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

% *Date of Decision : 06.04.2026*

+ **W.P.(C) 3434/2026, CM APPL. 16499/2026**

M/S HAZOOR MULTI PROJECTS LIMITEDPetitioner

Through: Mr. Puneet Taneja, Sr. Advocate with
Mr. Amit Yadav and Mr. Manmohan
Singh Narula, Advocates.

Versus

UNION OF INDIA & ANR.Respondents

Through: Mr. Nishant Gautam CGSC with Mr.
Vardhman Kaushik, Ms. Kavya
Shukla, Mr. Vineet Negi, Mr. Vibhav
V. Nath, Ms. Theresa, Advocates with
Mr. Bipul Kumar, GP for R1/UOI
Mr. Sandeep Sethi, Sr. Advocate and
Mr. Kunal Tandon, Sr. Advocate with
Mr. Kapil Arora, Ms. Aditi Tambi,
Mr. Kartik Sharma, Ms. Natasha and
Ms. Shreni Taran, Advocates for R2.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. This writ petition has been filed with the following prayers:

- a) *Issue a writ of certiorari or any other appropriate writ, order or any direction of like nature thereby quashing/ setting aside the Technical Evaluation Result dated 20.02.2026 whereby the Petitioner's bid has been declared "Non-Responsive"; and/or*
- b) *Issue a writ of certiorari or any other appropriate writ,*



order or any direction of like nature thereby quashing/setting aside the Financial Bid Result dated 12.03.2026, including the consequential declaration of M/s J Infratech Limited as L-1 bidder, in so far as it excludes the Petitioner from consideration;

c) Issue a writ of mandamus or any other appropriate writ, order or any direction of like nature directing the Respondent to consider the clarifications of the Petitioner and open the Financial Bid of the Petitioner;

d) Issue a writ of mandamus or any other appropriate writ, order or any direction of like nature thereby restraining the Respondent from taking any further steps pursuant to the financial bid result dated 12.03.2026, including issuance of Letter of Acceptance, till the Petitioner's bid is reconsidered;

2. The present dispute arises out of the tender invited by respondent no.1/ Ministry of Road Transport & Highways (MoRTH) for construction of road from 113.25 km to 160.75 km of the Huri-Taliha section of NH-913 (Frontier Highway) to Intermediate Lane on EPC mode in the State of Arunachal Pradesh. Corrigendum was issued by the respondent no.1 on 01.09.2025 whereby clause 2.2.2.2(ii) was modified. Subsequent to which, the petitioner submitted its bid.

3. It is the case of the petitioner as contented by Mr. Puneet Taneja, learned Senior Advocate along with Mr. Amit Yadav that the petitioner is aggrieved by the technical evaluation result dated 20.02.2026 whereby the bid submitted by the petitioner has been arbitrarily declared as "Non-Responsive" and also by the subsequent financial bid result dated 12.03.2026 wherein the petitioner has again been reflected as "Non-Responsive" without due consideration of the clarifications submitted by the petitioner vide emails dated 05.02.2026 and 25.02.2026. It is their case that



the respondent no.1 has alleged that the petitioner does not meet the eligibility requirement stipulated under Clause 2.2.2.2(i) & (ii) of the Request for Proposal (RFP). However, while issuing the aforesaid technical evaluation result, the respondent no.1 itself called upon the petitioner to furnish response/clarifications with respect to the declaration of “Non-Responsiveness”. In compliance to the aforesaid, the petitioner furnished detailed replies along with supporting documents demonstrating that the petitioner satisfies the eligibility criteria under the RFP. Even then the respondent no.1 did not consider the aforesaid clarifications and documents proceeded with the tender process and opened financial bids on 12.03.2026 wherein the bid of the respondent no.2 emerged as L-1.

4. As per Mr. Taneja, the petitioner satisfies the eligibility criteria under Clause 2.2.2.2(i), which is the threshold technical capacity of Rs.7,90,91,76,231/-. The petitioner has executed/received payment of Rs.806.88 crores in the project Construction of Access Controlled Nagpur-Mumbai Super Communication Expressway (Maharashtra Samrudhi Mahamarg) in the state of Maharashtra on EPC mode for Package-11 from 502.698 km to 532.094 km (Section-Village Kokamthan to Village Derde Korhale), District Ahmednagar (Pkg-11). He has drawn our attention to the documents in support of the executed/receiving payment of Rs.806.88 crores.

5. According to him, Clause 2.2.2.2(ii) which stipulates either two similar completed works costing not less than amount equal to 25% each of estimated cost i.e. Rs.1,97,72,94,058/- or one similar completed work costing not less than amount which equals to 35% each of estimated cost, i.e. Rs.2,76,82,11,681/-. Mr. Taneja further argues that Clause 2.2.2.2(ii)



which is the criteria of hill road wherein one similar work of atleast 5 km length involving formation building along with hill and valley side slope protection work. Mr. Taneja has referred to 'List of eligible projects for hill road qualification' as annex IVA at Page 179 of the paper book wherein he has referred to three projects which satisfies the criteria for hill road qualification and length executed by the bidder in the hilly area. The details of the same are as under:

ANNEX-IVA
List of eligible projects for hill road qualification
(Refer to clauses 2.2.2(ii))

Sr. No.	Name of Works	Category of Road	End Lane Configuration	Total Length of Project (km)	Length of Project in Hill Region (km)	Length executed by bidder in Hilly Region* (km)	Length of different Hill & Valley Side Protection Works (km)	Date of completion of Project / Physical Progress (%)	Authority	Certificate of Authority Reference
1	Construction of Access Controlled Nagpur-Mumbai Super Communication Expressway (Maharashtra Samruddhi Mahamarg) in the State of Maharashtra on EPC Mode for Package-11, from Km 502.698 to Km 532.094 (Section - Village Kokamthan to Village Derde Korhale), District Ahmednagar.	3	6-lane access-controlled expressway	29.396 km	16.486 km	16.486 Km		25 May 2023.	Maharashtra State Road Development Corporation Limited	Work done Certificate by NMSCEL 6659 dated 15 Sept 2025
2	Construction of access-controlled Nagpur-Mumbai Super Communication Expressway (Hindu Hruday Samrat Balasaheb Thakaray Maharashtra Samruddhi Mahamarg) in the state of Maharashtra on EPC Mode-CP-13, From Km. 577+739 to Km. 623+379 (Village Sorani to Village Taranganpada) in District Nashik	3	6-lane access-controlled expressway	45.64 km	45.64 km	11.60 Km		30 January 2024.	Maharashtra State Road Development Corporation Limited	Work done Certificate by NMSCEL 6657 dated 15 Sept 2025
			RCC Retaining wall				2320 Rmt.			
			Reinforced Earth Wall				1580 Rmt.			
			Graviloft Wall				1040 Rmt.			
			Rock Bolting				72 Rmt.			
			Grass Seeding				8710 Sq.m			
			PCC Toe wall 1.5 M ht				1655 Rmt.			
3	Rehabilitation & Up-gradation to 2 Lane with Paved Shoulder/4 Lanning configuration of Wakan Pali Khopoli Road SH93 (New NH) connecting SH88 (New NH), MPEW, AH47 (NH4) and NH66 (NH17) from Km. 0/000 to 40/600 in the State of Maharashtra on EPC Mode	3	4 Lane Pave shoulder	40.6 km	36.381 Km	19.521 Km		18 July 2023.	Maharashtra State Road Development Corporation Limited	Work Certificate done by NMSCEL 5139 dated 18 July 2023.

