


**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 8120/2025

JCL Infra Private Limited, Having Its Registered Office At Industrial Estate, Delhi Road, Partapur, Meerut - 250103 Through Its Managing Director Mr. Ajai Kumar Gupta.

----Petitioner

Versus

1. Jaipur Development Authority, Through Its Secretary, Ram Kishor Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Marg, Jaipur-302004.
2. Commissioner, Jaipur Development Authority, Ram Kishor Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Marg, Jaipur Rajasthan, 302005.
3. Executive Engineer - ROB/RUB-V, Jaipur Development Authority, Ram Kishor Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Marg, Jaipur-302004

----Respondents

Connected With

S.B. Civil Writ Petition No. 17571/2024

JCL Infra Private Limited, Having Its Registered Office At Industrial Estate, Delhi Road, Partapur, Meerut - 250103 Through Its Authorized Signatory Mr. Ajai Kumar Gupta.

----Petitioner

Versus

1. Jaipur Development Authority, Through Its Commissioner, Ram Kishor Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Marg, Jaipur - 302004.
2. Jaipur Development Authority, Through Its Executive Engineer - Traffic - Ii, Room No. 110, Ff, Main Building, Ram Kishor Vyas Bhawan, Indira Circle, Jawahar Lal Nehru Marg, Jaipur - 302004.
3. Sincere Architects Engineers Pvt. Ltd., 42, Lal Singh Judo Colony, Near Jaipuria Hospital, Tonk Road, Jaipur, Rajasthan - 302018. Through Its Authorized Signatory.

----Respondents

For Petitioner(s) : Mr. S. S. Hora with
 Mr. Adesh Arora
 Mr. OP Singh Tanwar
 For Respondent(s) : Mr. Amit Kuri with
 Mr. Ayush Sharma
 Mr. Devendra Gupta, Director
 Engineer JDA-1

HON'BLE MR. JUSTICE SAMEER JAIN

JUDGMENT

REPORTABLE:

1.	Arguments Concluded on:	23.04.2026
2.	Judgment Reserved on:	23.04.2026
3.	Full Judgment/Operative Part Pronounced:	Full Judgment
4.	Pronounced on:	02.06.2026

1. In the present batch of writ petitions, the scope of the controversy involved, albeit not limited to but is broadly and predominantly defined as enumerated *ad infra*:

SBCWP No. 8120/2025: Is filed assailing the arbitrary and illegal actions of the respondents whereby the respondents have re-invited tender including the component of OTS Flyover in respect of preparation of detailed project report (hereinafter referred to as 'DPR') for proposed elevated road from Transport Nagar to Balagi Tri Junction, Jagatpura and from Jothwara at OTS junction, JLN Marg, JDA Jaipur, to extent of flyover at OTS Junction vide NIB No. EE-ROB/RUB-B/01/2025-26 dated 03.04.2025; primarily being governed by the Public Works Financial and Accounts Rules, Part-II.

SBCWP No. 17571/2024: Is filed assailing the letter dated 24.04.2024 issued by the Jaipur Development Authority

(hereinafter referred to as 'JDA'), thereby withdrawing the work allotted to the petitioner vide the Letter of Acceptance No. JDA/EE/TR WORKS-II/LOA/2022-2023/DEC/01 (hereinafter referred to as 'LoA') dated 14.12.2022, without affording any rationale of such withdrawal.

Consequently, considering the fact that the writ petitions warrant adjudication on common questions of law and fact; with the consent of learned counsel appearing on behalf of all the parties, **S.B. Civil Writ Petition No. 8120/2025** titled as **JCL Infra Private Limited V. Jaipur Development Authority and Ors.** is being taken up as the lead case. It is cautiously clarified that any discrepancies in the present batch of writ petitions, pertain purely to the factual narratives contained therein and not vis-a-vis the questions of law to be determined by this Court; the instant judgment shall be applicable on both the petitions connected herein/henceforth on *mutatis mutandis* basis.

SUBMISSIONS ADVANCED AND CONTENTIONS PROFFERED BY THE LEARNED COUNSEL APPEARING FOR AND ON BEHALF OF THE PETITIONER HEREIN ARE AD-SERIATIM:

2. At the threshold, and before adverting to the substantive arguments, the chronological particulars giving rise to the instant controversy, as submitted by the learned counsel appearing for and on behalf of the petitioner are set forth hereinbelow:

2.1 At the very outset, learned counsel appearing on behalf of the petitioner submitted that the petitioner is a company duly

incorporated under the provisions of the Companies Act, 2013, bearing CIN U24231UP1980PTC005098, and having its registered office in Meerut. It was submitted that the petitioner has been constrained to approach this Court on account of the manifestly arbitrary, capricious, and unlawful actions of the respondent authorities in re-inviting consultancy services for the preparation of a DPR in respect of the OTS Flyover, notwithstanding the undisputed position that the DPR for the said project had already been prepared and the work stood duly awarded to the petitioner, pursuant to a valid and concluded tender process, and that the petitioner has, in furtherance thereof, incurred substantial financial expenditure and mobilised significant resources of men and machinery.

2.2 It was submitted that the respondents issued a Notice Inviting Bid bearing NIB No. EE-ROB/RUB-B/01/2025-26 dated 03.04.2025 for "Consultancy Services for Preparation of DPR for proposed elevated road from Transport Nagar to Balagiri Tri Junction, Jagatpura and from Jhotwara ROB to Khatipura ROB and flyover at OTS Junction, JLN Marg, JDA Jaipur." Learned counsel had clarified that the petitioner has confined its challenge only to that segment of the impugned NIB which pertains to the OTS Flyover, inasmuch as the said project had already been awarded to the petitioner through a lawful tendering process and was already under active execution.

2.3 Elaborating further, it was submitted that the petitioner had been awarded the EPC contract vide LoA dated 14.12.2022

bearing No. JDA/EE TR Works-II/LOA/2022-2023/Dec/01 for the work of "Traffic improvement and beautification work at OTS Crossing, JLN Marg, JDA Jaipur," which was predicated upon a DPR earlier prepared by the respondents' appointed consultants, namely, Sincere Architects Engineers Pvt. Ltd. Pursuant thereto, a valid and binding Contract Agreement bearing No. 01/2022-23 came to be executed between the parties on 27.12.2022, and that the said DPR itself was the culmination of a prior tender process wherein Sincere Architects Engineers Pvt. Ltd. had been duly selected, and on the strength of which the petitioner emerged as the successful bidder for execution of the EPC contract. Learned counsel submitted that in pursuance of the said contract, the petitioner duly mobilised its men, machinery, and financial resources, and commenced execution of the work strictly in accordance with contractual stipulations. The petitioner submitted various survey reports, investigations, and detailed design documents through communications dated 23.02.2023, 24.02.2023, 27.02.2023, 02.03.2023, and 13.03.2023, and further sought requisite approvals, including vide letter dated 17.03.2023, for execution of the flyover and allied works at the OTS crossing. It was vehemently contended that despite scrupulous adherence by the petitioner to all contractual obligations, inter alia, submission of disposal plans, traffic movement plans, and detailed engineering drawings through letters dated 22.03.2023, 27.03.2023, 11.04.2023, and 26.04.2023, the respondents failed to accord the necessary site approvals, thereby stultifying the progress of the project. It was

submitted that the petitioner made repeated representations on 28.03.2023, 25.05.2023, 01.09.2023, 20.02.2024, and 05.01.2024 seeking approvals; however, the respondents remained supine and failed to discharge their corresponding contractual obligations.

2.4 As a consequence of such inaction, the petitioner has suffered grave financial prejudice, with men and machinery lying idle and investments aggregating approximately Rs. 40 Crores already having been made, out of which work to the extent of Rs. 20.41 Crores stood completed and duly communicated to the respondents. It was further submitted that despite repeated requests, including communications dated 01.11.2023, 26.12.2023, and 20.02.2024, no payments were released by the respondents, nor was any communication forthcoming. Subsequently, to the utter astonishment of the petitioner, that the respondents issued a letter dated 03.01.2024 alleging that no drawings had been submitted, in complete disregard of the extensive documentation furnished by the petitioner between 27.02.2023 and 03.01.2024. It was further contended that paradoxically, thereafter, the respondents issued a project extension letter dated 04.01.2024 extending the completion timeline till 30.04.2024, thereby unequivocally acknowledging both the subsistence of the contract and the satisfactory progress of the petitioner's work.

2.5 In response, to the said time extension the petitioner furnished a comprehensive representation dated 05.01.2024

detailing the progress achieved and sought payment on account of price variation arising from the extended contractual period beyond twelve months, vide letter dated 08.01.2024; however, the same elicited no response from the respondents. It was further contended that during a meeting held on 01.03.2024, certain concerns were raised regarding the technical feasibility of the project at Jhalana Rotary and MNIT Gate opening; however, the said concerns stood conclusively addressed by the respondents' own consultant, Sincere Architects Engineers Pvt. Ltd., vide letter dated 26.03.2024, affirming the technical feasibility of the project. Despite this, the petitioner's subsequent request for site instructions vide letter dated 27.03.2024 remained unanswered.

2.6 Learned counsel submitted that in a gross violation of the principles of natural justice and in complete arbitrariness, the respondents, without affording any opportunity of hearing or assigning cogent reasons, invoked Clause 32 of the contract and withdrew the awarded work vide letter dated 24.04.2024. The petitioner, aggrieved thereby, furnished a legal notice dated 10.05.2024 seeking revocation of the said withdrawal, which too went unheeded. Thereafter, Sincere Architects Engineers Pvt. Ltd. submitted a further communication dated 05.07.2024 enclosing final drawings and reaffirming the feasibility of the project, thereby dispelling any residual doubts. It was submitted that the petitioner was constrained to furnish second legal notice dated 26.08.2024, which was similarly disregarded. Aggrieved by such arbitrary withdrawal, the petitioner instituted **S.B. Civil Writ**

Petition No. 17571/2024, wherein notices were issued on 18.12.2024 and duly served on 20.12.2024. However, during the pendency of the said proceedings, the respondents proceeded to re-invite consultancy bids for the very same project vide NIB dated 03.04.2025, which, inter alia, includes the OTS Flyover, despite the matter being *sub judice* and despite the petitioner's prior execution and substantial investment.

2.7 Learned counsel submitted that the impugned action of re-inviting a DPR consultancy tender for the OTS Flyover is nothing short of an attempt to restart the project *de novo*, in brazen disregard of the DPR already prepared by Sincere Architects Engineers Pvt. Ltd. and the petitioner's execution of work amounting to Rs. 20.41 Crores and investment of approximately Rs. 40 Crores. Such conduct, is *ex facie* arbitrary and violative of the doctrine of promissory estoppel, inasmuch as the petitioner acted to its detriment on the basis of the respondents' unequivocal representations and contractual assurances, and now stands placed in a position of severe financial jeopardy. Learned counsel submitted that Clause 32 of the contract contemplates only partial withdrawal of work and does not sanction unilateral termination of the entire contract. The respondents' action in withdrawing the whole of the work under the guise of Clause 32 is therefore wholly illegal, unsustainable, and contrary to the express terms of the contract. It was further submitted that the EPC contract provided for stage-wise payments, which were liable to be sub-categorised in terms of the

corrigendum dated 20.10.2022, and the petitioner had duly complied with the same vide its letter dated 31.01.2023.

3. Learned counsel appearing on behalf of the petitioner further submitted that the petitioner is engaged, inter alia, in the execution of large-scale infrastructure development projects, possessing the requisite technical expertise, financial wherewithal, and professional acumen for undertaking complex urban mobility works. It was contended that the OTS Crossing situated on JLN Marg, Jaipur, constitutes one of the most critically congested traffic bottlenecks within the city, plagued by incessant vehicular load and chronic traffic snarls. In order to ameliorate the said congestion and to ensure a signal-free corridor facilitating uninterrupted and seamless vehicular movement, coupled with the augmentation of the aesthetic character of JLN Marg, the respondents conceived a project for traffic improvement and beautification of the said crossing, including the construction of a flyover and allied infrastructural components. Thus, in furtherance of the aforesaid objective, the respondents issued a tender inviting bids for the execution of the said project, thereby initiating a formal procurement process in accordance with law. The said bid was invited under the following title:

"Traffic Improvement and beautification work at OTS crossing JLN Marg, JDA Jaipur (Construction of suspended bridge, Traffic Island, Roatries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface etc.) on

*Engineering Procurement and Construction (EPC)
basis."*

4. Learned counsel appearing on behalf of the petitioner further submitted that the total EPC contract value, as delineated in the LoA dated 14.12.2022, stood at Rs. 184.30 Crores. It was submitted that the Special Conditions incorporating RPWR-100 were expressly made applicable and formed an integral part of the contract (entered inter-se the parties) in terms of Annexure-19 i.e. the contract agreement, having been mutually agreed upon between the parties. Learned counsel submitted that the stipulated period for commencement and completion of the project was from 06.01.2023 to 05.01.2024. However, the said period was extended vide communication dated 04.01.2024 (Annexure-13) till 30.04.2024, thereby acknowledging the subsistence of the contract and the continuing obligations of the parties. Notwithstanding the same, in a wholly unilateral and ex parte manner, the respondents invoked Clause 32 of the Contract Agreement and withdrew the entire scope of work vide letter dated 24.04.2024, which action has been impugned by the petitioner in **S.B. Civil Writ Petition No. 17571/2024**.

5. Learned counsel, in order to demonstrate the sequence of events and the manifest arbitrariness of the respondents' conduct, invited the attention of this Court to the following chronology of material facts:

5.1 That initially, on 02.02.2021 and 03.02.2021, a Letter of Acceptance was issued to consultants for preparation of the DPR, followed by a work order amounting to Rs. 4.58 Crores

(Annexure-4). The said consultants prepared the DPR, which subsequently formed the very foundation for the EPC tender floated by the respondents and ultimately awarded to the petitioner.

5.2 That on 14.12.2022, the respondents issued a LoA in favour of the petitioner awarding the EPC contract for the OTS flyover, based on the DPR prepared by the respondents' consultants (Annexure-2). This culminated in the execution of a formal Contract Agreement on 27.12.2022 between the petitioner and the respondents, wherein RPWR-100 was incorporated as part of the Special Conditions of Contract.

5.3 That on 31.01.2023, the petitioner addressed a communication to the respondents proposing bifurcation of work and stage-wise payments, as permissible under the corrigendum, thereby demonstrating its readiness to proceed in a structured and compliant manner (Annexure-24).

5.4 That on the same date, the respondents responded to an earlier communication of the petitioner dated 30.01.2023, raising certain queries and requirements with respect to site office arrangements, GAD drawings, traffic diversion plans, and tree-cutting permissions.

5.5 That in compliance thereof, the petitioner, vide letter dated 23.02.2023, sought in-principle approval inter alia, general Arrangement of Bridge Over Nallah on Gopalpur side [Drawing No. OTS/JAIPUR/Nallah Bridge/01 (Conceptual Drawing)]; General Arrangement of Flyover at OTS X-ing [Drawing No. OTS/JAIPUR/Flyover/01 R-3]; Project Plan at OTS Crossing

[Drawing No.OTS/JAIPUR/OVERALL GAD Sheet 01 REV R-1]; Traffic Diversion Plan (Drg. No. OTS/JAIPUR/Traffic Diversion-Sheet 01 REV 1); Land Acquisition Plan (Drg. No. OTS/JAIPUR/Land Acquisition 01 Rev 1) thereby evidencing due diligence and adherence to procedural requirements.

