



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

% Date of Decision: 22.04.2025

+ **W.P.(C) 7936/2020**

SECON PRIVATE LIMITED

.....Petitioner

Through: Mr. Rajiv Bakshi, Mr. Pranav Pareek
and Mr. Diwakar Awari, Advocates

versus

NATIONAL HIGHWAY AUTHORITY OF INDIA....Respondent

Through: Mr. A.P. Singh and Mr. Varnit
Vashistha, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. By way of present Writ Petition preferred under Article 226 of Constitution of India, the petitioner seeks quashing of Office Circular No. NHAI/NH-4/Nalagampalli/2016-2017/115 dated 25.08.2020 issued by the respondent. Vide the impugned order, the respondent imposed the penalty of debarment upon the petitioner from engagement in the projects of the respondents either directly or indirectly for a period of 6 months along with penalty of Rs.8.57 lacs equivalent to 5% of the contract amount.

2. The petitioner was awarded the consultancy contract dated 29.11.2010 for preparation of Detailed Project Report (DPR) for "*Rehabilitation and up-gradation of NH-4 from Nalagampalli (Existing Km.171.590/ Design Km.172.00) to AP/Karnataka Border (Existing Km.216.912/ Design Km. 219.687) to four lane with paved shoulders (Design length = 47.687 Km) under NHDP-IV in the State of Andhra*



Pradesh on EPC mode”. As per the respondent, certain major deficiencies were observed in the services rendered by the petitioner. Consequently, a show cause notice dated 16.10.2019 was issued. The petitioner responded to the show cause notice. Thereafter, the impugned order of debarment and penalty came to be passed.

3. Learned counsel for the petitioner submits that the impugned order is not a reasoned or speaking order and suffers from a lack of application of judicial mind. It is submitted that the contentions raised by the petitioner have neither been considered nor dealt with and the respondent has acted in a predetermined manner. It is submitted that non-recording of reasons in the impugned decision is a violation of principles of natural justice and in this regard, reliance is placed on Kranti Associates (P) Ltd. and Anr. v. Masood Ahmed Khan and Ors¹,

4. Learned counsel for the respondent, *per contra*, opposes the present petition and submits that the impugned orders is reasoned and contains the reasons based on which the action of debarment was taken against the petitioner. He further submits that the reasons were duly communicated to the petitioner and his response was sought as well. It is further submitted that the response of the petitioner was duly considered by the respondent and the decision making process was not suffering from any violation of principles of natural justice as even a personal hearing was accorded. Reliance is placed on ‘SA Infrastructure Consultants Pvt. Ltd v. National Highway Authority of India’ decided on 23.08.2024 in LPA 676/2024.

¹ (2010) 9 SCC 496.



5. I have heard learned counsel for the parties and gone through the records.

6. A reasoned order is an important facet of natural justice. It is the embodiment of the principle that not only should justice be done, but it should also appear to be done. A reasoned order helps in curbing arbitrariness in judicial, quasi-judicial and even administrative decisions. Insistence on reasons in decisions increases accountability and transparency. Such reasons should be clear and succinct. A reference in this regard may be made to the decision of the Supreme Court in Kranti Associates (Supra), wherein it was held that:-

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these



decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor [(1987) 100 Harvard Law Review 731-37]).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

7. A perusal of the impugned circular would show that it is *sans* any reason to support the conclusion. The impugned order though states that the explanations of the petitioner are not supported by the material on record, however, even a sliver of analysis to substantiate this finding by the respondent is sorely lacking. It appears that the respondent has acted in a mechanical and cryptic manner and the impugned order cannot be said to be a reasoned one.

8. In view of the above, the petition is disposed of with the direction that



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the impugned order passed by the respondent is set aside and the matter is remanded back to be considered afresh. The respondent is directed to pass a fresh speaking order within a period of two months from today.

9. The petition is disposed of in above terms. Needless to state that if petitioner still remains aggrieved, he shall be at liberty to seek appropriate remedies, as available under the law.

**MANOJ KUMAR OHRI
(JUDGE)**

APRIL 22, 2025/rd