Yours Faithfully
Mr. Jalal Mustafa Tamboli
Sr. Manager Bidding & authorized Signatory
For & behalf of M/s. Hazoor Multi Projects Limited

HAZOOR MULTI PROJECTS LIMITED

HMPL

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6. Upon a reading of the same it can be seen that the Petitioner had submitted the following details :

- i. Construction of Access Controlled Nagpur-Mumbai Super Communication Expressway (Maharashtra Samruddhi Mahamarg) in the state of Maharashtra on EPC Mode for Package-11, from km 502.698 to km 532.094 (Section-Village Kokamthan to Village Derde



Korhale), District Ahmednagar.

- ii. Construction of Access Controlled Nagpur-Mumbai Super Communication Expressway (Hindu Hruday Samrat Balasaheb Thakaray Maharashtra Samruddhi Mahamarg) in the state of Maharashtra on EPC Mode-CP-13, from km 577+739 to km 623+3798 (Village Sonari to Village Taranganpada) in District Nashik.
 - iii. Rehabilitation & Up-gradation to 2 Lane with Paved Shoulder/5 Lanning configuration of Wakan Pali Khopoli Road SH93 (New NH), MPEW, AH47 (NH4) and NH66 (NH17) from km. 0/000 to 40/600 in the state of Maharashtra on EPC Mode.
7. Mr. Taneja has drawn our attention to the summary form which comprises the petitioner's compliance submission as under:

#	Eligibility Criterion (RFP Clause)	Project Code / Name	Compliance Claimed	Value / Metric	Supporting Documents (Page Refs)
6	Cl. 2.2.2.2(ii) Hill Road Criteria (>=5 km with slope protection)	'c' — Nagpur-Mumbai Expressway, Pkg-13	Slope protection, RCC retaining walls; BOQ items certified by Authority	Hill terrain length + BOQ items	Statutory certificate with Authority BOQ details as per clause 2.2.2.2(ii)
7	Cl. 2.2.2.2(ii) Hill Road Criteria	'a' — Nagpur-Mumbai Expressway, Pkg-11	12.398 km of 29.396 km total falls in hilly terrain; slope protection works and RCC retaining walls executed	12.398 km hilly terrain	Work Done Certificates dated 15.09.2025 (Pg. 185-187; Pg. 424-426); Clarificatory certificate dated 23.02.2026 (Pg. 421-422) as per clause 2.2.2.2(ii)
8	Cl. 2.2.2.2(ii) Hill Road Criteria	'b' — Wakan-Pali-Khopoli Road	Situated in hill area; qualifies under Category 1/3	Hill area project	Sub-contract agreement (Pg. 227); Statutory Auditor Certificate (Pg. 233) as per clause 2.2.2.2(ii)

8. The petitioner had also furnished the certificates issued by the authorities giving details of Bill of Quantities (BOQ) items in respect of the project i.e. Pkg-11 and Maharashtra Samrudhi Expressway (Pkg-13). The scope of works executed include slope protection works, RCC retaining



walls, etc. which constitute integral components of Hill Slope Protection (HSP) works. This further cements the claim of the petitioner that the requirements under Clause 2.2.2.2(i) & (ii) are met.

9. On the issue of the petitioner being declared as “Non-Responsive” vide Technical Evaluation Result dated 20.02.2026 project code ‘c’ i.e. Pkg-13 has been considered against similar work with 5 km hill slope protection work and project code ‘a’ & ‘b’ has not been considered. He contended that the petitioner satisfies the hill road qualification in all three project works and the requirements of the present RFP stands satisfied.

10. Concerning the issue of threshold capacity of Rs.303.14 crores, according to Mr. Taneja, the petitioner had informed the respondent no.1 with respect to the Nagpur-Mumbai Expressway wherein it was the official sub-contractor for the contract issued to M/s. Gayatri Projects Ltd. This coupled with the fact that the contract agreement allows the provision of sub-contracting. The petitioner has annexed the sub-contract agreement along with the BOQ items demonstrating the value of the work awarded to the tune of Rs.303.14 crores to the petitioner. This was as on 03.01.2022 relating to Chainage from 521.60 km to Chainage 532.094 km. Later on 20.06.2022 the scope was enhanced from 502.698 km to 532.094 km whereby further work of Rs.220.41 crores has also been given to the petitioner. Then again on 14.02.2023, the scope of work was changed whereby further work of Rs.346.56 crores was given to the petitioner, which brought the total value of the awarded work to the petitioner to Rs.870.11 crores. The petitioner was also given the price escalation which brought the value of the work allotted to the petitioner to Rs.922.01 crores out of which the petitioner had executed work of Rs.806.88 crores in the five financial



years as certified by the auditors. It is his contention that the respondent no.1 has failed to consider the subsequent work orders issued in continuation of the agreement as well as the auditor's certificate. All these documents were submitted and formed part of the bid documents.

11. It is the case of Mr. Taneja that the petitioner had submitted a representation seeking an opportunity to represent against the result of the technical evaluation, which was done after taking note of the reasons for declaration of Non-Responsiveness vide Technical Evaluation Result dated 20.02.2026. The said representation was accompanied with the certificate dated 23.02.2026. The same is not a new document but rather a clarifying certificate issued to provide more clarity and to re-affirm the fact and credentials already forming part of the bid document. The said certificate clearly stated that 12.398 km falls under hilly terrain and the work was completely executed by the petitioner.