5.6 That despite continuous engagement, the petitioner, vide letter dated 26.12.2023, once again apprised the respondents of the mounting financial losses and requested payment for the work already executed to the tune of Rs. 20.41 Crores. However, in a stark departure from the factual record, the respondents issued a communication dated 03.01.2024 alleging that no drawings had been submitted by the petitioner, in complete disregard of the extensive documentation furnished throughout the year 2023.

5.7 That inconsistently, on the very next day i.e., 04.01.2024, the respondents extended the project deadline till 30.04.2024 without any request from the petitioner, thereby tacitly admitting that the delay was not attributable to the petitioner.

5.8 That the petitioner, vide letter dated 05.01.2024, referred to as many as eighteen prior communications and reiterated that despite submission of all requisite drawings, plans, and reports, no approvals or permissions had been granted, resulting in substantial financial losses (Annexure-8). A comprehensive list evidencing sixty-four communications sent by the petitioner to the respondents was also placed on record (Annexure-10).

5.8 That the petitioner, vide representation dated 08.01.2024, sought payment on account of price variation occasioned by the extension of the contract beyond twelve months. Thereafter, in a meeting culminating on 26.03.2024, the respondents' own consultants categorically clarified the technical feasibility of the project, inter alia, stating that the proposed structure would not interfere with the MNIT entrance and that the rotary could be suitably shifted, thereby obviating the need for additional land at OTS (Annexure-16, Pg. 489-491).

5.9 That in light of the aforesaid clarification, the petitioner, vide letter dated 27.03.2024, requested directions to resume and proceed with the pending work. However, instead of facilitating execution, the respondents, in a wholly arbitrary and high-handed manner, invoked Clause 32 of the Contract Agreement and withdrew the entire project vide letter dated 24.04.2024, without issuing any show cause notice or affording an opportunity of hearing (Annexure-18).

5.10 That the petitioner promptly served a legal notice dated 10.05.2024 challenging the illegal withdrawal and seeking revival of the project along with payment of outstanding dues amounting to Rs. 20.41 Crores (Annexure-20). Thereafter, even the respondents' own consultants, vide communication dated 05.07.2024, furnished detailed drawings, including traffic movement plans, land acquisition requirements, and general arrangement drawings, thereby reaffirming the feasibility and viability of the original DPR (Annexure-21).

5.11 That the petitioner issued a second legal notice dated 26.08.2024 reiterating its grievances, which also remained not responded. In the interregnum, the respondents, vide letter dated 29.08.2024, called upon the petitioner to collect its bank guarantees amounting to Rs. 5.52 Crores (Annexure P-4), which were thereafter dispatched by post on 16.12.2024 (Annexure P-5).

5.12 That the petitioner, vide letter dated 24.12.2024, accepted the same under protest (Annexure P-6).

5.13 That in a most arbitrary and untenable development, the respondents issued a fresh Notice Inviting Bid dated 03.04.2025 for preparation of a DPR for the same OTS flyover project, valued at Rs. 6.67 Crores (Annexure-1, Pg. 34), thereby effectively nullifying the earlier DPR, the concluded EPC contract, and the petitioner's substantial financial investment. Such action, it was submitted, is *ex facie* illegal, arbitrary, and wholly unsustainable in the eyes of law.

6. Learned counsel appearing on behalf of the petitioner has assailed the impugned withdrawal notice dated 24.04.2024, purportedly issued under Clause 32 of the Contract Agreement, as being *ex facie* illegal, arbitrary, and vitiated by manifest non-application of mind, qua which it was contended that the said notice is liable to be set aside on, *inter alia*, the following grounds:

6.1 That the impugned notice is conspicuously vague, bereft of reasons, and wholly non-speaking in nature, thereby failing to disclose any intelligible basis for the drastic action undertaken. Thus, such an unreasoned order stands in stark

contravention of the mandate of Clause 32 of the Contract Agreement, which necessitates a reasoned determination founded upon objective material and due consideration of relevant facts.

6.2 That the impugned notice itself contains a categorical admission to the effect that the work under the contract could not be completed within the stipulated or even the extended period on account of prevailing site conditions and other attendant circumstances. This, unequivocally establishes that the delay was occasioned by factors beyond the control of the petitioner and, therefore, cannot, by any stretch of reasoning, be attributed to any default or lapse on the part of the petitioner.

6.3 That the impugned action is in flagrant violation of the settled principles of natural justice. Clause 32 mandatorily envisages that prior to invoking such a drastic measure, the contractor ought to be afforded a reasonable opportunity of being heard.

7. However, in the present case, no such opportunity was granted to the petitioner, thereby rendering the action wholly arbitrary and unsustainable in law. It was vehemently contended that the doctrine of *audi alteram partem* has been palpably breached, resulting in grave prejudice to the petitioner and infringing the fundamental rights guaranteed under Articles 14, 19(1)(g), and 21 of the Constitution of India. In support of the said contention, reliance was placed upon the ratio encapsulated in **State of Uttar Pradesh vs. Sudhir Kumar Singh & Ors., (2021) 19 SCC 706.**

8. It was further submitted that a plain reading of Clause 32 would reveal that the power of withdrawal cannot be exercised in respect of the entire contract on a wholesale basis. Rather, the said clause contemplates invocation on a "risk and cost" basis, confined to such portion of the work where failure is demonstrably attributable to the contractor. In the present case, however, the respondents have proceeded to withdraw the entire contract without any such attribution or bifurcation, thereby acting in patent excess of their contractual authority. Moreover, the question as to whether the delay is attributable to the petitioner or is a consequence of the respondents' own lapses, as such failure to hand over the site and non-approval of drawings, stands conclusively answered in favour of the petitioner. It was submitted that repeated delays on account of non-approval by the JDA despite persistent follow-ups by the petitioner, are duly evidenced from communications placed on record.

9. It was further contended that the conduct of the respondents is wholly inconsistent with their present stance. The grant of extension of time without imposition of any liquidated damages, the unilateral release of the bank guarantee, and the subsequent issuance of a fresh tender without invoking the "risk and cost" mechanism or making any reference to Clause 2 of the contract, collectively and unmistakably demonstrate that the delay was neither attributable to the petitioner nor treated as such by the respondents themselves. Learned counsel at this juncture had drawn attention of the Court to the fact that the impugned withdrawal notice itself acknowledges site-related impediments

and other extraneous factors, which, in essence, substantiates the petitioner's consistent stand. It was further submitted that objections raised by MNIT/OTS in relation to site conditions and execution constraints constituted the principal impediment in carrying out the work, and these factors, being entirely beyond the petitioner's control, cannot be fastened upon it.

10. Further, it was contended that under the terms of the Contract Agreement, the obligation to hand over the site in a timely and workable condition squarely rested upon the respondents, which obligation they have conspicuously failed to discharge. In this regard, reliance was placed upon relevant Clause in Annexure 3 I.e. contract dated 27.12.2022, which is reproduced as under:

"Summary of Work

...

Lank is available. If additional land is required, then it shall be made available by JDA."

11. Learned counsel further submitted that the petitioner had duly invoked its contractual entitlement towards price variation on account of delays attributable to the respondents, by way of a detailed communication dated 08.01.2024 (Annexure-15). It was contended that once such a claim has been raised in consonance with the contractual stipulations, the respondents are estopped from adopting a diametrically opposite stand so as to attribute delay or non-performance upon the petitioner. Learned counsel further submitted that the cumulative circumstances, namely, persistent non-approval of drawings, failure to hand over the site within time, grant of extension without levy of any penalty

or liquidated damages, and the unilateral return of the bank guarantee, unequivocally establish the absence of any default on the part of the petitioner.

12. It was further urged that it is a settled principle of administrative law that an order must stand or fall on the reasons contained therein, and the same cannot be supplemented by subsequent affidavits or justifications sought to be introduced at the stage of reply to the writ petition. Thus, any attempt on the part of the respondents to improve upon or validate the impugned action by introducing fresh grounds dehors the original record is impermissible in law. In support of this proposition, reliance was placed upon the dictum enunciated in **Mohinder Singh Gill vs. Chief Election Commissioner, (1978) 1 SCC 405.**

13. Learned counsel had next contended that the present case squarely attracts the doctrines of promissory estoppel and legitimate expectation. It was submitted that acting upon the unequivocal assurances and contractual obligations undertaken by the respondents, the petitioner had mobilized extensive resources, conducted surveys, prepared detailed drawings and designs, procured requisite materials, and incurred substantial financial expenditure. In such circumstances, it is impermissible for the respondents to resile from their promise and arbitrarily withdraw the project, particularly on account of extraneous considerations such as a change in government or administrative stance; nonetheless, such conduct, is antithetical to the principles of fairness, reasonableness, and the well-established Wednesbury doctrine governing administrative discretion. It was also

contended that the State, being an instrumentality under Article 12 of the Constitution of India, is under a constitutional and legal obligation to act in a transparent, fair, non-discriminatory, and reasonable manner. The impugned action, whereby the respondents have unilaterally withdrawn the work order for reasons attributable to their own lapses, constitutes a clear abdication of such obligations.

14. In support of the submissions made insofar, learned counsel had placed reliance upon, inter alia, **IFGL Refractories Ltd. vs. Orissa State Financial Corporation & Ors., 2020 SCC OnLine SC 208; U.P. Power Corporation Ltd. vs. Sant Steels & Alloys (P) Ltd., (2008) 2 SCC 777; and Sivanandan C.T. vs. High Court of Kerala, (2024) 3 SCC 799.**

15. It was further contended that the stand taken by the respondents in their reply reveals that the issuance of a fresh DPR was motivated by a change in governmental policy consequent upon a change in political leadership; however, governance is a continuous process, and the State, as a legal entity, remains bound by its contractual commitments irrespective of political transitions. Thus, the contractual obligations cannot be jettisoned on account of shifting political considerations, as the same would erode the sanctity of contracts and undermine public confidence in governmental dealings. In the conspectus of the aforesaid facts, learned counsel submitted that the project pertaining to the OTS crossing was not conceived as an *ad hoc* or casual initiative, but rather as a meticulously planned infrastructure undertaking of considerable magnitude, aimed at alleviating traffic congestion

and ensuring seamless vehicular movement along the arterial JLN Road, Jaipur. It was submitted that the petitioner has already invested an amount approximating Rs. 40 Crores in furtherance of the said project and has executed substantial portions of the work. Thence, in such circumstances, the arbitrary withdrawal of the contract, for reasons not attributable to the petitioner, amounts to a gross breach of contractual and constitutional obligations. Sequentially, whilst placing reliance upon the judgment passed in **Muhammed Nizar vs. State of Kerala, 2021 Supreme (Ker.) 636**, and **Vice-Chairman & Managing Director, City and Industrial Development Corporation of Maharashtra Ltd. vs. Shishir Realty Pvt. Ltd., (2022) 16 SCC 527**, it was submitted that the respondents cannot be permitted to take a volte-face without cogent and legally sustainable justification, particularly when such action undermines the sanctity of contractual relations and adversely impacts public interest.

16. Learned counsel had also assailed the proposal of a newly conceived flyover, contending that the same reflects a regressive and restrictive approach towards traffic management on JLN Road, allegedly undertaken to accommodate certain influential institutions such as MNIT/OTS. In this regard, reliance was placed upon the dictum encapsulated in **State of Tamil Nadu & Ors. vs. K. Shyam Sunder, (2011) 8 SCC 737**. It was next contended that the contractual framework governing the petitioner permitted stage-wise payments and sub-categorization of works, as envisaged under the EPC contract and specifically delineated under the head "Payment" (Annexure-3). Learned

counsel submitted that further clarification in this regard was provided under Note-1 of the corrigendum dated 20.10.2022 (Annexure-23), and the petitioner had duly proposed bifurcation and sub-categorization of works vide letter dated 31.01.2023, thereby permitting rationalization or narrowing of scope along with corresponding financial adjustments.

17. It was further submitted that the State is bound to act fairly even in contractual matters, and the jurisdiction under Article 226 of the Constitution of India is clearly maintainable where the action of the State is arbitrary, illegal, or shocks the conscience of the Court. In support of this proposition, reliance was placed upon the dictum enunciated in **Subodh Kumar Singh Rathore vs. Chief Executive Officer & Ors., (2024) 15 SCC 461; ABL International Ltd. & Anr. vs. Export Credit Guarantee Corporation of India Ltd., (2004) 3 SCC 553; and Gujarat State Financial Corporation vs. Lotus Hotels (P) Ltd., (1983) 3 SCC 379.**

18. Additionally, it was submitted that the petitioner is entitled to price variation strictly in terms of the contractual provisions, for which a formal requisition had already been submitted upon extension of the contract period. Reliance has been placed upon Clause 45 of the RPWA-100 (Annexure-19), which expressly governs the consideration and applicability of price variation under stipulated conditions; and that the objection raised by the respondents with regard to the locus *standi* of the petitioner-company is wholly misconceived and untenable. It was submitted that under Order XXIX Rule 1 of the Code of Civil

Procedure, the Managing Director is duly authorized to sign and verify pleadings on behalf of the company. In the present case, a valid Board Resolution dated 09.09.2024 (Annexure P-9) is placed on record, authorizing the institution of the present proceedings. Nevertheless, a company, being a distinct juristic entity, is fully competent to authorize its directors or shareholders to act on its behalf, and such authorization is, at best, a procedural requirement. In support of this contention, reliance was placed upon the authoritative pronouncement of the Hon'ble Supreme Court in **United Bank of India vs. Naresh Kumar, (1996) 6 SCC 660**. Thus, it was stoutly pleaded that in view of the aforementioned, the objection raised by the respondents deserves to be rejected outright as being devoid of merit, and the instant petitions deserve to be allowed.

SUBMISSIONS ADVANCED AND CONTENTIONS PROFFERED BY THE LEARNED COUNSEL APPEARING FOR AND ON BEHALF OF THE RESPONDENTS HEREIN ARE AD-SERIATIM:

19. Per contra, learned counsel appearing for the respondents had, with considerable vehemence, opposed the maintainability as well as the merits of the present writ petitions, advancing the following submissions in a structured and multifold manner:

20. At the very threshold, it was contended that the writ petitions suffer from a foundational defect of maintainability, inasmuch as they are not instituted by a duly authorized and competent person on behalf of the petitioner-company. It was submitted that no valid power of attorney or contemporaneous

authorization in favour of Shri Ajai Kumar Gupta was placed on record, at the time of institution of the proceedings. Therefore, in absence of such specific authorization, the petitions, filed ostensibly on behalf of a juristic entity, are rendered *non est* in the eyes of law, as per the ratio encapsulated in **State of Travancore v. Kingston Computers (P) Ltd., (2011) 11 SCC 524**,; thus, the proceedings initiated without proper authorization are liable to be dismissed at the very inception, and so is the instant petition(s).

21. It was further urged that the petitioner had approached this Court with unclean hands and is guilty of gross suppression of material facts; in this regard learned counsel submitted that several communications issued by the JDA spanning a period of approximately fifteen months, highlighting persistent deficiencies in design, structural inadequacies, and non-compliance with contractual obligations, have been deliberately withheld from the Court, by the learned counsel representing the petitioner. Nevertheless, such concealment, strikes at the very root of equitable jurisdiction under Article 226 of the Constitution of India, as also held in the ratio encapsulated in **Prestige Lights Ltd. v. State Bank of India, (2007) 8 SCC 449**, whereby it was held that suppression of material facts disentitles a petitioner from any discretionary relief. Further, on the substantive plane, it was contended that the *lis* in question emanates purely from a contractual relationship and is replete with seriously disputed questions of fact. These include, *inter alia*, attribution of delay, quantification of alleged pre-execution expenditure to the tune of

Rs. 20.41 Crores, interpretation and applicability of contractual clauses, and the propriety of administrative decisions. It was submitted that such issues cannot be adjudicated in writ jurisdiction, which is ill-suited for evidentiary evaluation, and the appropriate remedy lies before competent civil or commercial courts for adjudication and award of damages; in support of the said contention reliance was placed upon the dictum passed in **Radhakrishna Agarwal v. State of Bihar, (1977) 3 SCC 457.**

22. Justifying the impugned action, learned counsel further submitted that the withdrawal of the work order was squarely in consonance with Clause 32 of the Contract Agreement, which vests wide and unqualified discretion in the Engineer-in-Charge. Elaborating the said contention, it was submitted:

22.1 That the Engineer-in-Charge constitutes a competent authority under the contractual framework;

22.2 That Clause 32, by its very nature, permits withdrawal of the work "for any reason whatsoever," thereby conferring a broad, non-restrictive power upon the respondents;

22.3 That multiple notices, correspondences, and review meetings addressing delays, non-performance, and deficiencies effectively constituted continuous notice to the petitioner, thereby satisfying the requirements of natural justice, including the principle of *audi alteram partem*.

