



2026:DHC:2593



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

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Judgment Reserved on: 13th March, 2026
Judgment pronounced on: 28th March, 2026

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W.P.(C) 17743/2025 & CM APPL. 73375-73376/2025, CM APPL. 10722/2026

UNION BANK OF INDIA

.....Petitioner

Through: Mr. Sandeep Bajaj, Ms. Swastika Kumari, Ms. Aakansha Nehra and Mr. Mayank Biyani, Advocates.

versus

DELHI JAL BOARD & ORS.

.....Respondents

Through: Mr. Sanjay Jain Senior Advocate with Mr. Tushar Sannu, Mr. Nishank Tripathi, Ms. Harshita Sukhija, Ms. Rishika Agrawal and Ms. Priya Tyagi, Advocates.
Mr. T. Sundar Ramanathan & Ms. Sukanya Viswanathan, Advocates for R-2

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

JUDGMENT

AMIT BANSAL, J.

1. The present writ petition has been filed on behalf of Union Bank of India, which portrays itself to be a secured creditor and successor-in-interest, administering the Package-II of the Interceptor Sewer Project (ISP) (hereinafter 'Project') works of the erstwhile M/s Pratibha- Mosinzhstroj



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Consortium (now under liquidation), to assail and seek quashing of the termination letter dated 12th November, 2025.

2. Brief facts necessary for adjudication of the present writ petition are set out below:

- 2.1. In the year 2011, the respondent no.1/DJB, with a view to abate the pollution of the River Yamuna, decided to lay interceptor sewers along the three major drains, namely Najafgarh, Supplementary, and Shahdara and appointed the respondent no.2/Engineers India Limited (EIL) as a Project Management Consultant for the same.
- 2.2. The respondent no.2/EIL floated a tender document for design and construction of the aforesaid interceptor sewers along with Operation and Maintenance ('O&M') of the aforesaid interceptor sewers for a period of 11 years, including a one-year defect liability period.
- 2.3. The tender was awarded to the respondent no.3/Consortium, having M/s. Pratibha Industries Limited (hereinafter 'PIL') as the lead member.
- 2.4. On 8th December, 2011, a Tripartite Agreement was executed between the respondent no.1/DJB, respondent no.2/EIL and the respondent no.3/Consortium for the design and construction of the aforesaid interceptor sewers.
- 2.5. On 19th July, 2014, the petitioner bank sanctioned a loan to PIL having a limit of over Rs. 500 crores. In terms of the loan document, a first charge was created over the entire assets of the Project.
- 2.6. On 1st February, 2019, a petition under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter 'IBC') was admitted by NCLT,



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Mumbai Bench against PIL and a moratorium under Section 14 of IBC was set in place.

- 2.7. While PIL was undergoing the Corporate Insolvency Resolution Process (CIRP), the respondent no.3/Consortium completed and handed over the Project to the respondent no.1/DJB and a completion certificate was issued.
- 2.8. On 8th February, 2021, NCLT commenced liquidation in respect of PIL and a Liquidator was appointed. The petitioner bank, being the secured financial creditor, filed its claim to the tune of Rs. 900 crores before the Liquidator of PIL.
- 2.9. During liquidation proceedings, the respondent no.1/DJB entered into an Operation and Maintenance (O&M) Agreement dated 7th June, 2021, with the respondent no.3/Consortium, where the Consortium was represented by PIL.
- 2.10. On 14th July, 2021, the petitioner bank issued a notice under Section 13(2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter 'SARFAESI Act') for the enforcement of its security interest.
- 2.11. On 27th July 2021, the respondent no.1/DJB terminated the O&M Agreement dated 7th June 2021.
- 2.12. Subsequently, the respondent no.3/Consortium filed a writ petition before this Court, being W.P.(C) 10740/2021, seeking quashing of the termination letter dated 27th July, 2021. This Court *vide* order dated 24th September, 2021 granted an interim stay against the operation of the said termination letter.