12. Mr. Taneja has contested the decision on the representation dated 05.02.2026 as being an unreasoned order. The respondent no.1 did not consider the representation by terming the certificate dated 23.02.2026 as a new document, without appreciating that the same clarifies and re-confirms the information already submitted. On the issue of the Hill Road Criteria, respondent no.1 had only considered the project code 'c' for similar work with 5 km HSP work under the Hill Criteria Qualification. The respondent had also failed to consider the justification in response to the grounds of 'Non-Responsiveness', by stating the supporting certificate constitutes a new document. The purpose of granting opportunity to submit a representation is to clarify any issue that may have not been fully appreciated by the Technical Evaluation Committee ("TEC"). If such an



evaluation is disregarded then the process becomes a mere formality.

13. He stated that if the contentions of the petitioner are considered in perspective, it is likely to emerge as L-1 bidder as such the exclusion of the petitioner is arbitrary and unreasonable. He has relied upon a judgment of the Supreme Court in the case of *Tata Cellular v. Union of India, (1994) 6 SCC 651* to state that even though the Courts must exercise judicial restraint in tender matters but it was also held that the decision making process remains fully amenable to judicial review and it would be open for the Court to review the decision maker's evaluation of facts. He has referred to the executed value of the petitioner's projects to be Rs.806.88 crores under project code 'a' which alone satisfies the threshold technical capacity of Rs.790.91 crores. He has also relied on the said judgment to argue that the rejection of the petitioner's bid was on hyper-technical grounds without independent verification and constitutes unreasonableness as per the *Wednesbury Principles*.

14. Reliance is also being placed on the judgment in the case of *Smt. S.R. Venkataraman v. Union of India, (1979) 2 SCC 491* wherein it was held that an administrative order which is based on reasons of fact which do not exist must be held to be an abuse of power. In the present case, he stated that not only had the petitioner demonstrated technical capacity but also completed hill road works with slope protection and the same is conclusively contradicted by the official certificate issued by the Project Authority.

15. Mr. Nishant Gautam, appearing on behalf of the respondent no.1, the MoRTH stated that MoRTH had floated a tender on 11.07.2025 for construction of NH-913 at an estimated cost of Rs.790.92 Crores excluding



Goods and Services Tax (GST). Corrigenda were issued on 01.09.2025 and 15.09.2025 modifying the clause 2.2.2.2(ii). The petitioner submitted its bid in September 2025 claiming three works with project codes 'a' 'b' and 'c' against eligible clauses 2.2.2.2(i) and 2.2.2.2(ii). The bidder sought clarifications as to how the qualification criteria required as per clauses 2.2.2.2(i) and 2.2.2.2(ii) and the reply of the bidder dated 05.02.2026 was deliberated upon by the Committee in its meeting dated 12.02.2026. On 20.02.2026 the TEC declared the petitioner 'non-responsive' on two independent grounds. After which the petitioner was granted seven days' to represent and the said opportunity was availed by email dated 25.02.2026. After giving due consideration to the representation MoRTH maintained its stand on its finding that the petitioner's bid is non-responsive. It was then the financial bids were opened on 12.03.2026 wherein the respondent no.2 emerged as L1.

16. Mr. Gautam stated that two grounds on which the petitioner bid was declared non-responsive are both related to clauses 2.2.2.2(i) and 2.2.2.2(ii). Ground 1 pertains to non-compliance of similar work criteria under clauses 2.2.2.2(ii), which when read with corrigendum dated 15.09.2025, the bidder was required to demonstrate:-

- a) Value threshold of one similar work equal or greater than Rs.272.82 Crores or two similar work equal or greater than Rs.197.73 Crores each; and
- b) HSP (retaining wall/breast wall/gabion wall/Hydro seeding/soil nailing /rock anchor) in a total length of 5 km in the said similar work, i.e. within the very same work satisfying the value threshold. Each similar work needed to comply with 5 km HSP works.



17. It is his contention that both works were conjunctive. The phrase ‘the said similar work’ for any cross-project aggregation of the 5 km HSP requirement. The following table sets out the three projects submitted by the petitioner and the reason why each of them failed to meet the prescribed criteria:-

<i>Project</i>	<i>Work</i>	<i>Completed value</i>	<i>Why it falls</i>
“a”	<i>Maharashtra Samruddhi Expressway Package-11 (MSRDC)</i>	<i>Rs.749.03 Cr</i>	<i>Original Certificate: Retaining Wall only 0.87 km (< 5 km). Earthwork in banking ≠ HSP. Altered certificate submitted post bid-date — inadmissible.</i>
“b”	<i>Wakan-Pali-Kholpoli Road, NH-548A</i>	<i>Rs.98.62 Cr</i>	<i>Certificate silent on HSP — fails 5 km condition outright, irrespective of value.</i>
“c”	<i>Maharashtra Samruddhi Expressway Pkg-13 (MSRDC)</i>	<i>Rs.113.27 Cr</i>	<i>5 km HSP met — but value far below Rs.197.73 Cr / Rs. 272.82 Cr threshold. Failed value condition.</i>

18. As per Mr Gautam, project code ‘a’ the original certificate of MSRDC dated 15.09.2025 as submitted in original bid, records that the slope protection by earth work in banking is 54.49 km and retaining wall is 0.87 km. The retaining wall was only the component that could qualify as HSP and at 0.87 km it fell short of 5 km. The earth work in banking is not HSP as it involved filling and compacting earth to form road embankment. It was structurally distinct from HSP works (retaining wall/breast wall/gabion wall/Hydro seeding/soil nailing /rock anchor) which protected the existing hill slope from erosion and failure. The committee’s exclusion of this component was technically sound and is not perverse.

19. In the representation by email dated 25.02.2026, the petitioner had



submitted a second certificate also dated 15.09.2025 with two unexplained alternations being the deletion of “earthwork in banking” and alternation of the retaining wall component from 0.87 km to 8.70 km which is a ten fold increase by transposition of digits. This document was not part of the original bid and materially contradicted it. According to him, the law in this regard, is well settled, that post bid date documents could not cure eligibility deficiencies and documents contradicting original bid documents could not be considered. As such, no project submitted by the petitioner satisfied both the value and HSP requirement of clause 2.2.2.2(ii). Accordingly, the declaration of non-responsiveness was fully justified.