23. It was further contended that the EPC contract, being a comprehensive and indivisible framework, does not admit of unilateral modification, reduction, or re-categorization of work in the manner suggested by the petitioner. Learned counsel had

additionally submitted that the respondents invoked the doctrine of public trust and fiscal prudence, qua which it was submitted that the decision to withdraw the contract was guided by paramount public interest, particularly in light of the petitioner's failure to demonstrate any tangible progress over an extended period of more than one year. It was argued that judicial review in such policy-driven contractual decisions is exceedingly limited. To support the said contention, learned counsel had placed reliance upon the ratio enunciated in **Jagdish Mandal v. State of Orissa, (2007) 14 SCC 517**, and it was further submitted that where public interest outweighs private commercial considerations, the Court ought to exercise restraint. Auxiliary, amplifying the allegations against the petitioner, it was contended that the petitioner has acted in a manner tantamount to fraud by suppressing critical facts pertaining to the submission and approval of General Arrangement Drawings (GAD), which constituted a sine qua non for commencement of substantive work. Reference was made to the meeting dated 08.02.2023 and document D-22 (letter dated 31.01.2023), evidencing that the drawings submitted were grossly inadequate and fell short of contractual requirements. It was further contended that the petitioner lacks locus *standi* to assail the subsequent Notice Inviting Bid (NIB) dated 03.04.2025 for DPR consultancy services, on the following grounds:

23.1 That the earlier contract stood validly withdrawn under Clause 32 of the GCC, thereby severing any subsisting legal relationship;

23.2 That the fresh NIB pertains to an entirely distinct project conceived under the Chief Minister's Budget 2025–26, involving construction of a flyover at the OTS junction with a significantly altered financial outlay (Rs. 80 crores as against the earlier Rs. 184 crores), rendering both projects mutually exclusive and legally unconnected.

24. It was subsequently submitted that entertaining the present petitions would set a deleterious precedent, enabling unsuccessful or disgruntled contractors to stall or derail public infrastructure projects through protracted litigation, particularly on tenuous grounds of geographical or conceptual overlap. It is also contended that any interim orders passed in the earlier proceedings cannot enure to the benefit of the petitioner in the context of the present, independent tender process. Learned counsel reiterated that the appropriate forum for adjudication of such disputes lies in a full-fledged civil or commercial trial, where evidentiary appreciation can be undertaken, especially in light of Sections 14 and 73 of the Indian Contract Act, 1872.

25. It was further emphatically contended that time was the essence of the contract, which commenced on 06.01.2023 and was to be completed by 05.01.2024. Despite repeated extensions and opportunities, the petitioner failed to adhere to the stipulated timelines and did not achieve even pro-rata progress. Apart from delays, fundamental breaches of essential contractual conditions are alleged, including failure to establish the JDA supervision office, non-submission of comprehensive and approved drawings, absence of a detailed traffic diversion plan in consultation with

traffic authorities, and failure to furnish periodic progress reports and measurement records. Thus, the decision to withdraw the contract was not arbitrary but was preceded by due application of mind, taking into account multiple external factors such as objections raised by MNIT Jaipur (letter dated 29.02.2024), communications from OTS authorities (dated 19.02.2024), concerns relating to the Bisalpur water tank, impediments in piling operations, traffic management constraints, and the necessity to reduce lane configurations from eight to six. These considerations necessitated a fresh DPR and issuance of a new NIB aimed at optimal utilization of public funds with reduced financial burden. Learned counsel had placed reliance upon the ratio enunciated in **Air India Ltd. v. Cochin International Airport Ltd., (2000) 2 SCC 617**, to submit that in matters of contractual and policy decisions, the State enjoys considerable latitude, and a shift in policy in furtherance of public good must prevail over private commercial interests. Thus, the doctrines of promissory estoppel and legitimate expectation are wholly inapplicable in the present factual matrix, particularly in view of the petitioner's own defaults, negligible progress, and non-compliance with contractual milestones. The extension of time and release of bank guarantees, demonstrate the bona fide conduct of the respondents and cannot be construed as admission of fault.

26. In culmination, it was submitted that the JDA has acted as a prudent and model public authority, guided by considerations of public interest, financial discipline, and contractual propriety. The impugned action, being lawful, justified, and non-arbitrary,

warrants no interference under writ jurisdiction. Accordingly, it is prayed that the writ petitions be dismissed with exemplary costs.

DELIBERATION OF RIVAL CONTENTIONS AND THE

ADJUDICATORY FINDINGS:

27. Upon according solicitous consideration to the rival contentions advanced by the learned counsel qua the substantive particulars delineated supra, and upon a meticulous scrutiny of the documentary evidence in conjunction with the governing legal tenets, the judgments cited at the Bar, and the records made available for perusal by the respondent-JDA this court proceedeth to record its opinion, noteworthy record and adjudicatory determinations on the issues framed, ad-seriatim:

28. This Court has carefully perused the pleadings on record, including the writ petitions, replies, rejoinders, and additional documents placed before it. The original records produced pursuant to the directions of this Court by the respondent-JDA have also been minutely examined. Particular attention has been accorded to the Contract Agreement dated 27.12.2022, the General and Special Conditions governing the field, as well as the various communications exchanged between the parties. Upon such comprehensive consideration, this Court is of the opinion that certain aspects emerging from the record assume material significance for adjudication of the controversy at hand. A perusal of the original records produced by JDA, more particularly File No. 5, which pertains to the financial bid and allied decision-making process, reveals certain note sheets that throw considerable light on the manner in which the impugned decision

came to be taken. These note sheets, forming part of the official record, are relevant for examining the decision-making process and the contemporaneous reasoning, if any, which guided the respondents. The said note sheets, as extracted and reproduced from the official records, are set out hereunder for ready reference and consideration:

कार्यालय टिप्पणी जयपुर विकास प्राधिकरण

Name of work:- "Traffic improvement and beautification work at OTS crossing JLN Marg, JDA, Jaipur" (Construction of Suspended Bridge, Traffic Island, Rotaries, Underground Art Gallery, Pedestrian Pathway, Sculpture, Fountain, Improvement of existing drainage system and road surface etc.) on engineering, procurement and construction (EPC) basis"

A meeting was held under the chairmanship of Hon'ble UDH Minister on dated 08.10.2020 regarding traffic improvement to ease mobility and urban facilities on the city roads with a thoughtful orchestration of Jaipur architecture. During the meeting it was discussed that there is an immense pressure on most of the traffic junctions of major city roads including Tonk Road and JLN Marg in particular.

It was decided in the meeting to develop seven major roads junctions as traffic light free junctions along with some other beautification works. The traffic light free junctions are as under:-

- (a) Tonk Road**
 - (i) B-2 Bypass Junction
 - (ii) Laxmi Mandir 'T' Junction
 - (iii) Ram Bagh Junction
- (b) J.L.N. Marg**
 - (i) JDA Junction
 - (ii) O.T.S. Junction
 - (iii) Jawahar Circle
- (c) Sardar Patel Road**
 - (i) Prithviraj Road Junction

JDA was directed to appoint a consultant for preparation of DPR of these works. In compliance to the direction a Jaipur based firm M/s Sincere Architects & Engineers Pvt. Ltd. was appointed as consultant for this work.

Hon'ble Chief Minister, Government of Rajasthan in his budget speech for the year 2021-2022 announced to develop 7 major road crossings of Jaipur as traffic light free junctions.

The execution of these seven identified works was proposed in two phases. In first phase there were four crossings such as Jawahar Circle, B-2 bye pass, Laxmi Mandir and OTS Junction. The work order of these works except the OTS Junction were awarded earlier and works are in progress at their respective site.

The consultant submitted the GAD of the OTS junction project consisting of steel substructure, composite superstructure supported by cables with steel pylons. This type of steel structure was suggested by the consultant to complete it in a short period as the work was sanctioned in budget announcement. The GAD was approved by PWC of JDA held on 27.05.2022
(Enclosed at 1985/C).

कार्यालय टिप्पणी

जयपुर विकास प्राधिकरण

The bid document with estimated value amounting to Rs. 150.80 Cr. was prepared by the consultant and it was decided to invite bid on EPC mode looking to shorter time of completion and nature of work.

The bid for O.T.S. work were invited two times for Rs. 150.00 Cr. The first time bid was invited on 20.07.2022 but only single bidder M/s JCL Infra Pvt. Ltd. was found responsive, therefore this bid was rejected by competent authority.

The second time bid was invited on 29.09.2022 in which only two bidders were found responsive, M/s JCL Infra Pvt. Ltd. quoted lowest amount of Rs. 185.40 Cr. and was declared L-1 bidder.

The lowest amount quoted for Rs. 185.40 Cr. against the bid value of 150.00 Cr. was considered on higher side and with due approval of Chairman E.C. an attempt of negotiation was made with L-1 bidder. The L-1 bidder quoted a negotiated offer for Rs. 184.30 Cr.

The negotiated offer for Rs. 184.30 Cr. after examination of finance wing was submitted before Jaipur Development Commissioner as Chairman E.C. for approval. The same was approved with direction to get the case submitted before E.C. for ratification as competence approval.

The case was further submitted before Hon'ble UDH Minister & Chairman JDA for approval in compliance to order no. 744 dated 02.05.2019 prior to issuance of LOA. The negotiated offer got approved and LOA issued on 14.12.2022 (**Enclosed at 1244/C**). The work order was also issued accordingly on 27.12.2022 for Rs. 184.30 Cr. with stipulated dates of commencement and completion as 06.01.2023 & 05.01.2024 respectively to get the work completed timely being the budget announcement work (**Enclosed at 1552/C**).

The agency mobilized some work at site by arranging a survey team for topographical survey of area, soil exploration work etc. in last week of February -2023. Some drawings were also submitted for approval of GAD but found not as per the directions issued to the agency vide meeting dated 08.02.2023 held in the chamber of Director Engineering-I and same was conveyed to agency vide letter/ Mail/ No. D-30 dated 27.02.2023 and D-32 dated 28.03.2023 enclosed at page no. 1729/C & 1894/C.

It is also submitted here that an agenda was also put up before PWC seeking revised A&F sanction from Rs. 150.80 Cr. to 191.67 Cr. which was initiated as the approved negotiated offer was more than the A&F sanction available for this work. However, the same was not admitted as the negotiated offer was not approved by the E.C. being the competent authority.

Earlier the negotiated financial offer was approved by JDC as Chairman E.C. with direction (para 81/N of notesheet, copy **enclosed at 1986/C**) to get it ratified in E.C. In compliance to that, an agenda was put up before the E.C. held on dated 10.03.2023 for approval of whole bidding process with financial offer but it was deferred by the E.C. vide the minutes (**Enclosed at 1795/C-1803/C**) and reproduced as under " प्रस्ताव पुनः परीक्षण कर प्रस्तुत करें"

कार्यालय टिप्पणी जयपुर विकास प्राधिकरण

During the course of physical activities at site of work, question were being raised regularly by local public & public representatives at large regarding not to disturb the skyline of the JLN Marg being the most important and the most beautiful road of the city. A breaking news was also telecasted by a TV channel First India News, Jaipur dated 10.03.2023 (**Enclosed at 1987/C**) stating the negative feedback about the project that it affects the Arial-View and the beauty of JLN Marg. Some news about dropping of this work and about the project being modified to make it more functional and to consider it with the beauty of JLN Marg were also published in daily news papers (**Enclosed at 1988/C-1990/C**).

It is important to mention here that a memorandum was also given to JDA by the Director of MNIT vide no. 50 dated 02.02.2023 (**Enclosed at 1690/C-1692/C**) for proposed work at OTS Junction. It is stated in the memorandum that the said proposal has been studied by their subject experts including Transportation Engineers, Architects and Civil Engineers. It was reported to get it modified otherwise the project shall result as a great traffic hazard to M.N.I.T. traffic. Some modifications which need to be incorporated in design of the OTS work were also suggested by M.N.I.T. with the memorandum.

The said work was proposed under budget announcement for the year 2021-22 and was to be executed on priority within a comparatively shorter completion period of 1 year. In order to get the work completed within 1 year i.e. upto stipulated date of completion by 05.01.2024, the main bridge was proposed to be constructed with steel substructure and composite superstructure which is costlier than the R.C.C work. Now, the work has not started yet so the purpose for selecting costly steel structure seems to be defeated.

The other similar works are already under progress and traffic was being diverted at Jawahar Circle, B-2 bypass junction, Laxmi Mandir Junction and it is still diverted at B-2 bypass junction and due to this additional traffic burden is definitely causing on J.L.N Marg. If O.T.S. junction work is started, will itself require traffic diversion which will again result in difficulty and will make the situation worse to the daily commuters of J.L.N. Marg and the VIP movement.

The existing surge tank of Bisalpur water pipe line in O.T.S campus needs to be shifted which is a costly and tedious task and will hinder the domestic water supply of near by area.

The cutting of about 1000 trees required to be done for the project and local public is raising voice against it.

The necessary land of government agencies like O.T.S., M.N.I.T., JDA and private land shall be required for work.

Since the said work is being executed in EPC mode and the modifications/suggestions as desired by local public & public representatives, MNIT etc. can not be incorporated because it will result as change in scope and it is difficult to implement such changes in the work of EPC mode.

कार्यालय टिप्पणी
जयपुर विकास प्राधिकरण

Also, the type of costly steel structure bridge suggested is not significant looking to the remaining period of completion.

Therefore, in compliance to the decision of E.C. held on dated 10.03.2023 it is submitted that the work at OTS Junction be reviewed before execution in light of the following:

- (i) To get the said proposal examined as per the modifications suggested vide memorandum received from MNIT.
- (ii) To review the necessity of steel sub & super structure of bridge suggested earlier being costlier than RCC/PSC structure.
- (iii) This work may be taken up after completion of other infrastructural works being executed by JDA at JLN Marg & Tonk road to ease out traffic issues on JLN Marg.
- (iv) The necessary land be made available prior to execution so the project be completed in time.
- (v) The missing link of service roads on both the sides of JLN Marg between Bajaj nagar Junction and OTS be constructed prior to execution of this work for proper and safe diversion of traffic on service roads during the construction period.
- (vi) JLN Marg is most suitable route for VIP/VVIP movement to Airport so looking to Assembly Elections this year its importance cannot be ruled out.

In compliance to the decision of E.C. held on 10.03.2023, the case is being re-submitted for kind perusal and necessary decision please.

8/6/23

Jain
3/6/2023
जीवन जैन
निदेशिका अभियन्ता-2
जयपुर

SE-II
ACE-2
DE-I

Surf
08/06/2023
(सुनील शुक्ला)
अधीक्षक अभियन्ता-II

Kindly please detail at 127/H to 152/A.
The work of OTS Bridge was awarded on
27.12.2022 with stipulated date of commencement
& completion 06.01.2023 & 05.01.2024.