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- 2.13. On 17th November, 2023, the petitioner bank took over the physical possession of Package-II assets of the Project and appointed an Administrator under Section 15(1)(b) of the SARFAESI Act for taking over the control and administration of the said Project. The petitioner also initiated the process for auctioning of the Project.
- 2.14. On 6th May, 2025, the respondent no.1/DJB withdrew the termination letter dated 27th July, 2021. Accordingly, this Court *vide* order dated 15th May, 2025, disposed of W.P.(C) 10740/2021.
- 2.15. On 28th May, 2025, a show-cause notice was issued by the respondent no.1/DJB identifying 19 concerns and calling upon PIL and the petitioner bank as to why the contract should not be terminated. The petitioner bank replied to the aforesaid show-cause notice on 13th June, 2025 through the Administrator.
- 2.16. On 2nd July, 2025, a final notice was issued by the respondent no.1/DJB to PIL as well as the petitioner bank, which was replied to by the petitioner bank, through the Administrator, on 7th July, 2025.
- 2.17. On 25th October, 2025, a fresh show-cause notice was issued by the respondent no.1/DJB alleging five (5) further deficiencies. The petitioner filed a response to the said show-cause notice on 10th November, 2025.
- 2.18. The respondent no.1/DJB issued a termination letter dated 12th November, 2025, in terms of which the Agreement dated 8th December 2011 and O&M Agreement dated 7th June 2021 were terminated. Pursuant to the said notice, the respondent no.1/DJB took over the physical possession of the Project on 13th November 2025, from the



petitioner.

3. Aggrieved by the aforesaid, the petitioner has filed the present writ petition seeking the following reliefs:

A. Issue a writ of certiorari or any other appropriate writ, order or direction quashing and setting aside the impugned termination / cancellation order dated 12.11.2025 issued by the Respondent Delhi Jal Board, whereby the Respondent has arbitrarily and unilaterally terminated the Contract dated 08.12.2011 and the Operations and Maintenance Agreement No. 06 (2021 2022) dated 07.06.2021 pertaining to ISP Package-2, forming part of the Interceptor Sewer Project for abatement of pollution in the Najafgarh, Supplementary and Shahdara Drains.

B. Direct restoration and continuation of the Contract dated 08.12.2011 and the Operations and Maintenance Agreement No. 06 (2021 2022) dated 07.06.2021 pertaining to ISP Package-2 in favour of the Petitioner (acting through the Administrator appointed by the Secured Creditor), and direct the Respondent to maintain status quo ante with respect to all contractual rights and obligations.

C. Restrain the Respondent DJB from taking any coercive, adverse, precipitative or third-party creating action, including but not limited to handing over the O&M work of ISP Package-2 to any other project, or interfering with the statutory rights of the Petitioner as Secured Creditor under the Insolvency and Bankruptcy Code, 2016, till final disposal of this writ petition.

D. Restrain the Respondent DJB from invoking, forfeiting, appropriating or adjusting any bank guarantees, performance securities, retention money or any other deposits, and from withholding legitimate payments otherwise due under the Contract dated 08.12.2011 and the O&M Agreement dated 07.06.2021 pertaining to ISP Package-2, pending disposal of the present petition.

E. Issue a writ, order or direction restraining the Respondent DJB from interfering, obstructing or taking any action that may impede, derail or frustrate the ongoing auction of the secured asset pertaining to ISP



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Package-2 being conducted by the Petitioner as a Secured Creditor under Section 52 of the Insolvency and Bankruptcy Code, 2016, and further directing that the rights, interests and entitlements of the successful auction purchaser shall be fully protected and recognised, 61 contractor, disturbing the Petitioner's management/possession of the subject to further orders of this Hon'ble Court.

F. Direct Respondent No. 1 Delhi Jal Board to forthwith release all admitted and pending payments due and payable to the Petitioner under the Contract dated 08.12.2011 and the Operations and Maintenance Agreement No. 06 (2021 2022) dated 07.06.2021 pertaining to ISP Package-2, along with applicable interest, so as to enable continuity of essential work and to prevent further prejudice to the Petitioner's statutory rights as Secured Creditor under the Insolvency and Bankruptcy Code, 2016.