20. The next objection taken by MoRTH as contended by Mr. Gautam, is on the ground of non-compliance of threshold technical capacity clause 2.2.2.2(i). The said clause stipulates that the receipts from five eligible projects are required in the last five financial years which exceed the threshold technical capacity of Rs.790.92 Crores. In sub contracting cases, clause 2.2.2.5(iv) restricted the value of the claimable amount to the ‘*approved sub-contract value*’ as approved by the authority which is the Government client. Project ‘a’ which is a sub-contract under M/s.Gayatri Projects Limited, the petitioner executed project and claimed receipts of Rs.806.88 Crores from this project whereas the sub-contract agreement between client/MSRDC, M/s.Gayatri Projects Limited, and the petitioner recorded a sub-contract value of only Rs.303.14 Crores.

21. As per Mr.Gutam, clause 2.2.2.5(iv) mandated a proof of the authority’s approval of the sub contract, i.e. approval from MSRDC and not merely an *inter se* agreement between the private parties. No such document from MSRDC was included in the original bid and the petitioner submitted a



purported MSRDC approval dated 23.02.2026 only at the representation stage, which is post dated the bid and could not be considered. The consequences, which followed under clause 2.2.2.5(iv) stated that since no authority approval was furnished as part of the original bid the receipts claimed by the petitioner from project code 'a' were required to be restricted to the sub-contract value of Rs.303.14 Crores, for which legal document was present. On that basis, the petitioner's aggregate technical capacity fell short of the required Rs.790.91 Crores and even on this ground, the finding of the non-responsiveness was also justified.

22. On the aspect of whether the representation of the petitioner was not considered, Mr Gautam submits that both the representations dated 05.02.2026 and 25.02.2026 were fully considered by the committee before the financial bids were opened on 12.03.2026. Non-acceptance of the petitioner's submission in this case does not amount non-consideration.

23. Mr.Gautam stated that even if, one were to assume that the altered certificate is genuine the same was submitted beyond the bid date and materially contradicted the original bid document. Hence, only the document which form part of the original bid are governed under the evaluation and the petitioner cannot be permitted to improve or supplement its bid after the bid due date.

24. It is also the submission of Mr. Gautam that since the project is situated in a hilly terrain there was not a substitute for demonstration of specific HSP works evidenced by a certificate from the authority. The RFP mandated a specific, quantified and certified 5 km threshold and not a general characterisation of the terrain in which the project was located. Accordingly, all 15 bids, which were received for NH-913 works in the



State of Arunachal Pradesh were evaluated on identical principles on 20.02.2026 and the petitioner has not in any way, been subjected to any discriminatory treatment.

25. Mr. Sandeep Sethi and Mr. Kunal Tandon learned Senior Counsels along with Mr. Kapil Arora and Ms. Aditi Tambi appearing for the respondent no.2, which entity has emerged as L1 in the project tender has supported the decision of MoRTH in declaring the petitioner as non-responsive after having given them ample opportunity to be heard. Mr. Sethi stated that even though clause 3.1.9 of the RFP does not require respondent no.1 to provide any further opportunity to non-responsive bidders to submit clarifications, once the technical evaluation result is declared, MoRTH still provided another opportunity to the non-responsive bidders including the petitioner vide the technical bid result. Even prior to 11.03.2026 the petitioner had multiple opportunities to submit clarification/representation to the respondent no.1 MoRTH.

26. Mr.Sethi has drawn our attention to clause 2.2.2.2 wherein the technical requirement pertains to completion of 5 km of hill road and 5 km hill and valley slide protection work in at least one similar work. Additionally, he has also referred to the subsequent corrigenda dated 01.09.2025 and 15.09.2025 to state that the petitioner has not filed the latter corrigendum before this Court. According to him, the petitioner purposefully chose not to file the corrigendum dated 15.09.2025 as the same would clearly demonstrate that the requirement under the bid was that the petitioner should have completed of 5 km of HSP works whereas the bid submitted by the petitioner did not fulfil this requirement.

27. The above clause and corrigenda stated that for the purpose of



meeting the technical eligibility under the RFP, three conditions must be cumulatively satisfied, which are the following:-

- i) The bidder ought to have received payments of more than Rs.790.91 Crore (threshold technical capacity) over the past five financial years for construction of eligible construction work by itself or in a public-private partnership project.
- ii) For computation of the threshold technical capacity the bidder must complete either of the following: a) two similar completed work not costing less than 25% each of the threshold technical capacity i.e. Rs.197.72 Crores; or b) one similar completed work costing not less than 35% i.e. Rs.276.82 Crores; and
- iii) Provided that in at least one of the aforesaid similar work, the bidder must have completed HSP works of at least 5 km.

28. According to Mr.Sethi, in cases where the bidder has acted as a sub-contractor, then the value of the above executed civil works for the purpose of assessing the threshold technical capacity as well as the eligibility for similar work, must be restricted only to the extent of allowable sub contracting limit in the original contract. Therefore, if there are any additions or modification in the contract, same are not be considered and it is only the value under the original contract that should be considered for the purpose of assessing the eligibility requirement. He stated that the above conditions pertaining to similar works are concurrent in nature and this condition along with the threshold technical capacity are required to be cumulatively satisfied.

29. Vide email dated 30.01.2026, respondent no.1 MoRTH sent query in



relation to the technical bid submitted by the petitioner and the said query clearly identifies that only the project code 'c' with the completed value of Rs.113.27 crores was considered against similar work with 5 km HSP work, wherein notably similar work was less than 25%; whereas project code 'a' and 'b' do not demonstrate the completion of 5 km of HSP work. Accordingly, the petitioner was asked to clarify how it met the criteria clause 2.2.2.2(ii). Mr. Sethi, has referred to the petitioner's reply dated 05.02.2026 wherein it had admitted that the completion certificate for project codes 'a' and 'b' do not explicitly state that 5 km of slope protection is from projects executed in the hilly terrain. The petitioner had also admitted that the original sub contract value for project code 'a' was Rs.303.14 Crores and had only increased in view of subsequent allotment of additional work. It was thereafter, after having given the ample opportunities to the petitioner that the respondent declared the petitioner as non-responsive. Mr. Sethi, has also referred to the document titled 'List of eligible projects for hill road qualification' as annex IVA at Page 179 of the paper book to state in the said document only project 'c' has details of relating to the length of different hill and valley protection work by the petitioner and none of the other projects demonstrate the same. Even then, the same does not satisfy the requirement of either 25% or 35% as per clause 2.2.2.2(ii).