The work could not started at site
due one & another reason & mainly due to
huge requirement of land from OTS &
aesthetic of present JLN Marg.

कार्यालय टिप्पणी

जयपुर विकास प्राधिकरण
Since half of time period awarded,
has already been elapsed and WMC cannot
be executed in scheduled time period.
Therefore, submitted for 1st pass
& withdrawal of contract at this stage.

Submitted for approval.

[Signature]

22/6/2023

Ashok Choudhary
Director Engineering(I)
JDA, Jaipur

JDC

[Signature]
09.06.2023
(Dr. JOGA RAM)
Jaipur Development Commissioner

Humble chairman/sir

put up of M.C.C.

J.D.C.

[Signature]

10/10/23
(शशि धारोवाल)
मन्त्री

DE-I

[Signature]
09.10.2023
श. जोगा राम
जयपुर विकास आयुक्त

DE-II

[Signature]
10/10/2023
Ashok Choudhary
Director Engineering(I)
JDA, Jaipur

Sf-2

[Signature]
11/10
(वेद प्रकाश वर्मा)
अतिरिक्त मुख्य अभियंता-द्वितीय
जायपुर, जयपुर

EE (Traffic works - II)

(श. समजेंद्रा जमा)

[Signature]
11/10/23
SE-2/F-69
11-10-2023

DE-I/F-48
22-6-23
10-10-23

ACE-II/F-121
11-10-23

कार्यालय टिप्पणी

जयपुर विकास प्राधिकरण

Subject:- Memorandum for proposed "MNIT-OTS ROAD INTERSECTION RE-DEVELOPMENT"

- Reference:-
- 1) Chief Secretary office, Receipt no. 1106980, 1106983, dated 06.02.2023.
 - 2) Principal Secretary, UDH, Diary No. 17855 dated 27.09.2023
 - 3) Memorandum no. 55 dated 02.02.2023 by prof. N.P. Padhy, Director, MNIT, Jaipur.

DTS. No. 130246

With respect to above cited subject, Prof. N.P. Padhy, Director, MNIT presented a letter stating that to represent the glorious sixty years of the institute, MNIT is planning to construct an entrance plaza at the MNIT campus entry on Jawahar Lal Nehru Marg and a proposal of "Traffic improvement and beautification works at OTS, Jaipur" came to their notice. MNIT studied the proposal and suggested some modifications in the proposed project.

Regarding the project, it is stated that the work of "Traffic improvement and beautification works at OTS crossing, JLN Marg, JDA, Jaipur" was awarded on 27.12.2022 with stipulated date of commencement & completion as 06.01.2023 & 05.01.2024 respectively.

The work of OTS bridge could not started at site even after the lapse of almost 10 months from the date of commencement i.e. 06.01.2023 mainly due to huge requirement of land from OTS and aesthetic of present JLN Marg.

The file was sent to the Hon'ble Minister UDH for decision regarding withdrawl of the contract but directions were given to put up the file again after Modal Code of Conduct. Therefore, after receiving the decision from the Hon'ble Minister, UDH regarding the work, then if required, a meeting will be held with the concerned experts of MNIT.

Regarding above, letter to be sent to the Principal Secretary, UDH is presented for kind perusal and signature please.

~~Exec. Secy.~~

SE-II

1. स्टाफ-2023

03-11-2023

सजीवन जैन
अधिसूत्री/सहायक सचिव
जायपुर, जयपुर

कार्यालय टिप्पणी
जयपुर विकास प्राधिकरण

Kindly peruse para 127/N & onwards, the file was sent to Hon'ble Ministers, UDH with all facts for decision regarding withdrawal of contract at the stage but on para 158/N, directions were received to put the file after M.C.C.

Now, Since model code of conduct has been lifted and also during this period, letters has been received from the agency JCL Infra Pvt. Ltd. (enclosed at page no. 2044/c - 2044/c & pg. no. 2045/c) requesting for payment of Rs. 2041.37 lakhs and permission to start work.

Therefore, the file is being re-submitted in compliance of para 158/N for kind perusal and necessary decision please.

Jain
28/12/2023
संजीवन जैन
अतिरिक्त सहायक अभियंता-द्वितीय
जयपुर

~~SE-II~~
~~ACE-2~~
~~DET~~

Singh
01/01/2024
अभियंता अभियंता-II

(वेद प्रकाश वर्मा)
अतिरिक्त सहायक अभियंता-द्वितीय
जयपुर, जयपुर

pl put up self explanatory on basic
ground note to get perusal betw
Hon'ble M.O.U.

सं-2022
~~ACE-II~~

Ashok Choudhary
01/11/2023
Ashok Choudhary
Director Engineering(I)
J.V.P.A. Jaipur

SE? *वेद प्रकाश वर्मा*
(वेद प्रकाश वर्मा)
अतिरिक्त सहायक अभियंता-द्वितीय

कार्यालय टिप्पणी

जयपुर विकास प्राधिकरण

पश्चात राशि रूपये 184.30 करोड़ की बोली कार्यकारी समिति के अध्यक्ष के रूप में आयुक्त महोदय द्वारा अनुमोदित की गई।


- दिनांक 13.12.2022 को माननीय मंत्री, नगरीय विकास विभाग से कार्यादेश जारी करने हेतु स्वीकृति प्राप्त हुई।
- जिसकी अनुपालना में दिनांक 27.12.2022 को मैसर्स जे.सी.एल. इन्फ्रा प्रा. लि. को कार्यादेश जारी किया गया जिसकी कार्य प्रारम्भ एवं समाप्ति की तिथि क्रमशः 06.01.2023 एवं 05.01.2024 थी।

➤ पुनः परीक्षण की आवश्यकता:-

- कार्य स्थल पर परियोजना का कार्य प्रारम्भ होने से पूर्व ही स्थानीय मीडिया में कुछ समाचार प्रसारित / प्रकाशित हुए थे जिसमें कहा गया था कि परियोजना जे.एल.एन. मार्ग की स्काई --लाईन और सुन्दरता को प्रभावित करेगी। इसे और अधिक कार्यात्मक बनाने के लिए इसे संशोधित किया जाना चाहिए।
- मालवीय नेशनल इन्स्टीट्यूट ऑफ टेक्नोलॉजी, जयपुर के निदेशक द्वारा जविप्रा को एक ज्ञापन दिया गया था जिसमें कहा गया था कि परियोजना के प्रस्ताव का उनके विषय विशेषज्ञों द्वारा अध्ययन किया गया है और कुछ संशोधनों का सुझाव दिया गया है जिन्हें डिजाइन में शामिल करने की आवश्यकता है अन्यथा परियोजना एम.एन.आई.टी. के यातायात के लिए एक बड़ा खतरा बन जायेगी।
- दिनांक 10.03.2023 को आयोजित कार्यकारी समिति की बैठक में समिति द्वारा प्रस्ताव का पुनः परीक्षण करने का निर्णय लिया गया।
- परियोजना हेतु वांछित भूमि की उपलब्धता, जे.एल.एन.मार्ग के साथ सर्विस रोड के मिसिंग लिंक के निर्माण से संबन्धित अन्य मुद्दे आदि।

पैरा 158/एन पर प्राप्त निर्देशों की अनुपालना में प्रकरण माननीय अध्यक्ष महोदय, जयपुर विकास प्राधिकरण को अवलोकनार्थ एवं निर्णयार्थ भिजवाये जाने हेतु प्रेषित है।

~~JDC~~


24/11/2024
Ashok Choudhary
Director Engineering(I)
JDA, Jaipur

प्रकरण नं० पैरा-199/A के अन्तर्गत

कार्यादेश में प्रारम्भ एवं समाप्ति की तिथि ज्वलीर हो चुकी है

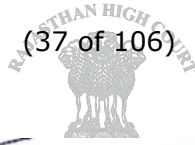
अतः उक्त निविदा को समाप्त करते हुए, प्रस्ताव के पुनः परीक्षण हेतु पैरा-199/B के अन्तर्गत निर्णयार्थ प्रकाश

प्राप्त है।

9-2023

Chairman, JDA

मंजूर 29/01/2024
मंजूर राजनील
जयपुर विकास प्राधिकरण



टिप्पणी (कर्मिक)

5

आयुक्त, जयपुर विकास प्राधिकरण द्वारा अपने स्तर पर ओ.टी.एस. एवं एम.एन.आई.टी. के अधिकारियों के साथ बैठक आयोजित कर परियोजना का पुनः परीक्षण किया जावे।

परियोजना हेतु वांछित भूमि की उपलब्धता, जे.एल.एन. मार्ग के साथ सर्विस रोड के मिसिंग लिंक के निर्माण एवं निविदा को निरस्त करने/वर्तमान फर्म से कार्य करवाने के संबंध में (आर.टी.पी.पी. एक्ट 2012 एवं नियम 2013 के प्रावधानों के अनुरूप) स्पष्ट राय के साथ 15 दिवस में पत्रावली पुनः प्रस्तुत करे।

[Handwritten signature]

(झाबर सिंह खरी)
राज्यमंत्री (स्वतंत्र प्रभार)
(झाबर सिंह खरी)
राज्यमंत्री (स्वतंत्र प्रभार)

प्रमुख शासन सचिव नगरीय विकास

JPR

pls spe

(T. Ravikanth)
Secretary to Government

Matter was dismissed.
Put up a self contained
note to address directions
at 202, 203/w.

संयुक्त
राजपाल
जयपुर विकास आयुक्त

Senf
h
6/2

Dir. Engg(I)
EE-D/SF-II
EE (R. & P. Works, II)

Immediate 1.

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7/2
Senf 28/2/24

कार्यालय टिप्पणी जयपुर विकास प्राधिकरण

पैरा 202/एन की अनुपालना में परियोजना हेतु वांछित भूमि के सम्बन्ध में अति. महानिदेशक (ओ.टी.एस.) से वार्ता की गई। उनके द्वारा बताया गया कि ओ.टी.एस. कैम्पस में ओ.टी.एस. ब्रिज परियोजना में प्रस्तावित रोटरी के निर्माण हेतु वांछित भूमि पर सिविल सर्विस ऑफिसर्स इन्स्टीट्यूट का निर्माण किया जा रहा है। अतः परियोजना हेतु ओ.टी.एस. की वांछित भूमि उपलब्ध नहीं है (पत्र पृष्ठ सं. 361/सी से 362/सी पर संलग्न)।

साथ ही एम.एन.आई.टी., जयपुर से भी उक्त कार्य के सम्बन्ध में वार्ता की गई जिसमें उनके द्वारा बताया गया कि कैम्पस के प्रवेश द्वार पर एम.एन.आई.टी. के 60 वर्ष पूर्ण होने के उपलक्ष्य में एन्टरेन्स प्लाजा बनाया जाना प्रस्तावित है। ओ.टी.एस. जंक्शन कार्य परियोजना के प्रस्ताव का उनके विषय विशेषज्ञों के द्वारा अध्ययन किया गया है एवं परियोजना में कई संशोधन प्रस्तावित किए गए हैं, जिनके बिना उक्त परियोजना एम.एन.आई.टी. के यातायात के लिए एक बड़ा खतरा बन जायेगी (पत्र पृष्ठ सं. 363/सी पर संलग्न)।



चूंकि उक्त कार्य ई.पी.सी. आधार पर है, जिसमें कार्य का दायरा बदला नहीं जा सकता है, इसलिए मौजूदा निविदा में संस्थाओं से प्राप्त सुझावों का समावेश किया जाना संभव नहीं है।

पैरा 203/एन के क्रम में निविदा को निरस्त करने/वर्तमान फर्म से कार्य करवाने के सम्बन्ध में (आर.टी.पी.पी. एक्ट 2012 एवं नियम 2013 के प्रावधानों के अनुरूप) राय हेतु पत्रावली निदेशक (वित्त) को भिजवाया जाना उचित होगा।

SE-II
ACE-2
DFT
Disc(Sip)

11/3

11/3/2024


 11/3/2024

 (सुनील निदेशक)
 अति. निदेशक (वित्त-II)

कार्यालय टिप्पणी

जयपुर विकास प्राधिकरण

अनुच्छेद 263 व 212 के क्रम में RTI Act की धारा 26 में एग्जिमेंट हस्ताक्षर के पश्चात् बीडर के इस एन्ट के तहत दोषी साबित/घोषित होने पर अपापन प्रक्रिया निरस्त की जा सकती है, जो कि इस प्रकार में नहीं है।

RTI Rules में भी एग्जिमेंट हस्ताक्षर के पश्चात् अपापन प्रक्रिया के निरस्त करने का कोई नियम/प्रावधान उल्लेखित नहीं है।

RTI Act एवं Rules में Code of Integrity के Breach की स्थिति में भी एग्जिमेंट के पश्चात् अपापन को निरस्त करने का प्रावधान है, जो कि इस प्रकार में नहीं बनता है। (Section 12, Rule-82)

उपरोक्त वस्तुस्थिति से स्पष्ट है कि RTI Act एवं Rules अपापन प्रक्रिया एवं एग्जिमेंट सम्बन्धित होने तक भी स्थिति में नियम उल्लेखित करते हैं, उसके पश्चात् एग्जिमेंट में उल्लेखित प्रावधानों के अनुसार कार्यवाही भी जानी है। अतः एग्जिमेंट के प्रावधानों के अनुसार प्रकरण परीक्षण किया जाना प्रस्तावित है।

DE/- IA

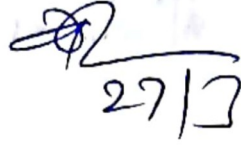
21/03/2024

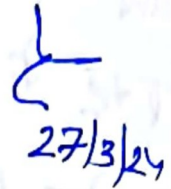
11/03/2024

कार्यालय टिप्पणी जयपुर विकास प्राधिकरण

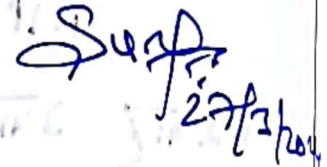
Pl put up today in compliance of direction by
honble minister UDH.

