

THE HIGH COURT OF SIKKIM : GANGTOK

(Civil Extraordinary Jurisdiction)

SINGLE BENCH : THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE

WP(C) No.71 of 2025

Petitioner : M/s Satra Services and Solutions Pvt. Ltd.

versus

Respondents : National Highways and Infrastructure Development Co. Ltd. (NHIDCL) and Others

Application under Articles 226 and 227 of the Constitution of India

Appearance

Mr. Uma Shanker Sarda and Mr. Adarsh Gurung, Advocates for the Petitioner.

Mr. Avneesh Garg, Advocate with Mr. Rahul Rathi and Mr. Lekden Thondup Basi, Advocates for the Respondent No.1.

None present for the Respondents No.2, 3 and 4.

Date of hearing : 10-12-2025

Judgment reserved : 10-12-2025

Judgment pronounced & uploaded : 12-12-2025

JUDGMENT

Meenakshi Madan Rai, J.

1. The Petitioner filed I.A. No.01 of 2025 along with the Writ Petition. The I.A. was an application for stay duly supported by an Affidavit. The prayers in the Writ Petition were as follows;

“.....
(i) Issue a Writ of Certiorari, or any other Appropriate Writ, Order or direction thereby quashing the impugned Debarment Notice dated 30.09.2025 **{Annexure P-1 (Colly)}**, issued by the Respondent No.1;
(ii) Direct the Respondents to restore *Status Quo Ante* and refrain from giving effect to the Debarment Notice dated 30.09.2025 **{Annexure P-1 (Colly)}**;
(iii) Pass an ad-interim order staying the order impugned Debarment Letter (sic.) dated 30/09/2025 **{Annexure P-1 (Colly)}**.
.....”

2. Before this Court on 13-11-2025, I.A. No.01 of 2025 was taken up for hearing. Counsel for the Petitioner submitted that the Petitioner was aggrieved by the Debarment Notice, dated

30-09-2025, issued by the National Highways & Infrastructure Development Corporation Limited (NHIDCL), Respondent No.1 against the Joint Venture (JV) comprising of M/s. Altinok Consulting Engineering Inc. (Respondent No.3) with M/s. Satra Infrastructure Management Services Pvt. Ltd. (Petitioner) along with MaRS Planning and Engineering Services Pvt. Ltd. (Respondent No.4), which debarred the JV from participating in the pre-qualification for bidding for all future Projects to be undertaken by NHIDCL/National Highways Authority of India, (NHAI)/Ministry of Road Transport and Highways (MoRTH), for a period of two years. After hearing the Learned Counsel for the Petitioner, perusing the pleadings and documents annexed thereto and giving due consideration to the submissions, facts and circumstances involved, the Debarment Notice, dated 30-09-2025, was stayed until the next date. The next date was fixed on 05-03-2026.

3. In the interim, a Mention Memo was filed on 03-12-2025 by the Respondent No.1, seeking posting of the matter on 05-12-2025. The matter was accordingly taken up on 10-12-2025.

(i) The Respondent No.1 filed an application being I.A. No.04 of 2025 with a prayer that the stay order (*supra*) be vacated. The Respondent No.1 also filed I.A. No.03 of 2025 praying for dismissal of the Writ Petition.

(ii) Learned Counsel for the Respondent No.1 submitted that advance Notice for the I.A. No.01 of 2025 and the Writ Petition was not served upon the Respondent No.1 by any mode, as a consequence the Respondent No.1 was not present before this Court during the hearing on 13-11-2025. That, the Petitioner has concealed certain facts pertaining to the instant matter and are making efforts to obtain orders from different Courts in the country

by filing successive Petitions on the same cause of action. In this context, it is contended that, before filing the present Petition the constituent of the Petitioner in the JV, namely M/s. Altinok Consulting Engineering Inc. (Respondent No.3), had filed a Writ Petition before the Hon'ble Delhi High Court, being WP(C) No.16139/2025, along with an application for stay of the same Debarment Notice, dated 30-09-2025. The matter came up for hearing before the Hon'ble Delhi High Court on 17-10-2025, however after hearing the parties no stay was granted on the said date. As the Writ Petition before the Hon'ble Delhi High Court was filed by M/s. Altinok Consulting Engineering Inc. (Respondent No.3), the leading constituent of the JV, it thereby espoused the cause of all the constituents of the JV, including that of the Petitioner herein. The fact that the parties have grossly manipulated the matter is evident from their contract as although the Petitioner herein claims to be aggrieved by the impugned order of Debarment dated 30-09-2025, it did not file any Petition till the matter filed by M/s. Altinok Consulting Engineering Inc. (Respondent No.3) before the Hon'ble Delhi High Court was taken up for consideration. In the absence of any relief from the said High Court the instant application was moved. It was next urged that this Court does not have territorial jurisdiction to determine this matter as the headquarters of the Respondent No.1 are situate in Delhi from where the impugned Debarment Notice was issued. The Petitioner as evident has approached this Court with unclean hands by way of concealment and manipulation, and is therefore liable to be non-suited. That, the allegation of non-service of e-mail on the Petitioner before the issuance of the Debarment Notice is erroneous as the e-mail was issued to the JV and thereby duly