30. It is the case of respondent no.2 that the petitioner while submitting its letter dated 25.02.2026 has submitted a purported certificate from the authority dated 23.02.2026 that the stretch of 12.398 km under project code 'a' falls under the hilly terrain. The said certificate is also accompanied by another work done certificate dated 15.09.2025 which has been issued by the



Nagpur-Mumbai Super Communication Express Limited (NMSCEL) to state that there has been a slope protection work of 54.49 km and also an RCC retaining wall of 8.7 km. He stated that the certificate dated 05.02.2026 provided by the petitioner has been substituted with another certificate mentioning only slope protection work which was submitted along with their 25.02.2026 representation and the RCC retaining wall figures have also been changed from 0.87 km to 8.7 km. He stated that this ground alone is enough to dismiss this petition.

31. In this regard, Mr. Sethi has relied upon the following judgments for the following propositions:

- a) The judgment in the case of *Tata Cellular v. Union of India*, (1994) 6 SCC 651 has been referred to state that the Courts do not possess the expertise to correct the administrative decision and the writ Courts ought not to sit as a court of appeal, but only review the manner in which the decision was made;
- b) In *Tata Motors Ltd. v. Brihan Mumbai Electric Supply & Transport Undertaking*, (2023) 19 SCC 1 the Supreme Court had held that a writ court ought to refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer unless there is a patent illegality which is pointed out;
- c) As per the decision in the case of the *N.G. Projects Ltd. v. Vinod Kumar Jain*, (2022) 6 SCC 127 it was held that an injunction or interference in the tender process only leads to additional costs on the public exchequer and is also against public interest; and
- d) Lastly, he has also drawn our attention to the decision in the case



of *Haffkine Bio-Pharmaceutical Corporation Ltd v. Nirlac Chemicals, (2018) 12 SCC 790* to contend that the tender issuing authority is the best judge of its own requirements and a party whose claim is rejected may claim restitution if its bid is technically qualified and wrongly rejected.

32. Mr. Taneja in his rejoinder submissions in the context of Clause 2.2.2.2(i) stated that the petitioner not only placed on record merely the initial sub-contract agreement but also the subsequent work orders dated 20.06.2022 and 14.02.2023 which formally enhanced the scope of the work along with the authority issued certificate. The same enhanced the aggregate executed value of the project to Rs.806.88 crores. No reasonable evaluating authority should read the sub-contract in isolation from the subsequent work order which form part of the same contractual framework which had expressly enhanced this Court and value. With regard to Clause 2.2.2.2 (ii), since the executed value of work was Rs.806.88 crores under project code 'a' which is nearly three times the threshold limit of Rs.276.82 crores for similar completed work. The TEC offered no rational basis for declining to treat the petitioner at par with other bidders at the time of bid evaluation. As on the issue of the Hill road qualification criteria, the respondent no.1, MoRTH had itself accepted project code 'c' Pkg-13 as qualifying for the hill road criteria. Once the respondent no.1 had accepted Pkg-13, they could not have refused to extend the same recognition to Pkg-11 which is a parallel package on the same expressway corridor in terms of the Work Done Certificate and a detailed authority certificate also records explicitly execution of slope protection works and RCC retaining walls for 12.398 kms



of hilly terrain and the same goes against the principles laid in *Tata Cellular (supra)*.

33. The failure to undertake independent verification before rejecting the official certificate as per Mr. Taneja amounts to denial of fair procedure. The petitioner had submitted adequate documents in support of their claim but the TEC did not consider the same and mechanically brushed them aside the same. He stated the actions of the TEC are against the *ratio* laid down in *Tata Cellular (supra)* and *S.R. Venkataraman (supra)*.

34. It is also his case that the rejection of the clarificatory certificate as being termed as a new document is an erroneous and unreasonable exercise of power. The characterisation of the certificate dated 23.02.2026 as a 'new document' demonstrates the wrong committed by the TEC. The said certificate does not introduce any new extraneous fact but merely clarifies and formally certifies the hilly terrain and nature of the BOQ items were already a part of the original bid document. The authority has wrongly labelled this document as a new document and these actions are against the principles as laid down in *Tata Cellular (supra)* and *S.R. Venkataraman (supra)*.

35. Lastly, he contended that the petitioner's bid as the undisputed record is highly competitive and would have come up as the L-1 bid. The acceptance of the higher bid while excluding the technically qualified bidder results in an avoidable and substantial financial prejudice to the public exchequer. In support of his arguments, he has relied upon the judgment in the case of *Tata Cellular (supra)* to contend that the principles of Article 14 under the Constitution must be kept in view while refusing or accepting her tender if the power of choice is exercised for any collateral purpose, the



same must be struck down.

ANALYSIS

36. Having heard the learned counsel for the parties and perused the record, the issue which arise for consideration in this petition is whether the decision of the respondent no. 1 to treat the bid of the petitioner as non-responsive is justified.

37. The TEC declared the bid of the petitioner as non-responsive in its meeting dated 20.02.2026. The two grounds on which the petitioner's bid was declared as non-responsive are: (a) non-compliance with similar work criteria [clause 2.2.2.2(ii)] and; (b) non-compliance with threshold technical capacity [clause 2.2.2.2(i)].

38. In respect of ground no. 1 above, the bidder is required to demonstrate:

- a. Value Threshold i.e., One similar work of more than Rs. 272.82 crores or two similar works of more than Rs. 197.73 crores each and;
- b. completion of HSP in a total length of 5 kms in the said similar work i.e., within very same work satisfying the value threshold. Each similar work is needed to comply with 5 km HSP.

39. The case of the respondent no. 1 as canvassed by Mr. Gautam is that both the conditions are conjunctive. The case of the respondents is also that the petitioner has failed to meet the criteria in respect of any of the three projects relied as upon by the petitioner.



i.	Project a	Original retaining wall only 0.87 km (less than 5 km) The petitioner submitted altered certificate, which is inadmissible.
ii.	Project b	Certificate silent on HSP – fails 5 km condition.
iii.	Project c	5 km HSP met – but the value far below Rs. 197.73 crores / Rs. 272.82 crores threshold.

40. Insofar as the ground (ii) of non-compliance with the threshold technical capacity is concerned, the case of the respondent no. 1 is that as per clause 2.2.2.2(i), the receipts from eligible projects in the last five financial years exceeds the threshold technical capacity of Rs. 790.91 crores. It is their case that in sub-contracting cases clause 2.2.2.5(iv) restricted the claimable amount to the “*approved sub-contract value*” as approved by the authority.

