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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of Decision: October 8th, 2026***

CNR No. DLHC010487932026
+ **W.P.(C) 14985/2026 & CM APPL. 70296/2026, CM APPL. 70297/2026**

M/S A. K. CONSTRUCTION COMPANYPetitioner
Through: Ms. Amrita Panda & Mr. Harsh
Bansal, Advs.

versus

NATIONAL HIGHWAYS AND INFRASTRUCTURE
DEVELOPMENT CORPORATION LIMITED

.....Respondent
Through: Mr. A.P. Singh, Adv. for R-1.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. (Oral)

1. The present petition has been filed under Article 226 of the Constitution of India seeking quashing of the order dated 25.09.2026, whereby the petitioner has been temporarily suspended from participating in future tenders floated by the respondent and MoRTH for a period of one month.

2. Briefly stated, the petitioner was awarded the work of rehabilitation and upgradation of the road from Design Km 31.300 to Km 45.300, measuring a total length of 14.000 km, of the Agartala–Khowai section on NH-108B, to a two-lane road with paved shoulder in the State of Tripura, on an EPC basis, forming Package-III by the



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National Highways & Infrastructure Development Corporation Limited (**'NHIDCL'**). The parties executed the contract on 05.10.2020, with a scheduled completion date of 15.04.2022.

3. After completion of the project on 30.05.2024, the petitioner was required to maintain the Project Highway for a period of **five years**. During the Maintenance Period, the respondent issued the impugned temporary suspension order dated 25.09.2026 to the petitioner, on account of the continuing deficiencies in the Project Highway and concerns regarding public safety.

4. Aggrieved by the aforesaid order, the petitioner has filed the present petition.

5. Learned counsel for the petitioner submits that the impugned order is erroneous, as the temporary suspension has been imposed on account of the alleged delay in carrying out the maintenance and rectification works and that the petitioner had been undertaking the maintenance works and the alleged deficiencies were being addressed from time to time.

6. She further submits that the impugned order has been passed without issuance of any Show Cause Notice or affording an opportunity of hearing to the petitioner. It is submitted that, though termed as a temporary suspension, the order has the effect of debarring the petitioner from participating in ongoing and future bidding processes and, therefore, could not have been passed without complying with the principles of natural justice.



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7. *Per contra*, learned counsel for the respondent vehemently opposes the present petition. He submits that the petitioner was afforded repeated opportunities to undertake the requisite maintenance and rectification works, which the petitioner failed to do repeatedly. He further submits that the suspension is temporary in nature and has been imposed in view of the deficiencies attributable to the petitioner.

8. I have considered the submissions made on behalf of the parties and perused the material placed on record.

9. At the outset, it is necessary to note that the dispute arises out of a contractual relationship between the parties, pursuant to the EPC Contract Agreement executed for the construction and maintenance of the Project Highway. The rival contentions essentially concern the performance of contractual obligations and the action taken by the respondent on account of the alleged deficiencies in maintenance. The scope of interference under Article 226 of the Constitution of India in such matters is limited, particularly where the issues raised require examination of contractual obligations and the material relating to their performance.

10. A perusal of the impugned suspension order reflects that under Article 14 of the Contract, the petitioner was required to maintain the said 14 km stretch for a period of five years from the date of completion, i.e. from 30.05.2024 onwards. Article 14.1 of the EPC Contract Agreement requires the Contractor, *inter alia*, to ensure safe, smooth and uninterrupted flow of traffic on the Project Highway and to undertake routine maintenance including prompt repairs of



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potholes, cracks, joints, drains, embankments, structures, pavement markings, lighting, road signs and other traffic control devices. Article 14.2 further requires the Contractor to ensure that the Project Highway conforms at all times during the Maintenance Period to the maintenance requirements specified in Schedule-E of the EPC Contract Agreement;

11. Pertinently, the respondent reported to the petitioner certain deficiencies in the project highway, including potholes, cracks, pavement distress, damaged road furniture and other maintenance deficiencies. However, despite the directions, the petitioner failed to take adequate steps for rectification and maintenance work; the work undertaken by the petitioner was found to be inadequate and not satisfactory in terms of quality and effectiveness, which resulted in persistent deficiencies.

12. It is imperative to note that the MoRT&H Circular dated 06.10.2021 provides for action against contractors/concessionaires in cases of specified deficiencies. The circular, *inter alia*, provides for declaring a Contractor as a *Non-Performer* where the Contractor fails to complete rectification within the prescribed time and further provides that where public safety is endangered by the actions of the contractor, the authority may **temporarily suspend** the concerned contractor from participating in ongoing/future bidding for up to one month.

13. It appears, in the present case, that the action of the respondent of temporary suspension was in terms of the MoRT&H Circular dated



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06.10.2021, which specifically contemplates temporary suspension where the conduct or action of the contractor is found to endanger public safety, pending conclusion of the regular proceedings in accordance with the prescribed procedure.

14. The principal contention of the petitioner is that the impugned order could not have been passed without issuance of a Show Cause Notice. There can be no dispute with the proposition that an order of debarment, having civil consequences, ordinarily has to be preceded by compliance with the principles of natural justice.

15. Although the issuance of a Show Cause Notice is a prerequisite, the impugned order cannot be considered in isolation. The petitioner was repeatedly notified of the deficiencies identified in the Project Highway and was called upon to undertake the necessary maintenance and rectification works. Furthermore, a Cure Period Notice was issued to the petitioner, to which it duly responded. The petitioner was therefore fully aware of the deficiencies attributed to it and was afforded an adequately reasonable opportunity to rectify the deficiencies. Under these circumstances, the absence of a separate show-cause notice immediately preceding the temporary suspension does not constitute sufficient grounds to set aside the impugned order.