G. Pass any other or further order(s) as may be deemed fit and appropriate in the facts and circumstances of the present case;

4. Notice in the present petition was issued *vide* order dated 21st November 2025.
5. A detailed counter-affidavit has been filed on behalf of the respondent no.1/DJB, wherein it is stated that the contractor failed to execute the Project to the satisfaction of the respondent no.1/DJB. Numerous deficiencies were identified by officers of the respondent no.1/DJB and respondent no.2/EIL during the defect liability period and the O&M phase. Despite various communications, no remedial action was taken on behalf of the contractor.
6. It is stated that the O&M Agreement dated 7th June 2021 was rendered void in view of the order dated 8th February 2021, passed by the NCLT Mumbai Bench, wherein a Liquidator had been appointed, which resulted in extinguishing all powers of PIL's management under Section 34(2) of IBC. Despite this, the O&M Agreement was signed on behalf of an official of PIL



without lawful authority.

7. Mr Sandeep Bajaj, counsel appearing on behalf of the petitioner, submits that the impugned termination letter is illegal and arbitrary and issued in complete disregard of the petitioner's rights as a secured creditor, which are protected under IBC. The receivables from the said Project are secured assets for the petitioner. Reliance is placed on Section 52 of IBC to submit that the petitioner has a right to realise the security interest in the manner which is mentioned under the said provision. Reliance is also placed on provisions of Section 13(4) read with Section 15 of the SARFAESI Act, to submit that the petitioner bank was well within its right to take over the management of PIL as a secured creditor and operate the contract.

8. It is submitted that the status of the petitioner bank as a secured creditor has been duly recognised by the respondent no.1/DJB as the Administrator appointed by the petitioner has been attending various meetings with the respondent no.1/DJB.

9. It is further contended that the impugned termination letter is in violation of principles of natural justice. The show-cause notice dated 25th October, 2025, was issued by the respondent no.1/DJB for the imposition of penalty. The said notice was duly replied to by the petitioner. The notice did not mention anything about the termination of the contract. Therefore, the termination goes beyond the show-cause notice and is hence *ex-facie* illegal.

10. At the outset, the respondent no.1/DJB has questioned the locus of the petitioner to file the present writ petition.

11. Mr. Sanjay Jain, senior counsel appearing on behalf of the respondent no.1/DJB has drawn the Court's attention to the terms of the loan document



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to highlight that the only security created in favour of the petitioner bank was towards 'project receivables'. Therefore, the petitioner bank could not seek to take over the Project. He further submits that there is nothing in the Loan Agreement that provides that the petitioner bank could take over the rights and obligations of the contractor. Accordingly, it is submitted that the petitioner has placed wrongful reliance on Section 13(4) of the SARFAESI Act, as the business of the borrower was not the secured asset.

12. Mr. Sanjay Jain has also drawn the attention of the Court to Section 41(ha) of the Specific Relief Act, 1963, which provides that an injunction cannot be granted if it impedes or delays the progress or completion of any infrastructure project.

13. It is further stated that the termination letter was passed in full compliance with principles of natural justice after giving adequate opportunity to the petitioner bank to respond. The termination letter was validly passed, taking into account the provisions of Section 39 of the Indian Contract Act, 1872. It is stated that since the disputes raised in the present petition are purely contractual in nature, a writ petition is not maintainable.

14. I have heard the counsel for the parties and examined the record of the case.

15. First, I shall deal with the locus of the petitioner bank to file the present writ petition.

16. The petitioner has placed reliance on Section 52 of IBC in support of its submission that the petitioner bank, as a secured creditor, has a right to enforce secured assets and the security interest in its favour. The said provision is set out below:



52. Secured creditor in liquidation proceedings.—

(1) A secured creditor in the liquidation proceedings may— (a) relinquish its security interest to the liquidation estate and receive proceeds from the sale of assets by the liquidator in the manner specified in Section 53; or (b) realise its security interest in the manner specified in this section.

(2)...

(3)...

(4) A secured creditor may enforce, realise, settle, compromise or deal with the secured assets in accordance with such law as applicable to the security interest being realised and to the secured creditor and apply the proceeds to recover the debts due to it.

(5)...

(6)...

(7)...

(8)...

(9)...

17. The petitioner also relies on Regulation 37 of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, which prescribes the procedure of realisation of security interest. Regulation 37 is set out below:

37. Realisation of security interest by secured creditor.—

(1)...