41. It is also their case that the petitioner relied upon project (a) Maharashtra Samruddhi Expressway Package-11 wherein it was the sub-contractor to M/s. Gayatri Projects Limited, which was prime contractor with MSRDC. The petitioner claimed receipts of Rs. 806.88 crores from this project whereas the petitioner recorded the sub-contract value of only Rs. 303.14 crores as against the requirement of Rs. 790.91 crores. The case of the respondent no. 1 is also by stating that only documents forming part of the original bid shall govern the evaluation.

42. Whereas Mr. Taneja’s submission is that the respondent no. 1 itself had called upon the petitioner to furnish response/clarification on the aspect of non-responsiveness. It is in compliance thereof that the petitioner furnished detailed replies and documents, which according to him were not



considered and the respondent no. 1 proceeded with the tender process and opened the financial bids. Having noted the above submission of Mr. Taneja, we are of the view that the issue of non-responsiveness has to be considered and decided on the basis of the bid and the clarification given by the petitioner along with the documents submitted along with the bid.

43. On the aspect of eligibility criteria under clause 2.2.2.2(i), which is a threshold technical capacity of Rs. 790,91,76,231/-, the case of the petitioner as canvassed by Mr. Taneja is that the petitioner has executed/received payment of Rs. 806.88 crores in the project 'a' above. According to him, the sub-contract was initially for Rs. 303.14 crores, which contract was enhanced by Rs. 220.41 crores (on 20.06.2022) and further enhanced by Rs. 346.56 crores (on 14.02.2023) and hence meet the criteria. The aforesaid submission of Mr. Taneja is not at all appealing. This we say so because of clauses 2.2.2.2(i) and 2.2.2.2(ii) which are reproduced hereunder:-

“(i) For demonstrating technical capacity and experience (the “Technical Capacity”), the Bidder shall, over the past [5 (five)] financial years preceding the Bid Due Date, have received payments for construction of Eligible Project(s), or has undertaken construction works by itself in a PPP project, such that the sum total thereof, as further adjusted in accordance with clause 2.2.2.5 (i) & (ii), is more than the “Threshold Technical Capacity” mentioned as below:

<i>Particular</i>	<i>Amount (in Rs.)</i>	<i>in Words</i>
<i>Threshold Technical Capacity</i>	<i>₹7,90,91,76,231</i>	<i>Seven Hundred Ninety Crore Ninety One Lakh Seventy Six Thousand Two Hundred Thirty One</i>

(ii) For normal Highway projects (including Major Bridges/ROB/Flyovers/Tunnels):



Provided that at least either of the following:

(i) Two similar completed works costing not less than amount equal to 25% each of estimated cost.

or

(ii) One similar completed work costing not less than amount equals to 35% each of estimated cost

[Similar work cost as in table below] shall have been completed from the Eligible Projects in Category 1 and/or Category 3 specified in Clause 2.2.2.5. Certificate(s) from the concerned client(s) shall be required for the same. In case the claimed project /(s) are subcontracting/ JV project in such a case Approval from Govt. Authority / Client is required (restricted to allowable sub-contracting limit/ JV share in original contract).

For this purpose, a project shall be considered to be completed, if more than 90% of the value of work has been completed and such completed value of work is equal to or more than the abovementioned criteria in the last 5 (five) financial years preceding the Bid Due Date or till the Bid Due Date. Eligible projects shall include following:

(a) Widening/reconstruction/up-gradation works on NH/SH/Expressway or on any category of road taken up under CRF, ISC/El, SARDP, LWE

(b) Widening/reconstruction/up-gradation works on MDRs with loan assistance from multilateral agencies or on BOT basis

(c) Widening/reconstruction/up-gradation work of roads in Municipal corporation limits, construction of Bypasses

(d) Construction of stand-alone bridges, ROBs, tunnels

(e) Construction/reconstruction of linear projects like airport runways



(f) Viaducts of Railways/Metro

(g) Container yard of ports

<i>Particulars</i>	<i>Amount (in Rs.)</i>	<i>In Words</i>
<i>Two Similar Work each costing</i>	<i>₹ 1,97,72,94.058</i>	<i>One Hundred Ninety Seven Crore Seventy Two Lakh Ninety Four Thousand Fifty Eight</i>
<i>One Similar work costing</i>	<i>₹ 2,76,82,11,681</i>	<i>Two Hundred Seventy Six Crore Eighty Two Lakh Eleven Thousand Six Hundred Eighty One</i>

Provided further that at least 1 similar work shall have been completed from eligible projects in Category 1 and/or Category 3 specified in clause 2.2.2.5 that involved construction of hill road in at least 5 km length having 2 lane carriageway configurations. For this purpose, the work of formation building along with hill and valley side slope protection work shall have been completed in 5 km length. The details of project(s) claimed under Hill Road Criteria shall be furnished as per Annexure-IVA of Appendix IA.

If any Major Bridge/ROB/Flyover/Tunnel is (are) part of the project, then the Bidder shall necessarily demonstrate additional experience in construction of Major Bridge/ROBs/Flyovers/Tunnel in the last 7 (Seven) financial years preceding the Bid Due Date or till the Bid Due Date. i.e. shall have completed at least one similar Major Bridge/ROB/Flyover/Tunnel of following sizes:

(a) In case, longest span of Bridge/ROB/flyover is less than or equal to 60 m, no additional qualification is required

(b) When longest span is more than 60 m: 80% of the



longest span or 100 m, whichever is less, of the structure proposed in this project and 40% of the length of Major bridge/ROB/Flyover or 2km, whichever is less, of the structure proposed in this project.

And in case of tunnel, if any, shall have completed construction of at least one tunnel consisting of single or twin tubes (including tunnel(s) for roads/Railway/Metro rail/irrigation/hydro-electric projects etc.) having at least (a) In case Tunnel is a part of project having length less than or equal to 200 m, then no additional qualification is required.

(b) when length of tunnel more than 200 m: 80% of the cross-sectional area of proposed tunnel or two-lane highway tunnel cross-sectional area, whichever is less and 40% length of the tunnel to be constructed (other than cut and cover method) in this project or 2 km, whichever is less.”