~~Page II~~
Page 2


27/3


27/3/24

EE (Traffic work - II)


27/3/24

Government of Rajasthan

Jaipur Development Authority (JDA)

ई.पी.सी. आधार पर ओ.टी.एस. चैराहे को सिग्नल फ्री करने बाबत

पैरा 205/एन की अनुपालना में परियोजना के सम्बन्ध में तथ्यात्मक विवरण निम्नानुसार है:-

• परिचय:-

वर्ष 2021-2022 की बजट घोषणा में ओ.टी.एस. चैराहे को सिग्नल मुक्त करने के कार्य को प्रस्तावित किया गया था। इस कार्य के अन्तर्गत एक फ्लाईओवर, एक सब-वे मय कला दीर्घा व दो रोटरी, सौंदर्यीकरण आदि का कार्य करवाया जाना प्रस्तावित है।

• कार्य की स्थिति:-

कार्य हेतु प्रशासनिक एवं वित्तीय स्वीकृति राशि रु.150.80 करोड़ की दिनांक 08.06.2022 को जारी की गई थी। दिनांक 27.12.2022 को कार्यदेश मैसर्स जे.सी.एल. इन्फ्रा प्रा. लि. को राशि रु. 184.30 करोड़ का जारी किया गया जो कि निविदा राशि से लगभग 22.86 प्रतिशत अधिक था तथा जिसके अनुसार कार्य प्रारम्भ एवं समाप्ति की तिथि क्रमशः 06.01.2023 एवं 05.01.2024 थी। वर्तमान में उक्त कार्य की समाप्ति तिथि व्यतीत हो चुकी है परन्तु मौके पर कार्य प्रारम्भ नहीं हुआ है।

उक्त कार्य विभिन्न कारणों से मौके पर आरम्भ नहीं हो सका, क्योंकि इसमें ओ.टी.एस., विद्या आश्रम स्कूल, एम.एन.आई.टी., निजी खातेदार, जविप्रा आदि की भूमि ली जानी प्रस्तावित थी, जिसके सम्बन्ध में उस समय स्पष्टता नहीं थी। मौके पर संवेदक द्वारा भी किसी प्रकार का ठोस कार्य नहीं किया गया था, न ही साईट ऑफिस का निर्माण किया गया, न ही कंक्रीट का प्लांट लगाने व सामान रखने हेतु यार्ड की व्यवस्था की गयी।

चूँकि मौके पर कार्य प्रारम्भ नहीं हुआ था एवं विभिन्न कारणों जैसे एम.एन.आई.टी. के विषय विशेषज्ञों द्वारा परियोजना के प्रस्ताव का अध्ययन कर निविदा प्रक्रिया पूर्ण होने के पश्चात् संशोधन हेतु ज्ञापन देना, जे.एल.एन. मार्ग व टॉक रोड पर अन्य परियोजनाओं के कार्य के दौरान यातायात डायवर्जन होना, ओ.टी.एस. कैम्पस में परियोजना क्षेत्र में बीसलपुर पानी की लाईन के टैंक का होना आदि एवं चूँकि उक्त कार्य ई.पी.सी. आधार पर था, जिसमें कार्य का दायरा नहीं बदला जा सकता था, इसलिए विभिन्न संस्थाओं के सुझावों का समावेश किया जाना संभव नहीं था।

उक्त तथ्यों के दृष्टिगत अनुबंध को निरस्त करने की अनुशंसा के साथ दिनांक 20.06.2023 को पत्रावली तत्कालीन चेयरमैन, जविप्रा, जयपुर को भिजवाई गयी परन्तु उनके द्वारा दिनांक 09.10.2023 को पत्रावली आदर्श आचार संहिता के पश्चात् प्रस्तुत करने हेतु निर्देशित किया। (पैरा 157/एन-158/एन) NOS-1: pageNo41

• वर्तमान स्थिति:-

उपरोक्त के क्रम में एवं कार्यदेश के अनुसार कार्य की समाप्ति तिथि व्यतीत हो जाने के कारण, उक्त निविदा को समाप्त करते हुए, प्रस्ताव के पुनः परीक्षण करने के निर्णयार्थ, पत्रावली दिनांक 29.01.2024 को चेयरमैन, जविप्रा, जयपुर को भिजवाई गयी। (पैरा 201/एन) NOS-1: pageNo50

चेयरमैन, जविप्रा से पैरा 202-203/एन NOS-1: pageNo51 पर प्राप्त निर्देशों के क्रम में कार्य से सम्बन्धित वस्तुस्थिति निम्नानुसार है:-

• ओ.टी.एस. से वांछित भूमि की अनुपलब्धता:-

रोटरी हेतु वांछित भूमि के सम्बन्ध में ओ.टी.एस. से वार्ता की गई जिसमें उनके द्वारा बताया गया कि ओ.टी.एस. कैम्पस में उक्त स्थान पर सिविल सर्विस ऑफिसर्स इन्स्टीट्यूट आदि का निर्माण किया जा रहा है एवं परियोजना में प्रस्तावित रोटरी के निर्माण हेतु भूमि को समर्पित

File No.: JDA/EE-T.W./U/1338748-05492 • Traffic Improvement and beautification work at OTS crossing JLN marg, JDA, Jalandhar
of suspended bridge, Traffic Island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement
of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

दिया जाना संभव नहीं है। जिसके सम्बन्ध में उनके द्वारा पत्र के माध्यम से भी सूचित किया गया है DOC-3: pageNo1।

• एम.एन.आई.टी द्वारा हाथित संशोधन:-

एम.एन.आई.टी., जयपुर से भी उक्त कार्य के सम्बन्ध में बातचीत की गई जिसमें उनके द्वारा बताया गया कि एम.एन.आई.टी. के 60 वर्ष पूर्ण होने के उपलक्ष्य में एन्टरप्रेन्स प्लाजा बनाया जाना प्रस्तावित है, जिसके सम्बन्ध में ओ.टी.एस. जंक्शन कार्य परियोजना के प्रस्ताव का उनके विषय विशेषज्ञों द्वारा अध्ययन किया गया है जिसके अनुसार बिना संशोधनों के उक्त परियोजना एम.एन.आई.टी. के यातायात के लिए एक बड़ा खतरा बन जायेगी DOC-2: pageNo1।

• माननीय मुख्यमंत्री से प्राप्त निर्देश:-

वर्तमान में माननीय मुख्यमंत्री महोदय द्वारा जवाहर लाल नेहरू मार्ग पर ट्रैफिक की अधिकता के सम्बन्ध में शहरवासियों के सुगम यातायात के लिए विस्तृत योजना बनाने हेतु निर्देशित किया गया है इसलिए सम्पूर्ण जवाहर लाल नेहरू मार्ग पर एम.एन.आई.टी., ओ.टी.एस. अदि से प्राप्त सुझावों का समावेश करते हुये यातायात सुधारीकरण, सुगमीकरण अदि हेतु व्यापक योजना बनना उचित होगा।

धुंकि ओ.टी.एस. जंक्शन को सिग्नल प्री बनाने जाने हेतु उक्त परियोजना का प्रस्ताव तैयार किया गया था परन्तु वर्तमान में रोडटी के निर्माण हेतु ओ.टी.एस. से वांछित भूमि पर निर्माण होने के कारण जंक्शन को सिग्नल प्री किया जाना संभव नहीं है।

• वित्त शाखा, जविप्रा की अनुरासा:-

वित्त शाखा से चर्चा अनुसार, निविदा तक RTPP एक्ट लागू होता है परन्तु अनुबन्ध हो जाने के पश्चात् अनुबन्ध की शर्तें ही प्रभावी होती हैं। इस कार्य के अनुबन्ध की GENERAL CONDITIONS के Clause 37 FORECLOSURE OF CONTRACT BY JDA/OWNER के अनुसार जे.डी.ए. किसी भी समय व किसी भी कारण से कार्य को प्रत्याहारित कर सकता है।

Clause 37 को सुलभ सन्दर्भ हेतु पुनः प्रस्तुत किया जा रहा है:-

" If at any time after the commencement of the work the J.D.A. shall for any reason whatsoever required to abandon the work or is not require the whole work thereof as specified in the tender to be carried out, the Engineer-in-Charge shall give notice in writing of the fact to the contractor, who shall have no claim to any payment of compensation whatsoever on account of any profit or advantage which he might have derived from the execution of the work in full, but which he did not derive as a consequence of the foreclosure of the whole or part of the works."

उपरोक्त विवरण के दृष्टिगत कार्य की वर्तमान निविदा के संबंध में यह स्पष्ट है कि:-

1. ओ.टी.एस. में रोडटी हेतु भूमि उपलब्ध नहीं है।
2. एम.एन.आई.टी. द्वारा बताये गये सुझावों के अनुसार वर्तमान निविदा को संशोधित किया जाना संभव नहीं है।
3. संवेदक द्वारा EPC के तहत प्रारम्भिक रूप से प्रस्तुत की गई ड्रॉइंग को उपयुक्त नहीं पाए जाने के कारण स्वीकृत नहीं किया गया था। संवेदक द्वारा निर्माण कार्य हेतु दी गई कार्य समयावधि में mobilize भी नहीं किया गया।
4. माननीय मुख्यमंत्री महोदय द्वारा जे.एल.एन. मार्ग पर सुगम यातायात हेतु विस्तृत योजना बनाने के लिये निर्देशित किया गया है।
5. अनुबन्ध की धारा-37 FORECLOSURE OF CONTRACT BY JDA/OWNER के अनुसार जविप्रा द्वारा कार्य प्रत्याहारित किया जा सकता है।
6. धुंकि कार्य धारा EPC पर आधारित है एवं निविदा में बदलाव किया जाना संभव नहीं है।
7. कार्यदिश के अनुसार कार्य समाप्ति की निर्धारित तिथि (05.01.2024) व्यतीत हो चुकी है।

अतः उपरोक्त बिन्दुओं के संदर्भ में विचारणीय बिन्दु निम्नानुसार है:-

1. वर्तमान में जवाहर लाल नेहरू मार्ग के सभी जंक्शनों पर यातायात का अत्यधिक दबाव रहता है, जिस हेतु सम्पूर्ण जे.एल.एन. मार्ग पर यातायात के सुगम संचालन हेतु व्यापक योजना पर चर्चा की जा रही है। जिसके अन्तर्गत जे.एल.एन. मार्ग पर स्थित सभी जंक्शनों जैसे जेडीए चौराहा, महात्मा गांधी सर्किल, ओ.टी.एस. चौराहा आदि का सुधारीकरण भी है इसलिए सिर्फ ओ.टी.एस. जंक्शन पर करवाये जाने वाले कार्य का कोई औचित्य नहीं है।

File No.: JDA/EE-T.W.-II/1338748-05492 - Traffic Improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Const of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, Improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

2. कार्य मे भूमि उपलब्ध नहीं होने व इस कारण प्लानिंग में अन्य परिवर्तन कर कार्य को वर्तमान EPC निविदा में करना संभव नहीं है

उक्त तथ्यों के दृष्टिगत वर्तमान निविदा को निरस्त किया जाना उचित होगा। अतः प्रकरण अवलोकनार्थ एवं अनुमोदनार्थ हेतु प्रस्तुत है।

SANJEEVAN JAIN
Xen, EE-Traffic Works-II
28 Mar 2024 20:05:50

Sunil Shukla
SE, SE-II
29 Mar 2024 20:33:47

VED PRAKASH VERMA
ACE, ACE-II
30 Mar 2024 17:18:53

OTS junction Signal Free Tender

May kindly peruse the para 218/ N onwards regarding proposal for the cancellation of tenders/ work order for the work whose work order was issued on 27.12.2022 to M/s JCL Infra Pvt. Ltd. for Rs. 184.30 Crores and whose scheduled completion date was 5.1.2024.

- The tenders for the work were floated under EPC mode despite JDA had engaged M/s Sincere Architect for the work.
- During schedule work period agency didn't mobilize as work could not be taken up due to non availability of designated work site and various other reasons which demanded change in scope of EPC contract. But as per nature of bidding & tender conditions no changes could be made in the scope of EPC contract.
- The work primarily couldn't be started as land required from OTIS for making it signal free was not available as various infrastructure works had come up in required land area and MNIT had also expressed their observations primarily on safety points on the plan prepared by EPC agency. Their suggestions could not be incorporated in the planning as it would have deviated the scope of EPC contract.
- Looking to the above issues the matter was sent to hon'ble minister with recommendation for cancellation of tender as work could not be proceeded further as per original scope of EPC contract .
- But it was directed by Hon'ble Minister to re- examine the issue viz-a-viz issue of OTIS & MNIT also from financial rules & implications if tender is cancelled.

File No.: JDA/EE-T.W.-II/1338748-05492 - Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Const of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, Improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis. Improvement of (Financial Bid)

- In the matter concerned institutes were requested again.
- The refusal letter by OTIS for their inability to spare their land for the work is enclosed at DOC-3: pageNo1 and apprehension by MNIT for safety of their campus if project is taken up as per proposed plan is enclosed at DOC-2:pageNo1. The provisions of RTPP act, Clause 37 is also mentioned and reproduced at para 218/N.
- Looking to the various shortcomings in the original plan in execution of work as per tendered, expiry of work period on 5.1.2024 without even starting the work at site and also need for comprehensive planning for ease of traffic on JLN Marg it will be appropriate to plan afresh for mitigation of traffic problem at OTIS junction in particular and on JLN marg in general, as this is not feasible in existing EPC contract.

If find appropriate, it is submitted for perusal and consideration the proposal for cancellation of work order issued to M/s JCL Infra Pvt Ltd. under EPC for making OTIS junction signal free.

DEVENDRA GUPTA
DE, Director Engineering (I)
02 Apr 2024 14:06:03

2

call can be taken at competent level

Manju Rajpal
Commissioner, JDA
02 Apr 2024 19:25:51

3

Pl comment.

DEVENDRA GUPTA
DE, Director Engineering (I)
03 Apr 2024 16:20:43

OMKARMAL RAJOTIYA
Director, Director (Finance)
04 Apr 2024 10:00:30

DEVA RAM SHIVRAN
Additional Director, Accounts (OSD R.M.)

File No.: JDA/EE-T.W./11/1338748-05492 - Traffic Improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Construction of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, Improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

04 Apr 2024 14:07:14

This noting has been ESigned.

Atul Khandelwal

JD, Accounts (CAO Project and Audit)

04 Apr 2024 14:43:26

पैरा 218/एन से लगातार के क्रम में अधिशाषी अभियन्ता ने उपरोक्त कार्य को निरस्त करने हेतु प्रस्तुत किया है। कार्य निरस्त के सम्बन्ध में वित्त शाखा के द्वारा पैरा 213-16/एन पर टिप्पणी की हुई थी जिसके अनुसार कार्यवाही करनी थी।

अधिशाषी अभियन्ता ने पैरा 218/एन पर अनुबन्ध के क्लॉज 37 का उल्लेख करते हुए कार्य को उक्त क्लॉज के तहत प्रत्याहारित करने हेतु टिप्पणी की है। लेकिन उक्त क्लॉज से कहीं भी स्पष्ट नहीं हो रहा है कि कार्य को प्रत्याहारित किया जावे।

प्रत्याहारित करने पर संवेदक के विरुद्ध कार्यवाही की जानी होती है।

फाइल के पेज न0 1 से 1218 अपलोड नहीं है।

अनुबन्ध को ऑन लाइन नोट शीट में PUC (Document/agreement/other) के रूप में अंकित नहीं किया गया है। क्लॉज 37 लोक निर्माण वित्तीय एवं लेखा नियम में निर्धारित अनुबन्ध का क्लॉज है या अन्य अनुबन्ध निष्पादित किया है उसका क्लॉज है। स्पष्ट किया जाना प्रस्तावित है।

पैरा 218 /एन में अंकित कारणों से स्पष्ट हो रहा है कि कार्य विड़ा किया जाना चाहिए।

अतः अनुबन्ध के अनुसार कार्यवाही करते हुए स्पष्ट प्रस्ताव प्रस्तुत करने हेतु अधिशाषी अभियन्ता को पत्रावली भिजवायी जानी प्रस्तावित है।

DINESH KUMAR SONI

AAO, Accounts (Works-1)

05 Apr 2024 13:00:34

Atul Khandelwal

JD, Accounts (CAO Project and Audit)

05 Apr 2024 13:10:58

This noting has been ESigned.

File No.: JDA/EE-T.W.-II/1338748-05492 - Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Cons of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

In compliance of para 234/N, file documents from page no. 1/C to 1218/C has been uploaded.

Submitted for kind perusal and further necessary order please.