(2)...

(3)...

(4)...

(5)...

(7) The provisions of this Regulation shall not apply if the secured creditor enforces his security interest under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 or the Recovery of Debts and Bankruptcy Act, 1993.

(8)...

18. In terms of Section 52(4) of IBC read with Regulation 37, the petitioner



bank seeks to invoke its remedies under the SARFAESI Act. Counsel for the petitioner places reliance on Section 13(4)(b) of the SARFAESI Act to submit that the petitioner bank could have validly taken over the management of the business of the borrower. To appreciate this submission, it may be useful to refer to Section 13(4) of the SARFAESI Act, which is set out below:

“13. Enforcement of security interest.—

(1)...

(2)...

(3)...

(4) In case the borrower fails to discharge his liability in full within the period specified in sub-section (2), the secured creditor may take recourse to one or more of the following measures to recover his secured debt, namely:—

(a)...

[(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt:

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take over the management of such business of the borrower which is relatable to the security for the debt;]”

19. In terms of Section 13(4)(b), a secured creditor can take over the management of the business of the borrower. However, as per the Proviso to Section 13(4)(b), this can be done only when the substantial part of the business is held as security for the debt. Clearly, the second Proviso does not apply to the facts of the present case.

20. Now, a reference may be made to the relevant provisions of the Loan Agreement between the petitioner bank and PIL. Under the Loan Agreement,



the borrower (PIL) had hypothecated to the petitioner bank the following:

“A) Goods, stock-in trade and moveable property of any kind belonging to the firm including all moveable plants, engines and machinery, apparatus, tools, stores and spares, cars, vehicles, stocks of raw-materials, stock-in progress, finished goods and all office merchandise held in our shop and/or godowns and/or factory and all book- debts and other outstanding due to us or to our said firm pertaining to Delhi Jal Board Package more particularly described in schedule A; hereunder Written as security for the payment to the Bank of the loan or the Balance due to the Bank by the Borrower on the Loan Account, hereunder referred to as “the Hypothecated Assets”

21. Now, a reference may be made to Schedule A of the Loan Agreement, which is referred to in Clause A set out above. The said Schedule A is set out below:

SCHEDULE "A"

Securitization of both present and future project receivables of the Consortium from Delhi Jal Board Project Package - 2 till the Term Loan along with interest and other charges is not repaid in full

First Charge on escrow of the project receivables for Delhi Jal Board Project Package - 2

First Charge on the Project specific current assets, work-in-progress, receivables and other current assets pertaining to the Delhi Jal Board Project Package - 2 including all stocks, raw materials, tools, machineries, furniture fixtures, equipments, Movable Plant & Machines, Finished goods, Car, Lorries, fitting etc.”

22. It is abundantly clear from a reading of the aforesaid Clauses of the Loan Agreement that the security that has been created in favour of the petitioner bank is in respect of ‘*present and future project receivables of the Consortium from the Delhi Jal Board Project Package-II*’. A charge has also been created on the Project-specific current assets, etc., as detailed above.

23. Plainly speaking, no charge has been created in respect of the business of the borrower under the Loan Agreement. There is nothing in the Loan



Agreement in terms of which the petitioner bank could have taken over an existing contract of the borrower. Therefore, Section 13(4)(b) of the SARFAESI Act could not have been invoked by the petitioner bank to take over the management of the business of PIL. Consequently, the petitioner bank could not have appointed an Administrator in respect of the business of the borrower (PIL) under Section 15(1)(b) of the SARFAESI Act.

24. A sequitur to this would be that the petitioner bank could not have taken over the rights and obligations of PIL under the O&M Agreement.

25. Hence, the petitioner bank does not have the locus to file the present writ petition challenging the termination of the O&M Agreement by the respondent no.1/DJB.

26. It was also correctly pointed out on behalf of the respondent no.1/DJB that the O&M Agreement was signed by an official of the PIL who was representing respondent no.3/Consortium without any approval from the Liquidator and/or the NCLT Mumbai.