served on all its constituents. The lead partner M/s. Altinok Consulting Engineering Inc. (Respondent No.3), responded to the show-cause Notice dated 07-01-2025 issued by e-mail after which hearing was also afforded to the party. It was further urged that, the Petitioner cannot now, before this Court, claim to be a separate entity from the JV. The documents dated 21-02-2025 and 21-07-2025 submitted by the JV to the Respondent No.1 reveal that it is M/s. Altinok Consulting Engineering Inc. (Respondent No.3) which shall be the lead constituent of the JV and shall represent the said JV. That, it is clear that the submissions in the Petition are not only devoid of merit but is an audacious abuse of the process of law by the Petitioner to obtain otherwise unwarranted interim Orders. Hence, the prayers for dismissing the instant Writ Petition.

4. Learned Counsel for the Petitioner, while reiterating the facts as previously stated before this Court contended that, the website of the Respondent No.1 reflects its e-mail id, to which the advance Notice was issued by the Petitioner, before the matter was taken up for hearing by this Court on 13-11-2025. That, the order of Debarment severely prejudices the Petitioner as it is not allowed to bid for contracts either as a part of the JV or even individually as a company. That, the matter before the Hon'ble Delhi High Court has been filed by M/s. Altinok Consulting Engineering Inc. (Respondent No.3) in their individual capacity and not as a constituent of the JV, therefore it has no relation to the Petition filed by the Petitioner herein, who has also filed the Writ Petition in an individual capacity, hence the prayer to reject the I.As (*supra*).

5. I have given due consideration to the submissions advanced by Learned Counsel for the parties, perused the pleadings and documents. While addressing the question of

service of e-mail to the Respondents before the hearing on the matter was taken up by this Court, admittedly the e-mail id of the Respondent No.1 is reflected in its website. It is not denied that the e-mail was forwarded to the said address of the Respondent No.1. In this context, no fault therefore can be found with the steps taken by the Petitioner.

(i) On the question of the jurisdiction of this Court, it would be essential to notice that with regard to territorial jurisdiction, initially, the power could be exercised by the High Court "throughout the territories in relation to which it exercises jurisdiction" i.e., the writs issued by the Court could not run beyond the territories subject to its jurisdiction. Secondly, the person or the authority to whom the High Court is empowered to issue such writs must be "within those territories", which clearly implied that they must be amenable to its jurisdiction either by residence or location within those territories. In ***Election Commission, India vs. Saka Venkata Rao***¹, the Hon'ble Supreme Court made the following observation;

"[6] the makers of the Constitution, having decided to provide for certain basic safeguards for the people in the new set up, which they called fundamental rights, evidently thought it necessary to provide also a quick and inexpensive remedy for the enforcement of such rights and, finding that the prerogative writs, which the Courts in England had developed and used whenever urgent necessity demanded immediate and decisive interposition, were peculiarly suited for the purpose, they conferred, in the States' sphere, new and wide powers on the High Courts of issuing directions, orders, or writs primarily for the enforcement of fundamental rights, the power to issue such directions, etc. 'for any other purpose' being also included with a view apparently to place all the High Courts in this country in somewhat the same position as the Court of King's Bench in England. But wide as were the powers thus conferred, a twofold limitation was placed upon their exercise. In the first place, *the power is to be exercised 'throughout the*

¹ AIR 1953 SC 210

territories in relation to which it exercises jurisdiction', that is to say, the writs issued by the Court cannot run beyond the territories subject to its jurisdiction. Secondly, the person or authority to whom the High Court is empowered to issue such writs must be 'within those territories', which clearly implies that they must be amenable to its jurisdiction either by residence or location within those territories."

[7]

[8] The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issuable under Article 226 which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority 'within the territories' in relation to which the High Court exercises jurisdiction."

[emphasis supplied]

(ii) In **Lt. Col. Khajoor Singh vs. Union of India and Another**² a Bench of Seven Judges was called upon to consider the correctness or otherwise of **Saka Venkata Rao** (*supra*). The Bench approved the view taken by the Court earlier with the observation that;

"(13) It seems to us therefore that it is not permissible to read in Article 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court. That jurisdiction depends on the person or authority passing the order being within those territories and the residence or location of the person affected can have no relevance on the question of the High Court's jurisdiction."

Thus, prior to the insertion of Clause (2) to Article 226 of the Constitution, the Hon'ble Supreme Court held that the writs do not run beyond the territory in relation to which each High Court exercise jurisdiction.