(emphasis supplied)

44. The aforesaid contemplates the claimed project, if sub-contracted, the approval from the client/Government authority is required (restricted to allowable sub-contracting limit). In the case in hand, the sub-contract as given to the petitioner by M/s. Gayatri Projects Limited, which was approved by MSRDC was worth Rs. 303.14 crores and nothing more. The enhanced sub-contracts of Rs. 220.41 crores and Rs. 346.56 crores granted to the petitioner were not expressly approved by MSRDC and in this regard, we agree with the submission of Mr. Gautam and Mr. Sethi that clause 2.2.2.5(iv) mandated a proof of the authority's approval of sub-contract i.e., approval from MSRDC (in this case) and not merely an *inter se* agreement between the private parties. Mr. Gautam and Mr. Sethi are also right in contending that no document has been filed by the petitioner on record in that regard. So, it follows that the eligibility must be restricted only to the



original sub-contract agreement, which is admittedly of the value of Rs. 303.14 crores.

45. Since, the petitioner has failed to satisfy the mandatory criteria of clause 2.2.2.2(i), its bid could not have proceeded to the evaluation under clause 2.2.2.2(ii), however, since the respondent no. 1 has disqualified the petitioner on this ground as well, we have examined the legality of the rival submissions.

46. That apart Mr. Gautam and Mr. Sethi are also justified in stating that apart from the aforesaid threshold technical capacity, the bidder has also to show completion of either of the following similar works:-

- a. two similar completed works costing not less than 25% each of the threshold technical capacity i.e. Rs. 197.72 crores (approx.) each or;
- b. one similarly completed work consisting not less than 35 % of the threshold technical capacity i.e. Rs. 276.82 crores.

47. In the present case, the completed projects (b) and (c) relied upon by the petitioner admittedly fail to satisfy the aforesaid criteria as they are ex-facie less than Rs. 197.72 crores and therefore cannot be considered as similar work. This leaves the petitioner with only one completed project (a) for establishing eligibility. However, the completed project (a) relied upon by the petitioner fails to fulfil clause 2.2.2.2(ii) on the similar work criteria as this project does not fulfil the requirement of completion of 5 km hill road and valleys side slope protection work, as discussed hereunder.

48. Now, coming to the eligibility of completing the hill slope protection in a total length of 5 km within the same work is concerned, the clause 2.2.2.2(ii) contemplates hill and valley side slope protection work has been



completed in 5 km length. The requirement pertaining to completion of 5 km hill road and valley side slope protection work is atleast one similar work was modified by way of corrigendum dated 01.09.2025 and later by another corrigendum dated 15.09.2025. The corrigendum dated 15.09.2025 reads as under:-

“Slope protection works viz. retaining wall/breast wall/gabion wall/hydro seedings/soil nailing/rock anchor or any other slope protection work shall have been completed in a total length of 5 km in the said similar work” at para 2.2.2.2 (ii) may be read as “Hill Slope protection works viz. retaining wall/gabion wall/hydro seeding/ soil nailing/ rock anchor or any other slope protection works shall have been completed in a total length of 5 km in the said similar work.”

49. The above shows requirement under the bid was that the petitioner should have completed 5 km hill slope protection work, which requirement has not been fulfilled by the petitioner.

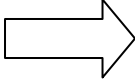
50. We agree with the submission of Mr. Gautam and Mr. Sethi that RFP mandated a specified quantified and certified, 5 km threshold and not a general characterisation of terrain in which the project was located. Even Mr. Sethi, by drawing our attention to clause 2.2.2.2 would highlight that the technical requirement pertains to 5 km of hill road and hill and valley slide protection work in atleast one similar work. From the aforesaid table at paragraph 17 above, it is clear that insofar as project code ‘a’ is concerned, the retaining wall is only 0.87 km as submitted with the original bid.

51. The project code ‘a’ record slope protection by earth work in banking as 54.49 km. According to Mr. Gautam, the retaining wall was only the component that could qualify as HSP and at 0.87 km it falls short of 5 km.



According to him, the earth work in banking is not HSP as it involves filling and compacting earth to form road embankments. In other words, it is structurally distinct from HSP work, which protects the existing hill slope from erosion and failure. It may be stated that the petitioner had submitted a second certificate dated 15.09.2025, which according to Mr. Gautam contained unexplained alterations being the deletion of (earth work in banking) and alteration of retaining wall component from 0.87 km to 8.70 km, which is a tenfold increase by transposition of digits. According to him, this document, which the petitioner had produced was not part of the original bid and materially contradicted it. We agree with the submission that law in this regard is well settled that post bid date documents cannot cure eligibility, deficiencies and documents contradicting original bid documents as such could not be considered. The plea of Mr. Taneja that clarifications were sought would not mean that very documents filed along with the bid are sought to be replaced by new documents. The clarification must necessarily be read in a manner that clarifications sought are in respect of documents which had already been filed. We hereunder reproduce both the documents which were produced by the petitioner along with the bid and later as certificate dated 15.02.2026:

	KM 51!+121 - Span (1 x 18.5 + 1 x 46 + 2 x 18.75) (Length =102 m) Steel Girder. Balance work completed.				
	PSC Girder Erection	Nos	16	16	-
	Steel Girder (Assemble & Erection) (1 x46+2 x18.75)	Nos	48	48	-
	Slab Total 4 Span (1 x 18.5 + 1 x 46 + 2 x 18.75) (Length =102 m)	Span	4	4	-
	Miscellaneous Work, (Crash Barrier, Approach Slab, Wearing Coat)	Nos	1	1	-
8	<i>Elevated Section / Viaduct / Flyover / Grade Separators</i>				
	Grade Separator Over NH-168.	No	1	1	-
9	<i>Other Works</i>				



Toll Plaza, O & M Centre, Service area	Nos	0.85	0.85	-
Road side Drains	Km	88.19	88.19	-
Road signs, markings, Crash barrier km stones, safety devices,	Km	35.226	35.226	-
Precast Wall fencing	Km	23.36	23.36	-
Precast Wall fencing erection	Km	44.35	39.61	4.74
Project facilities				
Electrical Works	Nos	8	8	-
Cross Utility ducts	Nos	5	5	-
Interchange Ramps (Earth work, GSB, DLC, PQC)	Km	4.64	4.64	-
Earth Work	Cum	2,78,400.00	2,78,400.00	
GSB	Cum	12,528.00	12,528.00	
DLC	Cum	10,440.00	10,440.00	
PQC	Cum	18,699.20	18,699.20	
Slope protection work of Earthwork in banking.	Km	54.49	54.49	-
RCC Retaining wall	Km	0.87	0.87	-
Rain water harvesting	Nos	30	30	-

10	Dauch Pond 25 MLD Capacity.	Nos	1	1	-
a.	DI Pipe 100 mm	Rmt	3215	3215	-
b.	HDPE 1500 mm	Rmt	7326	7326	-
c.	HDPE 40 mm	Rmt	21000	21000	-
11	Police station building	Nos	1	0.2	0.8
12	CoS Service Road	Km	38.5	13.5	25
13	Chain link Fencing	Km	42.522	11.428	31.094
14	Thrie- Beam crash barrier Median side (Pacakge-11)	Km	53.37	49.324	4.046
15	Sai Tree Sculpture in SS.	Nos	1	0.8	0.2

This work done certificate is issued by the request of M/s. **Hazoor Multi Projects Limited** for bidding purposes.



