

IA No. 01/2025
IN
Arb. P. No. 01/2025

M/S JRA INFRASTRUCTURE LTD.

PETITIONER (S)

VERSUS

UNION OF INDIA

RESPONDENT (S)

For Petitioner : Mr. Lekden Thondup Basi, Mr. Shakil Raj Karki and
Ms. Dipsheekha Manger, Advocates.

For Respondent : Ms. Sangita Pradhan, Deputy Solicitor General of
India with Ms. Natasha Pradhan and Ms. Sittal
Balmiki, Advocates.

Date: 14/05/2025

CORAM:

HON'BLE MR. JUSTICE BISWANATH SOMADDER, CHIEF JUSTICE

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J U D G M E N T

This application filed on behalf of the respondent, Union of India, is for the purpose of seeking leave to proceed with tender process under clause 14 of the contract agreement. In paragraph 4 of the instant application the respondent has stated, *inter alia*, that the tender was not opened on the scheduled date of opening, i.e., on 21st April, 2025, as the respondent (Union of India) was directed to present at Gangtok on the same date in the process of filing the affidavit-in-opposition in the present case and for attending the hearing scheduled on 23rd April, 2025. There are several other averments made in various paragraphs of the said application, which includes a submission that the ITBP road from Thangu to Muguthang is strategically a vital infrastructure project serving as the sole supply route for the Indo-Tibetan Border Police Force (ITBPF) and India Army personnel stationed along the sensitive Indo-China border in the Muguthang area on Northern Sikkim. The project, located at an altitude of 14,000 to 16,500 feet,

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is critical for National Security, facilitating operational and logistical support for Defense Forces in a region prone to harsh weather conditions, including snow-cover from April to mid-November. Missing the deadline would delay the project into the next working season (i.e., next year 2026 only), as the region is inaccessible during the non-working season, leading to a minimum delay of one year.

It has also been stated by the respondent in paragraph 7 as follows: -

"7. It is humbly submitted that the working season in the project area is limited to May to mid-November due to adverse weather conditions. The Respondent has committed to the Ministry of Home Affairs (MHA) to complete the project by 15.11.2025. Any delay in opening the tender and awarding the balance work will jeopardize this timeline, further hindering project completion and adversely impacting security of Nation. The tender process is a critical step to ensure the timely completion of the ITBP Road."

In such a backdrop, the respondent has prayed for the following relief: -

"a) Grant leave to the Respondent to proceed with the opening of the tender (NIT No. 01/SE/BRPC/EE/BRPD-II/2025-26) which was scheduled for 21.04.2025 and the subsequent awarding of the balance work at the risk and cost of the Petitioner under Clause 14 of the Contract Agreement No. 06/EE/BRPD-I/2018-19, in the interest of public."

While hearing the main matter, i.e., Arbitration Petition No. 01/2025, this Court, after issuing directions for filing of affidavits, also passed an ad-interim order on 23rd April, 2025, which reads as follows: -

"In the meanwhile, there shall be an ad-interim order of injunction against the Executive Engineer, Central Public Works Department, Border Road Project, Division-II, having his/her office at Chungthang, North Sikkim, restraining him/her from taking any coercive steps against the petitioner, without leave of Court."

A bare perusal of the order, as quoted above, will reveal that this Court has not enjoined the respondent from proceeding with opening of the tender which was scheduled to be opened on 21st April, 2025. The only order of injunction that was passed against the concerned Executive Engineer was restraining him/her from taking any coercive steps against the petitioner (M/s JRA Infrastructure Ltd.), without leave of Court. In such circumstances, this Court does not find any impediment or embargo or fetter upon the respondent (Union of India) from

proceeding with the opening of the tender (NIT No. 01/SE/BRPC/EE/BRPD-II/2025-26) which was scheduled to be opened on 21st April, 2025.

With the saforesaid observation, the instant interlocutory application, being I.A. No. 01/2025, stands disposed of.

(Biswanath Somadder)
Chief Justice

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