(iii) Clause (2) was inserted in Article 226 of the Constitution by the Constitution 42nd Amendment Act. The results of the insertion of the said Clause is that a Petition under Article 226 can be presented before any of the High Courts coming under following heads;

- (a) The High Court within whose territorial jurisdiction the person or authority against whom relief is sought resides or is situate.

² AIR 1961 SC 532

This means in case of Government of India and other authorities and inferior tribunals situated at Delhi, the High Court may issue a writ against the Union of India irrespective of where the cause of action arises.

- (b) The High Court within whose jurisdiction the cause of action in respect of which relief is sought under Article 226 has arisen, wholly or in part.

(iv) In *Kusum Ingots and Alloys Ltd. vs. Union of India and Another*³, the Supreme Court held that, although in view of Section 141 of the Code of Civil Procedure, 1908 (hereinafter the "CPC"), the provisions of Section 20(c) of the CPC would not apply to Writ proceedings, however, the phraseology used in Section 20(c) of the CPC and Clause (2) of Article 226 of the Constitution, being in *pari materia*, the decisions of the Supreme Court rendered on interpretation of Section 20(c) of the CPC, shall apply to the Writ proceedings also. That, keeping in view the expressions used in Clause (2) of Article 226 of the Constitution, indisputably even if a small fraction of cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter. That, although cause of action has not been defined in any statute, but judicially interpreted would, *inter alia*, mean every fact which would be necessary for the Plaintiff to prove, if traversed, in order to support his right to the Judgment of the Court.

(v) More recently, in *S. Shobha vs. Muthoot Finance Ltd.*⁴ the Supreme Court held as follows;

"8. A body, public or private, should not be categorized as "amenable" or "not amenable" to writ jurisdiction. The most important and vital consideration should be the "function" test as regards the maintainability of a writ application. If a public duty or public function is involved, any body, public or private, concerned or connection with that duty or function, and limited to that, would be subject to

³ (2004) 6 SCC 254

⁴ 2025 SCC OnLine SC 177

judicial scrutiny under the extraordinary writ jurisdiction of Article 226 of the Constitution of India.”

6. On the anvil of the tests laid above, it is evident that no cause of action arises within the jurisdiction of this High Court, although the road being constructed is in the State of Sikkim, but the aggrievement pertains categorically to the Debarment Notice issued by the Respondent No.1, whose head office is situate at Delhi. It is undisputed that the Respondent No.1 is a Public Sector Undertaking under the Ministry of Road Transport & Highways, Government of India. In my considered view, the Respondent No.1 being a Public Sector Undertaking, cannot be brought within the ambit of the meaning of the Government of India, hence this Court lacks the jurisdiction to consider the matter.

7. That having been settled, on a juxtaposition of the Writ Petitions filed before the Hon'ble Delhi High Court and before this Court, undoubtedly the Petitioner before this Court is M/s. Satra Infrastructure Management Services Pvt. Ltd., whereas before the Hon'ble Delhi High Court the Petitioner is M/s. Altinok Consulting Engineering Inc. (Respondent No.3), nonetheless the contract Agreement issued is between NHIDCL (Respondent No.1) and M/s. Altinok Consulting Engineering Inc. JV (Respondent No.3), with M/s. Satra Infrastructure Management Services Pvt. Ltd., in association with MaRS Planning and Engineering Services Pvt. Ltd. (Respondent No.4). The fact that it is a JV between the three companies (*supra*) is not in dispute, therefore, the plea that this Petition is related solely to the Petitioner and the other before the Hon'ble Delhi High Court pertains only to M/s. Altinok Consulting Engineering Inc. (Respondent No.3), cannot be countenanced.

(i) The prayers in the Writ Petition before the Hon'ble Delhi High Court are as follows;

- “
- (i) Issue a Writ of Certiorari, or any other Appropriate Writ, Order or direction thereby quashing the impugned Debarment Letter dated 30.09.2025, Termination Letter dated 03.10.2025 and Letter dated 06.10.2025 issued by the Respondent No.1;
 - (ii) Direct the Respondents to restore Status Quo Ante and refrain from giving effect to the impugned Debarment Letter dated 30.09.2025, Termination Letter dated 03.10.2025 and Letter dated 06.10.2025 and to desist from encashing or otherwise invoking the Performance Bank Guarantee submitted by the Petitioners;
 - (iii) Pass any other and further orders as this Hon'ble Court may deem just and proper in the interest of Justice.
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(ii) These are exact the same prayers made before this Court in the Writ Petition and which have been extracted (*supra*). In fact, as evident the prayers before the Hon'ble Delhi High Court are more elaborate.

8. Consequently, in view of the foregoing discussions, this is a fit case in which the stay is required to be and is accordingly vacated and for the self same reasons the Writ Petition is dismissed and disposed of.

9. Pending applications, if any, also stand disposed of.

(Meenakshi Madan Rai)
Judge
 12-12-2025

Approved for reporting : **Yes**