16. It is pertinent to note that the condition of the concerned stretch of NH-108B and the issues relating to its repair and restoration are already under consideration before the Hon'ble High Court of Tripura at Agartala in ***Suo Motu W.P.(C)(PIL) No. 06 of 2026***. In the said proceedings, the steps taken by the NHIDCL in relation to the



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concerned highway stretches, including the action initiated by the petitioner is being considered. The order dated 30.09.2026 passed by the Hon'ble High Court of Tripura also records the concerns expressed by the State Government regarding the progress of the repair works and emphasises the need for effective monitoring and time-bound restoration. The relevant portion of the order dated 30.09.2026 is reproduced below:

"The counsel for the NHIDCL has stated that they have engaged the services of Sri Ravi Prasad, a Retired Director General (Road Development) and Special Secretary, Ministry of Road Transport and Highways, Government of India as a Special Observer to undertake independent technical supervision, periodic review and quality assurance of the works and the prevailing condition of the respective highway stretches.

Learned Advocate General, on instructions from the Chief Engineer, PWD (NH) of the State of Tripura, has submitted the following important suggestions:

"Views of State Government on the Bi-weekly progress report dated 21.09.2026 submitted by NHIDCL to Hon'ble Court:

Endorsement of Administrative Actions: It is agreed with NHIDCL's recent actions to suspend defaulting contractors and initiate "Non-Performer" declarations against M/s Sahu Construction, M/s A.K. Construction, and M/s Civtect (India) Pvt. Ltd. These contractual failures have severely disrupted vital socio-economic lifelines and caused immense public distress. While the acceleration of administrative and tendering paperwork is acknowledged, the PWD(NH) emphasizes that actual physical transformation on the ground must match the speed of the judicial order.

Package-Wise Notes and concerns:

Package-II: NH-108B (Mohanpur-Subalsingh):

Temporary restoration by using GSB materials, aggregates, and boulders done by NHIDCL. The Consultant, M/s Intercontinental Consultants & Technocrats Pvt. Ltd. must fast-track the DPR so that, permanent reconstruction starts right after the monsoon.

Package-III: (Subalsingh-Khowai):

The State Government cautiously notes that the defaulting contractor is on a trial maintenance period. NHIDCL must enforce



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rigid daily monitoring and replace the agency immediately if any further sluggishness occurs.

Package-IV: (Srirampur-Bamanchara):

The simultaneous handling of temporary repairs and bituminous tendering being taken by NHIDCL. This parallel track must progress efficiently to avoid any structural delays during the shift to permanent restoration.

Package-V: NH-208 (Khowai-Srirampur):

While Granular Sub-Base (GSB) materials offer temporary relief, PWD(NH) fears heavy rains will turn them into mud traps. NHIDCL must be ensured strict compaction. Side by side, M/s Intercontinental Consultants & Technocrats Pvt. Ltd. must fast-track the DPR so that permanent reconstruction starts right after the monsoon.

Quality Control and Conclusion: The appointment of Shri Ravi Prasad as an independent Technical Special Observer is a highly valued step for quality assurance. The PWD(NH) requests that his periodic review reports be shared with the State Government for localized coordination, and demands that NHIDCL's augmented field staff remain actively present on-site.

In conclusion, the State Government prays that this Hon'ble Court take the report on record subject to strict, time-bound milestones, ensuring NHIDCL transitions swiftly from temporary restoration to a permanent, premium-grade highway network."

We expect the NHIDCL to cooperate with the State Government, PWD and share whatever action is being taken with the said department and take, where necessary, the assistance of the said department and its Engineering staff. The status of the tenders issued for engaging fresh contractors to deal with the repairs and also the action taken on the suggestions made by the State Government shall be placed before this Court by way of an affidavit on the next date of hearing."

17. The aforesaid proceedings assume significance in the present case, not for the purpose of determining the petitioner's contractual liability, but to the extent that the condition of the concerned highway had also been the *subject matter* in ongoing proceedings before the Hon'ble High Court of Tripura, Agartala.

18. Since the condition of the said stretch and the repair work have already been considered by the Hon'ble High Court of Tripura, the



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petitioner may avail remedy in accordance with law before the Hon'ble High Court of Tripura, Agartala.

19. In any event, it is necessary to keep in view the nature of the impugned order, which is temporary in nature and limited to a period of up to one month. It does not finally debar the petitioner from participating in the tenders floated by the respondent.

20. The impugned order is a reasoned order, and the reasons recorded therein are germane to the action taken by the respondent. There is, therefore, no apparent infirmity in the reasoning warranting interference by this Court in exercise of its writ jurisdiction.

21. Additionally, this Court is not required, in exercise of its jurisdiction under Article 226, to undertake a technical assessment of the condition of the Project Highway, examine the quality or sufficiency of each item of maintenance work or determine whether every individual deficiency was attributable to the petitioner. Such questions, insofar as they arise from the contractual obligations of the parties, would appropriately fall for consideration in the proceedings available to the parties in accordance with law.

22. In view of the above, this Court finds no ground to interfere with the impugned order dated 25.09.2026.

23. It is, however, clarified that the observations made herein are confined to the challenge to the temporary suspension and shall not prejudice the rights and contentions of the parties in respect of their contractual disputes or any further proceedings undertaken in accordance with law.



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24. Accordingly, the present petition is dismissed.
25. Pending application(s), if any, stand disposed of.

OCTOBER 8, 2026/“SK”

AMIT MAHAJAN, J