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

CNR No. DLHC010504582026

+ **W.P.(C) 15494/2026 & CM APPL. 72633/2026, CM APPL. 72634/2026, CM APPL. 72635/2026**

ORIENTAL STRUCTURAL ENGINEERS PRIVATE LIMITED & ANR.

.....Petitioners

Through: Mr. Sandeep Sethi, Sr. Adv.
with Mr. Ajit Warriar, Mr.
Angad Kochhar, Mr. Himanshu
Sethia, Ms. Tanvi Chabra, Mr.
Krishna Gambhir & Ms. Shreya
Sethi, Advs.

versus

**UNION OF INDIA, THROUGH THE MINISTRY OF ROAD
TRANSPORT AND HIGHWAYS**

.....Respondent

Through: Mr. Raj Shekhar Rao, Sr. Adv.
with Mr. Abhishek Gupta,
CGSC, Mr. Abhishek
Panchauri & Mr. A.S. Vansi
Krishna, Advs. for UOI.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **16.10.2026**

1. The petitioner challenges the impugned order dated 12.10.2026 (hereafter '**impugned order**') passed by Respondent No. 1, the effect of which is that the petitioner has been debarred from participating for the period of two years in any tender that may be taken out by the executing agencies of Ministry of Road Transport and Highways.
2. Mr. Sandeep Sethi, learned senior counsel for the petitioner submits that the subject event which has led to the passing of the impugned order was also subject matter of an earlier order dated 30.09.2026, which was passed by the National Highway Authority of India ('**NHAI**') declaring the petitioner as a non performer and



debarring it from participating in any bid of Ministry of Road Transport and Highways, including the NHAI and other centrally sponsored road works for a period of one year. He submits that the petitioner had challenged the said order passed by NHAI by way of a Writ Petition Civil being W.P.(C) 15213/2026 and this Court by order dated 13.10.2026 on being *prima facie* satisfied with the petitioner's case, had stayed the effect of the said impugned order.

3. This Court while considering the petitioner's challenge to the order passed by the NHAI by order dated 13.10.2026 had noted as follows:

"1. Petitioner is aggrieved by the order dated 30.09.2026, pursuant to which the petitioner has been declared as "non performer" and has been debarred from participating in any bid of the Ministry of Road Transport & Highways, including National Highways Authority of India and other Centrally sponsored road works, for a period of one year, or till completion / rectification of the alleged failed stretch of NH-45A. Further, a penalty of ₹10.6 crores has also been imposed on the petitioner. The petitioner has also been directed to complete the rectification works at its own cost.

2. It is the petitioner's case that he had entered into a Concession Agreement which required four Laning of the Poondiankuppam Sattanathapuram Section of NH-45A (New HH-32), from Km 67.00 to Km 123.800 in the State of Tamil Nadu, on Hybrid Annuity Basis. 3. The petitioner claims that the project was completed with effect from 09.12.2024 and a provisional certificate was also thereafter issued by the independent Engineer.

4. Learned Senior Counsel for the petitioner submits that pursuant to completion of the project, certain defects were allegedly found by the respondent which led to issuance of Show Cause Notice ('SCN') dated 06.04.2026.

5. He submits that the petitioner replied to the SCN stating that the defects which have been found now are beyond its control and, in any case, are not a major failure.

6. It is contended that, despite the fact that the petitioner was not at fault, it completed the repair work expeditiously after obtaining expert opinion and under the supervision of an independent expert, to the satisfaction of the respondent. It is further contended that the petitioner has also issued a dispute notice to the respondent, claiming force majeure, which is yet to be decided by the dispute resolution mechanism.



7. Issue notice.
8. Notice be served through all permissible modes.
9. *Prima facie*, once the completion certificate had been issued almost two years back, no debarment order could have been passed for a fault which was found subsequently, without any adjudication by the dispute resolution mechanism.
10. Considering the above, the impugned debarment order dated 30.09.2026 is stayed till the next date of hearing.
11. The information in regard to the order passed today shall be duly posted in the respondent's website.
12. Reply, if any, be filed before the next date of hearing.
13. List on 22.01.2027."

4. It remains undisputed that the subject incident which led to issuance of the impugned debarment order is the same which is being considered by this Court in W.P.(C) 15213/2026.

5. Mr. Sethi, learned Senior Counsel submits that the effect of the impugned order would nullify the interim order passed by this Court.

6. Issue notice.

7. The learned counsel appearing on behalf of the Respondent accepts notice.

8. Reply, if any, be filed within a period of four weeks.

9. Rejoinder be filed before the next date of hearing.

10. Considering the submissions made by Mr. Sethi, learned Senior Counsel for the petitioner, the effect of the impugned order is stayed till the next date of hearing.

11. List on 05.01.2027.

12. The matter shall be heard finally on the next date of hearing.

13. Parties are at liberty to file short note of their submissions before the next date of hearing.

AMIT MAHAJAN, J

OCTOBER 16, 2026/"SK"