose on account of different facts. The said decision, as opposed to ***M/s Vedanta Ltd.*** (supra), was not based on a discussion on *forum conveniens*. Importantly, neither was the decision of the learned Single Judge in ***Subodh Chandra Saha v. Punjab National Bank***,⁹ premised on the principle of *forum conveniens*. The judgement of the Division Bench in ***Subodh Chandra Saha*** (supra), is thus, distinguishable.

15. At its highest, accepting the petitioner's submission would allow for the conclusion that a part of the cause of action has arisen in Delhi, however, the same should not be the sole reason to entertain the instant petition.

16. The Supreme Court in the case of ***Kusum Ingots & Alloys Ltd. v. Union of India and Anr.***,¹⁰ 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

⁹ W.P.(C) 18261/2025, order dt. 27.01.2026.

¹⁰ (2004) 6 SCC 254.



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 India* [AIR 1994 Del 126] .]”

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

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

PURUSHAINDRA KUMAR KAURAV, J

APRIL 20, 2026
Tr/Rao

Signature Not Verified

Signed By:AMIT KUMAR

SHARMA

Signing Date:25.04.2026

14:17:52

W.P.(C) 5212/2026

Page 8 of 8

Signature Not Verified

Signed
By:PURUSHAINDRA
KUMAR KAURAV