ARJUN TIWARI
JE, EE-Traffic Works-II
12 Apr 2024 11:48:07

137

कृपया पैरा 218/एन एवं उसके आगे का अवलोकन फरमावे।

पैरा 227/एन के क्रम में पत्रावली के पृष्ठ संख्या 1-1218/सी (DOC-3: pageNo1 DOC-4: pageNo1 DOC-5: pageNo1 DOC-6: pageNo1 DOC-7: pageNo1) अपलोड कर दिए गए हैं।

पैरा 227/एन पर कार्य निरस्त के सम्बन्ध में वित्त शाखा द्वारा पैरा 213-216/एन के अनुसार कार्यवाही करने हेतु टिप्पणी दी गयी है। पैरा 213-216/एन NOS-8: pageNo53 के अनुसार RTPP Act एवं Rules उपापन प्रक्रिया एवं एग्रीमेन्ट सम्पादित होने तक की स्थिति में नियम उल्लेखित करते हैं, इसके पश्चात् एग्रीमेन्ट में उल्लेखित प्रावधानों के अनुसार कार्यवाही की जानी होती है।

अतः पैरा 213-216/एन के क्रम में कार्य हेतु निष्पादित अनुबन्ध की धारा-37 DOC-16: pageNo84 के अन्तर्गत पैरा 218/एन-221/एन पर दिये गये तथ्यों के दृष्टिगत ही कार्य को निरस्त किये जाने की अनुशांषा की गयी है। उल्लेखनीय है कि धारा-37 में शब्द 'abandon the work' उल्लेखित है।

यह भी उल्लेखित है कि पैरा 227/एन पर वित्त शाखा द्वारा पैरा 218/एन में अंकित कारणों के दृष्टिगत कार्य को विद्वा किये जाने हेतु स्पष्ट राय दी गयी है। चूंकि कार्य हेतु लोक निर्माण वितीय एवं लेखा नियम (RPWR-100) अनुबन्ध भी निष्पादित DOC-1: pageNo40 किया गया है। अतः उक्त अनुबन्ध की धारा-32 DOC-1: pageNo57 के अनुसार कार्य को प्रत्याहारित किया जा सकता है, जिस हेतु SOP के Item no.-4 (a) PUC-3/C के अनुसार कमेटी सक्षम है।

चूंकि पूर्व में कार्य के सम्बन्ध में निर्णय हेतु पत्रावली चेयरमैन, जयपुरा, जयपुर को भिजवाई गई थी, इसलिए पैरा 218/एन पर अंकित तथ्यों के दृष्टिगत कार्य के सम्बन्ध में प्रकरण अवलोकनार्थ पुनः चेयरमैन, जयपुरा, जयपुर को भिजवाया जाना उचित होगा।

पत्रावली अवलोकनार्थ एवं अग्रिम आदेशार्थ प्रस्तुत है।

SANJEEVAN JAIN
Xen, EE-Traffic Works-II
12 Apr 2024 17:56:18

Sunil Shukla
SE, SE-II
12 Apr 2024 18:02:31

File No.: JDA/EE-T.W.-II/1338748-05492 - Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Corridor of suspended bridge, Traffic Island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

VED PRAKASH VERMA
ACE, ACE-II
12 Apr 2024 19:01:59

DEVENDRA GUPTA
DE, Director Engineering (I)
12 Apr 2024 21:21:24

In ref to para n/222, may peruse para n/237-240. Proposal is submitted to withdraw the whole work as per clause -32 of the contract with recorded reasons and it's competency to decide lies with the committee comprising of JDC, Director(E) & Director (F) as per JDA SOP item no.-4. Reasons are mentioned at para n/218-221. The file is submitted as per para n/237.

OMKARMAL RAJOTIYA
Director, Director (Finance)
15 Apr 2024 10:55:59

This noting has been digitally signed.

Manju Rajpal
Commissioner, JDA
15 Apr 2024 20:09:55

OMKARMAL RAJOTIYA
Director, Director (Finance)
15 Apr 2024 20:17:25

DEVENDRA GUPTA
DE, Director Engineering (I)
16 Apr 2024 09:44:19

VED PRAKASH VERMA
ACE, ACE-II

File No.: JDA/EE-T.W.-II/1338748-05492 - Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jalpur (Cr of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.
(Financial Bid)

16 Apr 2024 09:57:12

In compliance of para 241/N, put up for committee.

SANJEEVAN JAIN
Xen, EE-Traffic Works-II
16 Apr 2024 16:15:05


Committee prepared. Submitted for kind perusal and signature please.

VINOD KUMAR GUPTA
AAO GRADE-II, Accounts (Auction)
16 Apr 2024 16:22:49



SANJEEVAN JAIN
Xen, EE-Traffic Works-II

Relevant correspondence and note-sheets as on record of JDA, are reproduced as under:-

- 1971-



Infra Pvt. Ltd.

Industrial Estate, Delhi Road, Partapur, Meerut-250 103
 Tel. : (0121) 2440792, 2440787
 C.I.N. U24231UPI980PTC005098
 E-mail : info@jcl.in, jsonscompany@jcl.in

(Formerly Known as JCL Infra Ltd.)

Speed Post

JCL/JDA/2022-23/1187
 Date : 25.05.2023

The Executive Engineer-Traffic-II
 Jaipur Development Authority
 Room No . 110, FF , Main Building,
 Ram Kishore Vyas Bhavan, Indira Circle,
 Jawahar Lal Nehru Marg,
 Jaipur-302004

Subject: Traffic improvement and beautification works at OTS crossing JLN Marg, JDA, Jaipur(Construction of suspended bridge, Traffic islands, Rotaries, underground art gallery, pedestrian pathway, Sculpture, fountain, improvement on existing drainage system and road surface, etc.) on Engineering, Procurement and Construction(EPC) basis-Approval of Design/Drawings/Handing Over of Site.

Ref. (1) your LOA No. JDA/EE TR Works-II/LOA/2022-2023/Dec/01 dated 14/12/2022
 (2) This office letter No. JCL/JDA/2022-23/859 dated 23/02/2023
 (3) This office letter No. JCL/JDA/2022-23/0864 dated 24/02/2023
 (4) This office letter No. JCL/JDA/2022-23/870 dated 27/02/2023
 (5) This office letter No. JCL/JDA/2022-23/887 dated 02/03/2023
 (6) This office letter No. JCL/JDA/2022-23/886 dated 02/03/2023
 (7) This office letter No. JCL/JDA/2022-23/920 dated 13/03/2023
 (8) This office letter No. JCL/JDA/4456/2022-23/951 dated 17/03/2023
 (09) This office letter No. JCL/JDA/2022-23/957 dated 22/03/2023
 (10) This office letter No. JCL/JDA/4456/2022-23/971 dated 27/03/2023
 (11) This office letter No. JCL/JDA/2022-23/974 dated 28/03/2023
 (12) This office letter No. JCL/JDA/4456/2022-23/998 dated 11/04/2023
 (13) This office letter No. JCL/JDA/2022-23/1040 dated 26/04/2023

Jain
6/7/2023

Dear Sir,

AEn.

The above work was awarded to us vide LOA under reference (1).

1) Immediately after receiving of LOA, we have mobilized the resources and carried out the GT investigation, survey, GPR Survey and developed the drawings/designs and submitted to you.

Contd....2.....

Engineering Standards - Beyond Technology I

Corporate Office :
 E-341, Mayur Vihar Phase-II, New Delhi-110 091, India.
 Tel. : 011-79697609, E-mail : jclinfra@gmail.com



:: 4 ::

12) Vide this office letter reference (12), the following drawings have been submitted :

- i) **TRAFFIC MOVEMENT SHOWING ALL MAJOR JUNCTIONS NEAR OTS CIRCLE.**
- ii) **DRAWING NO. OTS/JAIPUR/POST CONSTRUCTION TRAFFIC MOVEMENT PLAN**

13) Vide this office letter reference (13) revised Conceptual drawing for bridge over Nallah o Gopalpura side (Drawing No. OTS/JAIPUR/Nallah Bridge/01/R1) was submitted.

Sofar we have not received any approval/permission.

Our huge establishments, men & machinery are idling at site. It is requested that various approvals/permissions requested in above referred letters may be given so that the work can be started.

An immediate action for above is requested.

Thanking you & assuring you our best of services at all times.

Yours faithfully,
For JCL Infra Pvt. Ltd.,

Authorized Signatory

Encl. As Above

- CC to :
- 1) Superintending Engineer-II, JDA Jaipur
 - 2) Addl. Chief Engineer-II, JDA, Jaipur
 - 3) Director Engineering -1, JDA Jaipur



मालवीय राष्ट्रीय प्रौद्योगिकी संस्थान जयपुर

(भारत सरकार द्वारा संस्थापित राष्ट्रीय महत्व का संस्थान)

Malaviya National Institute of Technology Jaipur

(An Institute of National Importance under Ministry of Education, Govt. of India)

प्रो. एन. पी. पाढ़ी, FNAE
निदेशक

No. 55

UDM/3591/निस/प्रशास/सामि/2023

दिनांक 15/09

Prof. N. P. Padhy, FNAE
Director

मुख्य सचिव, कायदा
राजस्थान, जयपुर
1106980, 1106983

Date: 02/02/2023

DE-I
R Secy PWD/UDH

06-feb-2023

कायदा नगरीय विभाग,

शासन सचिवालय, जयपुर।

दफ्तरी नम्बर.../.../...

दिनांक.../.../...

27/9/2020 03/02/23

The Chief Secretary,
Government of Rajasthan,
Tilak Marg Secretariat,
Jaipur, 302005 (Rajasthan)

Sub: MEMORANDUM FOR PROPOSED "MNIT-OTS ROAD INTERSECTION RE-DEVELOPMENT"

Time Bound

DTS No. 130246

Sent To : DE-I

Dear Madam,

As you are aware, Malaviya National Institute of Technology (MNIT), an institute of national importance is in existence since 1963 in Jaipur. It is a significant landmark in the city and its reputation transcends beyond the state and country. The institute has significantly contributed to various endeavors of the Government of Rajasthan.

MNIT has a sprawling campus of over 311 acre and is a home to more than 6500 strong community of students and faculty members from all over the country. The institute in the past has been visited by renowned personalities and national leaders including Hon'ble President, Hon'ble Vice President, MHRD Ministers, MoE Ministers among a few.

Representing the stature, and over sixty glorious years of the Institute, an entrance plaza is about to take shape at the campus entry on Jawahar Lal Nehru (JLN) Marg. The MNIT entrance plaza has been planned to become a landmark which would further add to the urban aesthetics of JLN Marg.

A proposal for "Traffic Improvement and Beautification Works at OTS", Jaipur has been brought to my notice which has been studied by our subject experts including Transportation Engineers, Architects and Civil Engineers. If implemented without modifications, the proposal will not only compromise the two Campus Entries but shall also be a great traffic hazard to the in-bound and out-bound traffic from MNIT.

EE (Traffic works - 2)

जवाहर लाल नेहरू मार्ग, जयपुर-302017 (राज.) भारत
दूरभाष नं.: +91-141-2529087 (कार्यालय) फैक्स : + 91-141-2529029, ई-मेल: director@mnit.ac.in
Jawahar Lal Nehru Marg, JAIPUR-302017 (Ra.) INDIA
Tel.: +91-141-2529087 (Off.), Fax : +91-141-2529029, E-mail : director@mnit.ac.in

Sh. Sanjivan Jain

AEn.

Handwritten notes and signatures on the left margin, including dates like 14/9/23 and 25/11/23.

Handwritten notes and signatures on the right margin, including 'TS-II' and '15/9/23'.

Handwritten notes and signatures in the middle right area, including 'ACE-II' and '23/10/2023'.

Handwritten notes and signatures at the bottom right, including 'SE-2' and '25-10-2023'.

The traffic to the campus is a mix of pedestrians, private and public vehicles and it peaks up during admissions, convocation, festivals, vacations, events etc. It is noted that flyover approach towards Jawahar Circle is ending opposite to main gate of MNIT. Further, a U-turn is not provided with minimum vertical clearance of 5.5 m.

A number of education institutions are aligned on JLN Marg each represented by their specific entries. MNIT being an important stakeholder, its entry should not be ignored. The current proposal lacks functionality and practicality, therefore it needs amendments before implementation.


We propose that flyover approaches should be on viaduct up to a minimum height of 3 m and vertical clearance of 5.5 m should be provided opposite to gate of MNIT by extending the flyover further towards the South (Jawahar Circle). In urban areas, approaches on viaduct is preferred and important institutes need to be provided the required crossing. The existing traffic signals at the OTS-MNIT road intersection may be retained to give access to in-bound traffic to MNIT from North. The two rotaries would therefore be not required and save costs significantly.

Conceptual Plan and its Profile with required weaving length up to Peacock Garden Flyover is attached for review of experts. A detailed engineering with Transit Oriented Developments (ToD) may also be incorporated. The proposed concept takes care of Design Standards and access requirements of MNIT.

We may keep a meeting with concerned experts for further details and input on the subject.

Warm Regards,

Yours Sincerely


(Prof. N. R. Padhy)



JAIPUR DEVELOPMENT AUTHORITY, JAIPUR

www.jda.urban.rajasthan.gov.in

2064

No:- JDA/EE(Traffic works-II)/2023/D- 67


Date: 4/1/2023

To,
M/s JCL Infra Private Limited
Industrial Estate, Delhi Road,
Partapur, Meerut-250103 (U.P.)


Sub:- "Traffic improvement and beautification works at OTS crossing JLN Marg, JDA, Jaipur (Construction of Suspended Bridge, Traffic Island, Rotaries, Underground Art Gallery, Pedestrian Pathway, Sculpture, Fountain, Improvement of existing drainage system and road surface etc.) on Engineering, Procurement and Construction (EPC) basis."- **Provisional Time Extension.**

The stipulated date of completion as shown in the contract agreement No. 01/2022-23 dated 27.12.2022 for the above mentioned work is 05.01.2024.

The time limit of the contract agreement for aforesaid work is hereby extended for its completion upto 30.04.2024 provisionally without prejudice to reserve the right of the department to recover the compensation liable in accordance with the provisions of clause 2 of the contract agreement.


 Executive Engineer (Traffic works-II)
 Jaipur Development Authority
 Jaipur.

Copy to:- SE-II, JDA for information please.


 Executive Engineer (Traffic works-II)
 Jaipur Development Authority
 Jaipur.

कार्यालय टिप्पणी
जयपुर विकास प्राधिकरण

Subject :- Under Clause-32 of the Contract agreement, withdrawal of whole work amounting to Rs. 18430.00 Lacs.

Name of Work :- Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Construction of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.

Name of Agency :- JCL Infra Private Limited.

W.O. No. & Date:- JDA/EE TR Works-II/WO/2022-2023/Dec/01 & 27/12/2022.

Meeting of the Committee held today, keeping in view of para 197/N to 245/N, Committee decided to withdraw the whole work of "Traffic improvement and beautification work at OTS crossing JLN marg, JDA, Jaipur (Construction of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis." amounting to Rs. 18430.00 lacs.

SL
18/04/2024
Dir. (Engg.-I)

Praveen
Dir. (Fin.)

Praveen
JDC

SL
EE (Traffic Works - II)

SL
18/04/2024
22/04/2024

4459

Sr. No. 22
- 2136 -



Industrial Estate, Delhi Road, Partapur, Meerut-250 103
Tel. : (0121) 2440792, 2440787
C.I.N. U24231UP1980PLC005098
E-mail : info@jcl.in, jclinfra@gmail.com

(Formerly Known as JCL Infra Ltd.)