27. To be noted, the O&M Agreement was signed by the official of PIL on 7th June 2021. However, the NCLT had ordered the liquidation of PIL on 8th February 2021, thereby appointing a Liquidator and extinguishing all powers of PIL's management under Section 34(2) of IBC. For the sake of convenience, Section 34(2) of IBC is set out below:

“34. Appointment of liquidator and fee to be paid.—

(1)...

*(2) On the appointment of a liquidator under this section, **all powers of the board of directors, key managerial personnel and the partners of the corporate debtor, as the case may be, shall cease to have effect and shall be vested in the liquidator.**”*



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28. *Vide* letter dated 26th June 2025, the respondent no.1/DJB called upon the Administrator to clarify whether any formal approval had been obtained from the Liquidator or the NCLT, Mumbai Bench, prior to the execution of the O&M Agreement dated 07th June 2021. The Administrator was further directed to furnish a copy of the relevant NCLT order and the Liquidator's written permission supporting the execution. However, no such copy or supporting document was ever received by the respondent no.1/DJB. Therefore, the O&M Agreement was executed without authority or approval of the competent insolvency authority.

29. On merits, serious allegations have been made in the show cause notice dated 28th May, 2025, regarding deficiencies during the defect liability period and the O&M phase. More particularly, 19 deficiencies have been highlighted in paragraph 14 of the said show cause notice, including '*the infrastructure and performance deficiencies, submerged interceptor chambers, defunct ICs, flow trapping during dry weather*' etc. It was alleged that despite multiple communications from the respondent no.1/DJB, no remedial actions have been taken on behalf of the contractor. Paragraph 15 of the said notice mentions the details of 29 letters/show cause notices issued by the respondent no.1/DJB to convey the shortcomings/deficiencies. Paragraphs 18, 22 and 25 of the said notice clearly contemplate action, including termination for the persistent failure to rectify the defects in the Project. This was followed by a final notice dated 2nd July 2025 and a subsequent notice dated 25th October 2025 pointing out further deficiencies.

30. The contention of the petitioner is that the show cause notice dated 25th October 2025 did not put it to notice of the proposed termination. A holistic



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reading of the record indicates that the said notice was preceded by earlier show cause notices dated 28th May 2025 and 2nd July 2025, wherein the petitioner had been repeatedly apprised of serious deficiencies in performance and the possibility of adverse contractual consequences, including termination. Thereafter, a notice dated 25th October 2025 was issued to highlight five (5) further deficiencies in the performance under the O&M Agreement. The mere issuance of a subsequent show cause notice does not waive the earlier notices, which had already put the petitioner to notice of the full spectrum of proposed actions, including termination.

31. In terms of Clause 38 of the Agreement, the respondent no.1/DJB was entitled to determine and terminate the contract pursuant to a notice to the contractor. As noted above, the respondent no.1/DJB has issued multiple show cause notices to the petitioner as well as the respondent no.3/Consortium before terminating the contract. In the instant case, more than 20 show cause notices were issued to the contractor and the impugned termination order was issued following an exhaustive review of all contractual provisions, correspondence, and notices issued to the petitioner and the responses of the petitioner.

32. This Court, in exercise of its jurisdiction under Article 226 of the Constitution of India, cannot examine the termination letter on merits. The Court only has to satisfy itself whether the termination took place in accordance with the provisions of the contract and without violating the principles of natural justice. In this regard, reference may be made to the judgment of the Supreme Court in *Bareilly Development Authority v. Ajai*



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*Pal Singh*¹, wherein the Hon'ble Supreme Court has held as under:

“22. There is a line of decisions where the contract entered into between the State and the persons aggrieved is non-statutory and purely contractual and the rights are governed only by the terms of the contract. no writ or order can be issued under Article 226 of the Constitution of India so as to compel the authorities to remedy a breach of contract pure and simple - Radhakrishna Aganval v. State of Bihar, Premji Bhai Parmar v. Delhi Development Authority and DFO v. Biswanath Tea Company Ltd.”

33. In view of the discussion above, the present writ petition is devoid of merit and is dismissed.

34. Needless to state, it would be open to the petitioner to avail remedies that may be available in law.

**AMIT BANSAL
(JUDGE)**

MARCH 28, 2026

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¹ (1989) 2 SCC 116