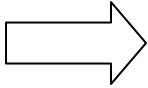
v. Salpate

Project Director
M.S. R. D. C. (Ltd), Mumbai
Camp Office Nashik

	KM 511+121 - Span (1 x 18.5 + 1 x 46 + 2 x 18.75) (Length =102 m) Steel Girder. Balance work completed.				
	PSC Girder Erection	Nos	16	16	-
	Steel Girder (Assemble & Erection) (1 x46+2 x18.75)	Nos	48	48	-
	Slab Total 4 Span (1 x 18.5 + 1 x 46 + 2 x 18.75) (Length =102 m)	Span	4	4	-
	Miscellaneous Work, (Crash Barrier, Approach Slab, Wearing Coat)	Nos	1	1	-
8	Elevated Section / Viaduct / Flyover / Grade Separators				
	Grade Separator Over NH-168.	No	1	1	-



9	Other Works				
	Toll Plaza, O & M Centre, Service area	Nos	0.85	0.85	-
	Road side Drains	Km	88.19	88.19	-
	Road signs, markings, Crash barrier km stones, safety devices,	Km	35.226	35.226	-
	Precast Wall fencing	Km	23.36	23.36	-
	Precast Wall fencing erection	Km	44.35	39.61	4.74
	Project facilities				
	Electrical Works	Nos	8	8	-
	Cross Utility ducts	Nos	5	5	-
	Interchange Ramps (Earth work, GSB, DLC, PQC)	Km	4.64	4.64	-
	Earth Work	Cum	2,78,400.00	2,78,400.00	
	GSB	Cum	12,528.00	12,528.00	
	DLC	Cum	10,440.00	10,440.00	
	PQC	Cum	18,699.20	18,699.20	
	Slope protection work	Km	54.49	54.49	-
	RCC Retaining wall	Km	8.7	8.7	-
	Rain water harvesting	Nos	30	30	-



10	Dauch Pond 25 MLD Capacity.	Nos	1	1	-
a.	DI Pipe 100 mm	Rmt	3215	3215	-
b.	HDPE 1500 mm	Rmt	7326	7326	-
c.	HDPE 40 mm	Rmt	21000	21000	-
11	Police station building	Nos	1	0.2	0.8
12	CoS Service Road	Km	38.5	13.5	25
13	Chain link Fencing	Km	42.522	11.428	31.094
14	Thrie- Beam crash barrier Median side (Pacakge-11)	Km	53.37	49.324	4.046
15	Sai Tree Sculpture in SS.	Nos	1	0.8	0.2

This work done certificate is issued by the request of M/s. **Hazoor Multi Projects Limited** for bidding purposes.



52. The contradictions in the certificate pertaining to project (a) with respect to the area of retaining wall, makes it a sufficient ground for the tendering authority to not rely upon these certificates.

53. The respondent no. 1 has explained that project (c) though meets the 5 km hill slope protection work criteria, however, since the value of the said project was Rs. 113.27 crores it fails to meet the minimum threshold criteria of Rs. 197.73 crores or Rs. 272.82 crores (as applicable) set out in clause 2.2.2.2(ii). The petitioner has been unable to rebut the said submissions. We are of the considered opinion that the tendering authority's interpretation



that value of similar work has to be Rs. 197.73 crores or Rs. 272.82 crores is in-conformity with the tender conditions and therefore project (c) has been rightly held to be ineligible for qualification.

54. One of the pleas of Mr. Taneja was that respondent no. 1 has without considering the representation of the petitioner dated 25.02.2026 has proceeded to open the tender whereas the case of respondent no. 1 as canvassed by Mr. Gautam is that the said representation was considered along with representation dated 05.02.2026 by the TEC before financial bids were opened on 12.03.2026. We agree with the said submission, as according to Mr. Gautam, the financial bids were opened on 12.03.2026, which is surely much after the representation dated 15.02.2026 was submitted and in any case, Mr. Taneja has not contradicted the submission made by Mr. Gautam that the representation was decided before the financial bids were opened. So, this plea of Mr. Taneja is also unmerited.

55. Mr. Taneja has relied upon two judgments in the case, which are one in the case of *Tata Cellular (supra)* and *S.R. Venkataraman (supra)*, of which the former has also been relied on by Mr. Sethi. However, we must accept the argument as advanced by Mr. Sethi that it is held in *Tata Cellular (supra)* that writ Courts should not sit as a court of appeal but only act as a reviewing authority overseeing the manner in which a decision is made. Mr. Taneja has argued that although Courts must exercise judicial restraint in tender matters but the decision making process is amenable to judicial review. However, in the facts of this case, we do not find it fit to exercise the said power of judicial review as respondent no.1 is justified in the manner it has made the decision, treating the bid of the petitioner “non-responsive”.

56. Insofar as the judgment in the case of *S.R. Venkataraman (supra)*



wherein it was held that an order which is based on non-existent facts must be seen as an abuse of power is concerned, the said judgment has no applicability in the facts of this case and also in view of our findings above.

57. Before parting with the case, we must also add that Mr. Sethi and Mr. Tandon are justified in relying upon the judgments in the cases of *Tata Motors Ltd. (Supra)*, *N.G. Projects Ltd. (Supra)* and *Haffkine Bio-Pharmaceutical Corporation Ltd. (Supra)* wherein the Supreme Court has consistently held that Courts must practise great restraint in tender matters before exercising their powers under Article 226 of the Constitution and must not sit as a court of appeal to supplant its own decision over the Tendering authority and the same only leads to delay and costs borne by the public exchequer. Furthermore, it is clear that the tender issuing authority has been held to be the best judge of its own requirement.

58. In view of our reasoning above, this petition is dismissed as being devoid of merit along with the pending application which is dismissed as having become infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

APRIL 06, 2026/sr