



2026:DHC:3374-DB



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

Date of Decision: 21.04.2026

+ **W.P.(C) 5341/2026**

PRAKASH ASPHALTINGS AND TOLL HIGHWAYS INDIA LTD.
.....Petitioner

Through: **Mr. Sandeep Sethi, Senior Adv.
with Mr. Monish Panda, Ms.
Preena Salgia & Mr. Anmol
Jassal, Advs.**

versus

**NATIONAL HIGHWAYS AUTHORITY OF
INDIA**
.....Respondent

Through: **Mr. Manish K Bishnoi with
Mr. Khubaib Shakeel, Advs.**

**CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MR. JUSTICE AMIT MAHAJAN**

J U D G M E N T (O R A L)

ANIL KSHETARPAL, J.:

CM APPL. 26211/2026 (for exemption)

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

W.P.(C) 5341/2026 & CM APPL. 26210/2026

3. While filing the Petition, the Petitioner has prayed as under:

“a) Issue a writ of Mandamus or any other appropriate writ, order or direction quashing the Letter of Acceptance dated 17.04.2026 and the April NIT dated 02.04.2026, and direct the Respondent to undertake a fresh tender process by issuing a fresh notice inviting tender with clear and unambiguous terms; or

b) Alternatively, issue a writ of mandamus or any other

Signature Not Verified

Signed By: SAVITA

PASRICHA

Signing Date: 23.04.2026

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appropriate writ, order or direction, directing the Respondent to permit the Petitioner to amend or modify its bid submitted pursuant to the ambiguity in the April NIT; or

c) Alternatively, issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondent to treat the Petitioner's bid submitted pursuant to the April NIT, as null and void and permit the Petitioner to withdraw the same without any adverse consequences, including but not limited to the imposition of any penalty, damages, forfeiture of bid security, or any debarment arising out of non-acceptance of the Letter of Award issued under the April NIT;

and

d) pass such other/further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

4. In order to comprehend the issue involved in the present case, relevant facts, in brief, are required to be noticed.

5. On 02.04.2026, the National Highways Authority of India ('NHAI') invited bids for engagement of a user fee collection agency for the project Four-Lane Greenfield Delhi–Amritsar–Katra Expressway ('NE-5') on Hybrid Annuity Mode, along with upkeep and maintenance of adjacent toilet blocks, including recoupment of consumable items. The engagement was proposed for a period of three months or till appointment of a regular agency, whichever occurred earlier. The Annual Potential Collection ('APC') was projected at Rs.106.41 crore. A corrigendum dated 06.04.2026 was thereafter issued. The invitation for e-quotation contained, *inter alia*, the following note:

"The following additional provision has been proposed in RFP for inviting EQ bid for the subject project:

...



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(ii) *The remittance shall be revised as on when the new fee plaza (Ghagga, Phaguwala and Ahmedagarh) will be operation as per following:*

- *If **Ghagga Fee Plaza** will be operational then the original quoted remittance (including any revision due to 5(b) or 5(c) of the contract agreement) shall be increased by 20.07% to derive revised remittance.*
- *If **Phaguwala Fee Plaza** will be operational then the original quoted remittance (including any revision due to 5(b) or 5(c) of the contract agreement) shall be increased by 1.17% to derive revised remittance.*
- *If **Ahmedpur Fee Plaza** will be operational then the original quoted remittance (including any revision due to 5(b) or 5(c) of the contract agreement) shall be increased by 0.70% to derive revised remittance.*

This clause will be applicable mutatis-mutandis to all clauses applicable.”

6. The Petitioner submitted its financial bid quoting a daily remittance of Rs.60,63,914/- and was declared the highest bidder ('H-1'). *Vide* communication dated 17.04.2026, the Petitioner was called upon to furnish performance security in the form of DD/RTGS amounting to Rs.221,33,29,000/- equivalent to fifteen (15) days' quoted remittance within five (05) working days from issuance of the Letter of Award ('LoA') and to execute the agreement on the same day, followed by takeover of the fee plaza on the succeeding day at 08:00 hours. On the same date, a clarification was issued informing the Petitioner that the performance security amount was to be read as Rs.9,09,59,000/- instead of Rs.221,33,29,000/-.

7. The Petitioner asserts that although the financial bids were opened on 10.04.2026 and it was declared H-1, it subsequently noticed a discrepancy regarding the number of operational fee plazas.



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Consequently, on 13.04.2026, the Petitioner addressed a representation to the Respondent requesting that its bid be treated as null and void on account of an alleged *bona fide* mistake arising from conflicting terms of the NIT. Thereafter, the present Writ Petition came to be filed on 18.04.2026.

8. Learned counsel representing the Petitioner submitted that the caption of the NIT and allied tender documents created an impression that bids were invited for eleven (11) toll plazas, whereas in reality only eight (08) plazas were operational, thereby misleading the Petitioner while submitting its bid.

9. It was further contended that despite the discrepancy having been brought to the notice of the Respondent on 13.04.2026, no corrective action was taken and that the apprehended forfeiture of bid security, cancellation of the contract or blacklisting of the Petitioner would cause irreparable prejudice arising out of a *bona fide* mistake.

10. Learned counsel representing the Petitioner placed reliance upon the judgment passed by the Supreme Court in *M/s. Omsairam Steels & Alloys Pvt. Ltd. v. Director of Mines and Geology BBSR & Ors.*, (2024) 9 SCC 697; and *Ceigall India Ltd. v. National Highway Authority of India*, 2025 SCC OnLine Del 5425.

11. Having considered the submissions advanced, this Court is of the view that the present petition is premature and involves disputed questions of fact, which can appropriately be decided by availing the remedy of civil suit.



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12. In substance, the Petitioner seeks a declaration from this Court that it was misled into submitting its bid, which has since been accepted by the Respondent.

13. Whether the Petitioner was in fact misled or whether the alleged mistake was attributable to ambiguity in the tender documents constitutes a disputed question of fact requiring appreciation of evidence, which falls outside the limited scope of judicial review under Article 226 of the Constitution of India.

14. At this stage, any observation on merits would be inappropriate and may prejudice the rights of the parties in appropriate proceedings.

15. Insofar as the apprehension regarding forfeiture of bid security, cancellation of contract or blacklisting is concerned, the same remains speculative at this stage. A writ petition cannot be entertained merely on the basis of anticipated or apprehended action.

16. In *Omsairam Steels (supra)*, the Supreme Court recorded a clear finding of inadvertent human error and exercised its extraordinary jurisdiction under Article 142 of the Constitution of India in the peculiar facts of that case.

17. Similarly, in *Ceigall India Ltd. (supra)*, there was a minor typographical error in the bid amount as recorded in figures and in words. Inadvertently, while writing the amount in words, the word “crore” was omitted. This discrepancy resulted in NHAI accepting the bid at the amount quoted in words while simultaneously directing forfeiture and encashment of the bid security. In those peculiar



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circumstances, the Division Bench of this Court held that the error constituted a *bona fide* mistake and, therefore, no further coercive action, including debarment or similar penal consequences, ought to follow.

18. The aforesaid judgments were rendered in distinct factual circumstances and are clearly distinguishable from the peculiar facts of the present case.

19. For the foregoing reasons, the present Writ Petition is disposed of, relegating the Petitioner to avail appropriate alternative remedies in accordance with law, including institution of a civil suit, if so advised. However, liberty is reserved to the Petitioner to invoke the writ jurisdiction of this Court in the event any order of blacklisting or similar civil consequence is passed against it.

20. With the aforesaid observations, the Writ Petition, along with the pending application, is disposed of.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 21, 2026

sp/sh