JCL/JDA/2024-25/3640
Date: 12/06/2024

The Chief Secretary
Government of Rajasthan
Jaipur

PS VDH
Pt. have it
examined.
JDE
(Sudharsh Pant)
Chief Secretary

Subject: Traffic improvement and beautification works at OTS crossing JLN Marg, JDA, Jaipur (Construction of suspended bridge, Traffic islands, Rotaries, underground art gallery, pedestrian pathway, Sculpture, fountain, improvement on existing drainage system and road surface, etc.) on Engineering, Procurement and Construction - **Representation regarding Withdrawal of work arbitrarily by Jaipur Development Authority**

Dear Sir,

- 1) The above subject work was awarded to us vide LOA No. JDA/EE TR Works-II/LOA/2022-2023/Dec/01 dated 14/12/2022 Immediately after receiving of LOA, we have mobilized the resources and carried out the GT investigation, survey, GPR Survey and developed the drawings/designs and submitted to JDA, Since, it is an EPC Contract and not item rate contract, we procured the materials and started fabrication of girders and other items as per plans given in the tender for timely completion. We have already spent more than Rs. 40 crores out of which bill of Rs. 20.41 crores have already been raised and submitted to JDA but no payment has been made to us so far.
- 2) JDA vide letter no. JDA/EE-Traffic-II/2024 dated 24/04/2024 has illegally and arbitrarily withdrawn the above work.
- 3) The position regarding this is as below
 - i. Vide this office letters dated: 23.02.2023, 24.02.2023, 27.02.2023, 02.03.2023 and 13.03.2023. We have submitted various drawings/designs/details to JDA and started physical execution of work in our workshop and at site.
Vide this office letter under letter dated: 17.03.2023, we have again requested JDA to give permission at site for General Arrangement of Flyover at OTS X-ing, General Arrangement of Bridge Over Nallah on Gopalpur side, Project Plan at OTS Crossing, Traffic Diversion Plan, Land Acquisition Plan, GAD for Sub-way and Art Gallery, Post Construction Traffic Arrangement Plan, Profile/L Sections of Service Roads, Extended Topographical Survey from Bajaj Nagar to Malviyanagar ROB, GT Investigation report, Utility shifting details etc.
 - ii. Vide this office letter dated: 17.03.2023, we have again requested JDA to give permission at site for General Arrangement of Flyover at OTS X-ing, General Arrangement of Bridge Over Nallah on Gopalpur side, Project Plan at OTS Crossing, Traffic Diversion Plan, Land Acquisition Plan, GAD for Sub-way and Art Gallery, Post Construction Traffic Arrangement Plan, Profile/L Sections of Service Roads, Extended Topographical Survey from Bajaj Nagar to Malviyanagar ROB, GT Investigation report, Utility shifting details etc.
 - iii. Vide this office letter dated: 22.03.2023 we have submitted, Much Disposal Plan, Site Environmental Plan, GPS Survey Drawing to JDA.
 - iv. Vide this office letter dated: 27.03.2023, design & drawings for pile foundation for abutment and piers were submitted and necessary mobilization was done to site to physically start work.
 - v. Vide this office letter dated: 28.03.2023, it was again requested to handover site etc.

Engineering Standards - Beyond Technology !

Matter Registered on PLS Portal
Letter No. : 13/06/24
Dated : 12/06/24
4459

Joint Secretary to Chief Secretary,
Rajasthan, Jaipur

Corporate Office
Maya Vihar Phase-II, New Delhi-110031, India
Tel. : 011-79697809 E-mail : jclinfra@gmail.com



JCL Infra Pvt. Ltd.



-2138-

Industrial Estate, Delhi Road, Partapur, Meerut-250 103
Tel. : (0121) 2440792, 2440787

C.I.N. U24231UP1980PLC005098

E-mail : info@jcl.in, jclinfra@gmail.com

(Formerly Known as JCL Infra Ltd.)

Moreover, Sincere Architects Pvt. Ltd. (JDA Consultant) vide letter dated: 26.03.2024 has removed all apprehensions and complied all requirement of MNIT. Further there is no requirement of land acquisition of OTS for rotary on Jhalna end as the rotary has been shifted by 120Mtr eastwards in the land which is still not in use.

It is further submitted that site conditions and JDA consultant also mentioned that work at site is very much technically feasible and is ultimately in the interest of traffic improvement for public use for hassle free faster movement.

It is submitted that the withdrawal of the work by the JDA is illegal arbitrary and against natural justice. We are still working very hard on this project and are surprised to see this withdrawal. We have already incurred more than 40 crores on this project.

In a view of above it is requested JDA letter dt. 24.04.2024 may kindly be revoked, time extension may kindly be granted upto 30.04.2025 and payment of Rs. 20.41 Crore for work done may be made to us, so that our resources may be utilized and work could be completed and our losses could be reduced to some extent.

Thanking you
Yours faithfully,
For JCL Infra Pvt. Ltd.

Authorized Signatory

Encl: All letters mentioned above

Engineering Standards - Beyond Technology !

Corporate Office :
E-341, Mayur Vihar Phase-II, New Delhi-110 091, India.
Tel. : 011-79697609, E-mail : jclinfra@gmail.com



जयपुर विकास प्राधिकरण, जयपुर

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क्रमांक जविप्रा/अधि.अभि- ट्रेफिक-11/2024-25/डी-16

दिनांक:- 24-06-2024

प्रमुख शासन सचिव,
नगरीय विकास एवं आवासन विभाग,
शासन सचिवालय, जयपुर।

विषय:- ओ.टी.एस. चौराहा, जे.एल.एन. मार्ग पर फ्लाइओवर का निर्माण, यातायात सुगमीकरण एवं सौन्दर्यीकरण के कार्य बाबत।

सन्दर्भ :- पी.एल.एस. पोर्टल का पत्र क्रमांक 4459 दिनांक 13.06.2024 ।

महोदय,

उपरोक्त तिषयान्तर्गत एवं संदर्भित पत्र के कन में निवेदन है कि संवेदक जे.सी.एल. इन्फ्रा प्रा. लि.द्वारा उक्त कार्य को जयपुर विकास प्राधिकरण द्वारा स्वेच्छा से प्रत्याहारित करने के सम्बन्ध में अभ्यावेदन प्राप्त हुआ है, जिसके सम्बन्ध में तथ्यात्मक विवरण निम्नानुसार है :-

● परिचय :-

वर्ष 2021-2022 की बजट घोषणा में ओ.टी.एस. चौराहे को सिग्नल मुक्त करने के कार्य को प्रस्तावित किया गया था।

इस कार्य के अन्तर्गत एक फ्लाइओवर, एक सब-वे मय कला दीर्घा व दो रोटरी, सौंदर्यीकरण आदि का कार्य करवाया जाना प्रस्तावित था।

● कार्य की स्थिति :-

कार्य हेतु प्रशासनिक एवं वित्तीय स्वीकृति राशि रु. 150.80 करोड़ की दिनांक 08.06.2022 को जारी की गई थी। दिनांक 27.12.2022 को कार्यदेश मैसर्स जे.सी.एल. इन्फ्रा प्रा. लि. को राशि रु. 184.30 करोड़ का जारी किया गया जो कि निविदा राशि से लगभग 22.86 प्रतिशत अधिक था तथा जिसके अनुसार कार्य प्रारम्भ एवं समाप्ति की तिथि क्रमशः 06.01.2023 एवं 05.01.2024 थी।

उक्त कार्य विभिन्न कारणों से मौके पर आरम्भ नहीं हो सका, क्योंकि इसमें ओ.टी.एस., विद्या आश्रम स्कूल, एम.एन.आई.टी., निजी खातेदार, जविप्रा आदि की भूमि ली जानी प्रस्तावित थी, जिसके सम्बन्ध में उस समय स्पष्टता नहीं थी।

मौके पर संवेदक द्वारा भी किसी प्रकार का टोस कार्य नहीं किया गया था, न ही साईट ऑफिस का निर्माण किया गया, न ही कंक्रीट का प्लांट लगाने व सामान रखने हेतु यार्ड की व्यवस्था की गयी थी। संवेदक द्वारा कुछ ड्राईंग्स अनुमोदन हेतु प्रस्तुत की गई थी परन्तु उक्त ड्राईंग्स दिनांक 08.02.2023 को निदेशक अभियांत्रिकी-प्रथम के कक्ष में आयोजित बैठक में संवेदक को जारी किये गये निर्देशों के अनुसार नहीं थी, जिसके सम्बन्ध में संवेदक को पत्र के माध्यम से सूचित कर दिया गया था।

RajKaj Ref
8271678



Signature valid

Digitally signed by H. Pushpa
Sharma
Designation: Secretary
Date: 2024.06.24 13:48:27 IST
Reason: Approved



जयपुर विकास प्राधिकरण, जयपुर

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संवेदक द्वारा स्ट्रक्चर डिजाइनर, Proof Check Consultant, आर.डी.एस.ओ. से अनुमोदित स्ट्रक्चर स्टील फेब्रिकेशन विक्रेता का विवरण, MNIT/IIT से अनुमोदित ड्राइंग कभी भी कार्यालय में प्रस्तुत नहीं किया गया। अनुबंध के अनुसार कार्य ई.पी.सी. कॉन्ट्रैक्ट पर था, परन्तु संवेदक को सुपरस्ट्रक्चर का कार्य प्रारम्भ करने से पूर्व प्रारम्भिक फेब्रिकेशन ड्राइंग आई.आई.टी./ एम.एन.आई.टी. के साथ जविप्रा से भी अनुमोदित करवानी थी, परन्तु सुपरस्ट्रक्चर की कोई भी ड्राइंग संवेदक द्वारा कार्यालय में प्रस्तुत नहीं की गई थी।

चूँकि मौके पर कार्य प्रारम्भ नहीं हुआ था एवं विभिन्न कारणों जैसे एम.एन.आई.टी. के विषय विशेषज्ञों द्वारा परियोजना के प्रस्ताव का अध्ययन कर निविदा प्रक्रिया पूर्ण होने के पश्चात् संशोधन हेतु ज्ञापन देना, जे.एल.एन. मार्ग व टॉक रोड़ पर अन्य परियोजनाओं के कार्य के दौरान यातायात डायवर्जन होना, ओ.टी.एस. कैम्पस में परियोजना क्षेत्र में बीसलपुर पानी की लाईन के टैंक का होना आदि एवं चूँकि उक्त कार्य ई.पी.सी. आधार पर था, जिसमें कार्य का दायरा नहीं बदला जा सकता था, इसलिए विभिन्न संस्थाओं के सुझावों का समावेश किया जाना संभव नहीं था।

उक्त तथ्यों के दृष्टिगत अनुबंध को निरस्त करने की अनुशंसा के साथ दिनांक 20.06.2023 को पत्रावली तत्कालीन चेयरमैन, जविप्रा, जयपुर को भिजवाई गयी परन्तु उनके द्वारा दिनांक 09.10.2023 को पत्रावली आदर्श आचार संहिता के पश्चात् प्रस्तुत करने हेतु निर्देशित किया।

उपरोक्त के क्रम में एव कार्यादेश के अनुसार कार्य की समाप्ति तिथि व्यतीत हो जाने के कारण, उक्त निविदा को समाप्त करते हुए, प्रस्ताव के पुनः परीक्षण करने के निर्णयार्थ, पत्रावली दिनांक 29.01.2024 को चेयरमैन, जविप्रा, जयपुर को भिजवाई गयी थी।

चेयरमैन, जविप्रा से ओ.टी.एस. एवं एम.एन.आई.टी. के अधिकारियों के साथ बैठक आयोजित कर परियोजना का पुनः परीक्षण, परियोजना हेतु वांछित भूमि की उपलब्धता, जे.एल.एन मार्ग के साथ सर्विस रोड़ के मिसिंग लिंक के निर्माण एवं निविदा को निरस्त करने/वर्तमान फर्म से कार्य करवाने के सम्बन्ध में परीक्षण हेतु निर्देश प्राप्त हुये थे। प्राप्त निर्देशों के क्रम में कार्य से सम्बन्धित वस्तुस्थिति निम्नानुसार है :-

1. ओ.टी.एस से वांछित भूमि की अनुपलब्धता :-

रोटरी हेतु वांछित भूमि के सम्बन्ध में ओ.टी.एस. से वार्ता की गई जिसमें उनके द्वारा बताया गया कि ओ.टी.एस. कैम्पस में उक्त स्थान पर सिविल सर्विस ऑफिसर्स इन्स्टीट्यूट आदि का निर्माण किया जा रहा है एवं परियोजना में प्रस्तावित रोटरी के निर्माण हेतु भूमि को समर्पित किया जाना संभव नहीं है, जिसके सम्बन्ध में ओ.टी.एस. से पत्र क्रमांक 20476 दिनांक 19.02.2024 प्राप्त हुआ था। (अनुलग्नक-क)

2. एम.एन.आई.टी द्वारा ज्ञापित संशोधन :-

एम.एन.आई.टी. जयपुर से भी उक्त कार्य के सम्बन्ध में वार्ता की गई जिसमें उनके द्वारा बताया गया कि एम.एन.आई.टी. के 60 वर्ष पूर्ण होने के उपलक्ष्य में एन्टरेन्स प्लाजा बनाया जाना प्रस्तावित है,

RajKa Ref
8271678

Signature valid

Digitally signed by H. Pushpa
Sharma
Designation: Secretary
Date: 2024.06.13 13:48:27 IST
Reason: Approved



जयपुर विकास प्राधिकरण, जयपुर

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जिसके सम्बन्ध में ओ.टी.एस. जंक्शन कार्य परियोजना के प्रस्ताव का उनके विषय विशेषज्ञों द्वारा अध्ययन किया गया है जिसके अनुसार बिना संशोधनों के उक्त परियोजना एम.एन.आई.टी. के यातायात के लिए एक बड़ा खतरा बन जायेगी, जिसके सम्बन्ध में एम.एन.आई.टी. से पत्र दिनांक 29.02.2024 प्राप्त हुआ था। (अनुलग्नक-‘ख’)

3. जे.एल.एन. मार्ग पर सुगम यातायात हेतु व्यापक योजना के सम्बन्ध में माननीय मुख्यमंत्री से प्राप्त निर्देश :-

वर्तमान में माननीय मुख्यमंत्री महोदय द्वारा जवाहर लाल नेहरू मार्ग पर ट्रैफिक की अधिकता के सम्बन्ध में शहरवासियों के सुगम यातायात के लिए विस्तृत योजना बनाने हेतु निर्देशित किया गया है इसलिए सम्पूर्ण जवाहर लाल नेहरू मार्ग पर एम.एन.आई.टी., ओ.टी.एस. आदि से प्राप्त सुझावों का समावेश करते हुये यातायात सुधारीकरण, सुगमीकरण आदि हेतु जचिप्रा द्वारा व्यापक योजना तैयार की जा रही है, जिसके अन्तर्गत अम्बेडकर सर्किल से जवाहर सर्किल तक एलिवेटेड रोड़ के निर्माण का लगभग 1100.00 करोड़ रुपये का प्रस्ताव तैयार किया गया है।

उपरोक्त विवरण के दृष्टिगत कार्य की वर्तमान निविदा के संबंध में यह स्पष्ट था कि :-

1. ओ.टी.एस. में रोटर्री हेतु भूमि उपलब्ध नहीं थी।
2. एम.एन.आई.टी. द्वारा बताये गये सुझावों के अनुसार वर्तमान निविदा को संशोधित किया जाना संभव नहीं था।
3. संवेदक द्वारा मौके पर किसी भी प्रकार का टोस कार्य साईट ऑफिस का निर्माण, कंक्रीट प्लांट आदि कार्य नहीं किये गये थे।
4. माननीय मुख्यमंत्री महोदय द्वारा जे.एल.एन. मार्ग पर सुगम यातायात हेतु विस्तृत योजना बनाने के लिये निर्देशित किया गया था।
5. ट्रैक कार्य धारा EPC पर आधारित है एवं निविदा में बदलाव किया जाना संभव नहीं था।
6. कार्यादेश के अनुसार कार्य समाप्ति की निर्धारित तिथि (05.01.2024) व्यतीत हो चुकी थी।

उपरोक्त तथ्यों के दृष्टिगत सक्षम स्तर पर कार्य को प्रत्याहारित करने का निर्णय लिया गया एवं दिनांक 24.04.2024 को स्वीकृति प्राप्त होने पर कार्य को प्रत्याहारित किया गया। (अनुलग्नक-‘ग’)

संलग्न:- अनुलग्नक-क,ख,ग

(हेम पुष्पा शर्मा)
सचिव,
जचिप्रा जयपुर

RajKaj Ref
8271678

Signature valid

Digitally signed by Hem Pushpa
Sharma
Designation: Secretary
Date: 2024.06.13:48:27 IST
Reason: Approved



जयपुर विकास प्राधिकरण, जयपुर

www.jda.urban.rajasthan.gov.in

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प्रतिलिपि:-

1. निजी सचिव, आयुक्त, जयपुर।
2. निदेशक अभियान्त्रिकी-प्रथम, जयपुर।

अधिसूची अभियन्ता-ट्रैफिक- II
जयपुर जयपुर

RajKaj Ref
8271678

Signature valid

Digitally signed by Hema Pushpa
Sharma
Designation: Secretary
Date: 2024.06.27 13:48:27 IST
Reason: Approved

29. Further, this Court also examined the Contract Agreement along with the Special Conditions governing the execution of the work. The relevant clauses of the Special Conditions of Contract, as forming part of the record produced by the respondent-JDA and applicable to the contractual relationship inter se the petitioner and the respondents, are reproduced hereinbelow for ready reference and proper appreciation of the controversy:

**Contract For Works
General Rules And Directions For the Guidance of
Contractors**

Conditions of contract:-

Clause 1: Security Deposit

XXXXX

Clause 2: Compensation for Delay

XXX

Note: xxxxxx

The contractor shall, further be hornind to carry out the work in accordance with the date and quantity entered.

In case the delay inched to the tenderk is attributable to the contractor, the spanwise compensation, as lag down in this clause shall be mandatory. However in case the slow progress in on etime span is covered up within original stipulated period then the amount of such compensation levied earlier shall be refunded. The price escalatiói, if any, admissible under clause 45 of Conditions of Contract would be admissible only on such rates and cost of work, as would be admissible if work would have been carrid out in that particular time span. The Engineer-in. charge shall review the progress achieved in every time span, and grant stagewise extension in ĉase of slow progress with compensation, if the delay is attributable to contractor, otherwise without compensation.

However, if for any special job, a time schedule has been submitted by the contractor before execution of the agreement, and it is entered in agreement as

well as same has been accepted by the Engineer-in-charge, the contractor shall complete the work within the said time schedule. In the event of the contractor failing to comply with this condition, he shall be liable to pay compensation as this clause shall not exceed 10% of the value of the contract. While granting extension in time attributable to the Government, reasons shall be recorded for each delay.

Clause 3 : Risk & Cost Clause

The Engineer-in-charge or the Competent Authority defined under rules may, without prejudice to his rights against the Contractor, in respect of any delay or inferior workmanship or otherwise, or any claims for damages in respect of any breaches of contract and without prejudice to any rights or remedies under any of provisions of this contract or otherwise, and whether the date for completion has or has not elapsed by notice in writing, ascertain and determine the contract in any of the following cases.

(i) If Contractor having been given by the Engineer-in-charge, a notice in writing to rectify, reconstruct or replace any defective work or that the work is being performed in any inefficient or otherwise improper or unworkmanlike manner, shall omit to comply with the requirements of such notice for a period of seven days, thereafter, or if the contractor shall delay or suspend the execution of the work so that either in the judgement of the Engineer-in-charge (which shall be final and binding) he will be unable to secure completion of the work by the date for completion of he already, failed to complete the work by that date.

(ii) If the Contractor, being company, shall pass a resolution or the Court shall make an order that the company shall be wound up or if a receiver or a manager, on behalf of a creditor, shall be appointed or if circumstances shall arise, which entitle the Court or Creditor to appoint a receiver or a manager or which entitle the Court to make a winding up order.

(iii) If the contractor commits breach of any of the terms and conditions of this contract.

(iv) If the Contractor commits any acts mentioned in Clause 19 hereof.

when the Contractor has made himself liable for action under any of the cases aforesaid, the Engineer-in-charge on behalf of the Governor of Rajasthan shall have powers ...

a) To determine or rescind the contract, as aforesaid (of which determination or rescission notice in Contractor under the hand of the Engineer-in-charge shall be conclusive evidence) upon such determination or notice in writing to the rescission, the earnest money, full security deposit of the contract shall be liable to be forfeited and shall be absolutely at the disposal of the Government.

b) To employ labour paid by the Department and to supply materials to debiting the Contractor with the cost of the labour and the price of the materials (of the amount of which cost and price materials to carry out the work or any part of the work, certified by the Engineer-in-charge shall be final and conclusive against the Contractor) and crediting him with the value of the work done in all respects in the same manner and at the same rates, as if it had been carried out by the Contractor under the terms of this contract. The certificate of the Divisional Officer, as to the value of the work done, shall be final and conclusive evidence against the Contractor provided always that action under the sub- clause shall only be taken after giving notice in writing to the Contractor. Frivided also that if the expenses incurred by the department are less than amount payable to the Contractor at his agreement rates, the difference shall not be paid to the Contractor.

c) After giving notice to the Contractor to measure up the work of the contractor and to take fuch part thereof, as shall be unexecuted out of his hands and to give it to another contractor to complete, in which case any expenses which may be "incurred in excess of the sum which would have been paid to the original contractor, if the whole work had been executed by him [of the amount of which excess, the certificate in writing of the Engineer-in-charge

shall be final and conclusive shall be borne and paid by the original contractor and may be deducted From any money due to him by Government under this contractor on any other account. Whatsoever, or from his Earnest money. Security Deposit, Enlistment security or the proceeds or sales thereof, or a sufficient part thereof as the case may be. In the event of any one or more of the above courses being adopted by the Engineer-in-charge, the contractor shall have no claim to compensation for any loss sustained by him by reason of his having purchased or procured any materials or entered into any engagements or made any advances on account or with a view to the performance of contract. And, in case action is taken under any of provisions aforesaid, the Contractor shall not be entitled to recover or be paid, any work thereof or actually performed under this contract unless and the Engineer-in-charge has certified, in writing, the performance of such work and the value payable in respect thereof, and he shall only be entitled to be paid the value so certified.

Clause 4: Contractor remains liable to pay compensation, if action not taken under Clause 3:

i) XXXXX

ii) In the event of the Engineer-in-charge putting in force, powers vested in him under the preceding Clause 3 he may, if he so desires, take possession of all or any tools, plants, materials and stores, in or upon the works or the site, thereof, or belonging to the contractor or procured by him and intended to be used for the execution of the work or any part thereof, paying or allowing for the same in account, at the contract rates or, in case of these not being applicable, at current market rates, to be certified by the Chief Engineer or duly authorised Engineer [whose certificate, thereof, shall be final and conclusive]. otherwise the Engineer-in charge may, by notice in writing to the contractor or his clerk of the works, foreman, or other authorised agent, require him to remove such tools plant, materials or stores from the

premises [within a time to be specified such notice), and in the event of the Contractor failing to comply with any requisition, the Chief Engineer or other duly authorised Engineer may remove them at the contractors expenses set them by auction or private sale on account of the contractor and at his risk in all respects, and the certificate; of the Chief Engineer or other duly authorised Engineer is to the expense of any such removal, and the amount of the proceeds and expense of any such Sale shall be final and conclusive against the Contractor.

Clause 13: No compensation for alteration in or restriction of work to be carried out:

If, any time after the commencement of the work, the Government, shall for any reason, whatsoever, not require the whole work thereof, as specified in the tender, to be carried out, the Engineer-in-charge shall give notice in writing, of the fact to the Contractor, who shall have no claim to any payments or compensation, whatsoever, on account of any profit or advantage which he might have derived from the execution of the work in full but which he did not derive in consequence of the full amount of the work not having been carried out, Neither, shall he have any claim for compensation by reasons of alterations having made in the original specifications, drawings and design and instructions, which shall involve any curtailment of the work, as originally contemplated. Provided, that the contractor shall be paid the charges for the cartage only, of materials, actually brought to the site of the work by him for bonafide use and rendered surplus as a result of the abandonment or curtailment of the work any portion thereof, and taken them back by the Contractor provided, however that the Engineer-in-charge shall have, in all such cases, the option of taking over all or any such materials at their purchase price or at local market rates whichever may be less. In the case of such stores, having been issued from Government stores, charges recovered, including storage charges shall be refunded after lacking into

consideration any deduction for claim on account of any deterioration or damage while in the custody of the contractor, and in this respect the decision of the Engineer-in-charge shall be final.

Clause 21: Standing Committee for Settlement of disputes:

If any question, difference of objection, whatsoever shall arise in any way, in connection with or arising out of this decision of any such matter, as herein before provided has been otherwise provided for and whether it has been finally decided Instrument of the meaning of operation of any part thereof, of the right duties or liabilities of either part then, save in so far, as the accordingly, or whether the contract should be terminated, or has been rightly terminated and as regards the rights or obligations of the parties as the result of such termination, shall be referred for decision to the empowered Standing Committee, which would consist of the followings.

- (i) Administrative Secretary concerned.
- (ii) Finance Secretary or his nominee, not below the rank of Deputy Secretary and/or Chief Accounts officer
- (iii) Law Secretary or his nominee, not below the rank of Joint Legal Remembrancer.
- (iv) Chief Engineer-cum-Addl, Secretary of the concerned department.
- (v) Chief Engineer concerned (Member-Secretary)

The Engineer-in-charge on receipt of application along with non refundable prescribed fee, (the fee would be two percent of the amount in dispute, not exceeding Rs. One lac) from the contractor shall refer the disputes to the committee within a period of one month from date of receipt of application.

Procedure and Application for referring cases for settlement by the Standing Committee shall be as given in Form RPWA90

Clause 32: Withdrawal of work from the Contractor:

If the Engineer-in-charge shall at any time and for any reasons, whatever, including inability to maintain prorata progress think

any portion of the work should not be executed or should be withdrawn from the contractor, he may by notice in writing to that effect require the Contractor not to execute the portion of the work specified in the notice, or may withdraw from the Contractor the portion of work, so specified, and the Contractor shall not be entitled to any compensation, by reason of such portion of work having been withdrawn from him. The Engineer-in-charge may supplement the work by engaging another agency for portion of the work at the cost of the original contractor without prejudice to his rights under clause 2 clause 2. He also be competent to levy compensation for delay in progress. The recovery of excess cost shall be made from next available running bill or any other claim and shall not be deferred.

Clause 37: Refund of Security Deposit:

Security will be refunded after the expiry of the period as prescribed below :-

- (a) In case of contract relating to hiring of trucks and other T & P transportation including the loading unloading of materials, the amount of Security Deposit is refundable along with the final bill
- (b) Suppliers of material: As per provisions of the G.F. & A.R.
- (c) Ordinary repairs: 3 months after completion of the work provided the final bill has been paid.
- (d) Original works/special repairs works: Security deposit will be refunded six months after completion, or expiry of one full rainy season, or after expiry of defect liability period as defined in the special condition of agreement, whichever is later provided the final bill has been paid.]
- (e) In case of PWD original works/special repairs works costing more than Rs. 10.00 lacs, partial amount of Security Deposit will be refunded during the defect liability period @ 10% of SD amount after lapse of one year of completion and thereafter 10% of original amount of SD at the end of each subsequent year. **The remaining amount of SD be refunded after the expiry of defect liability period.**

Clause 45: Price Variation Clause:

If, during the progress of the contract of value exceeding Rs. 50 lakh (accepted tendered amount minus cost of im supplied 'by the department), and where stipulated completion period'is more than 3 months (both the conditions shoi fulfilled), the price, of any materials/bitumen/diesel/petrol/cement arid steel incorporated'in the works (nôt being materials supplied by the department) and/or wages of labour- increases or decreases, as compared to the price and/or wages prevail; the last dâte of submission of bids the amounts payable to contractors for the work shall be adjusted for increase or decrease in the rates of materials (excepting those materials supplied y the department)/labour/bitumen/diesel and petrol/cement/steel.

'[Increase or decrease in the cost of labour /material/bitcemen/diesel/petrol and cement steel shall be calculated quarter accordance with the following formula:]

Clause 46: Force Majeure:

Neither party shall be liable to each other, för any loss or damage, occasioned by or arising out of acts or God such-as unprecedented floods, volcanic eruptions, earthquake of other invasion of nature and other acts.

Clause 48: Post payment Audit & Technical Examination:

The Government shall have right to cause an audit and technical examination of the works, and the final bills of the contractor, including all supporting vouchers, abstracts etc., to be made witha-years after payment of the final bili, and if, as a result of Such audit and technical examination, any súm is found to have been over paid in respect of any work done by the Contractor under the contract/or any work claimed by him to have been done by him under the contract and found not to have been executed below specification, the

Contractor shall be liable to refund the amount of over payment,, and it shall be lawful for department to recover the same from him in the manner prescribed in Clause 50 or in any other manner legally permissible and if it is found that the contractor was paid less than what was due to him under the contract in respect of any work executed by him under it, the amount of such under payment shall be duly paid by the Government to the Contractor.

Clause 50: Recovery from Contractors:
Whenever any claim against the Contractor for the payment of a sum of money arises out of or under the contract, the Department shall be entitled to recover such sum bé appropriating in part or whole of the Performance Guarantee and/or Security Deposit. Security Deposit at the time of enlistment of the Contractor. In the event of the security being insufficinet, or if no security has been taken, therealfirt,, may become due to the Contractor, under this or any other contract with the Governor of Rajasthan. Should this sum bé nôt sufficient to cover the full amount recoverable the Contractor shall pay to he Department on demand the balance remaining dues.
The department shall, further, háve the right to effect such recoveries under Public Demands Recovery Act."

30. On the basis of the material available on record, the terms and conditions of the Contract Agreement, as well as the original files produced by the respondent-JDA, the following factual and legal aspects emerge for consideration:

30.1 It is borne out from the record that pursuant to the Budget Declaration for the financial year 2021-2022, the Hon'ble Chief Minister of the State, under the then existing Government, envisaged development of the OTS Crossing, situated on the

prominent Jawahar Lal Nehru Marg (JLN Marg), Jaipur. The said location, being one of the most congested traffic bottlenecks in the city, was identified for comprehensive infrastructural intervention with the avowed objective of ensuring signal-free movement of traffic, easing congestion, and enhancing the aesthetic value of the corridor.

30.2 In furtherance thereof, a tender came to be floated by the Jaipur Development Authority (JDA) with an extensive and composite scope of work, which, inter alia, included “Traffic Improvement and beautification work at OTS Crossing, JLN Marg, JDA Jaipur (Construction of suspended bridge, traffic island, rotaries, underground art gallery, pedestrian pathways, sculptures, fountains, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis.”

30.3 The nature of the project thus reflects that it was not merely a construction contract but a holistic urban infrastructure project conceived with both functional and aesthetic objectives.

30.4 The record further reveals that the total contract value under the EPC mode was quantified at Rs. 184.30 Crores. The Letter of Acceptance (LOA) was issued in favour of the petitioner on 14.12.2022, followed by execution of the formal Contract Agreement on 27.12.2022, governed by the General Conditions (RPWR-100) and the Special Conditions forming part thereof.

30.5 As per the contractual stipulations, the date of commencement of the work was fixed as 06.01.2023, with a stipulated period of completion of 12 months, i.e., by 05.01.2024.

It is an admitted position that during the subsistence of the contract, the respondent–JDA granted *suo motu* extension of time up to 30.04.2024, without levy of any penalty.

30.6 However, prior to the expiry of the extended period, the respondents issued a communication dated 24.04.2024, purporting to withdraw the contract by invoking Clause 32 of the Special Conditions of Contract, which constitutes the primary cause of action for the present proceedings.

30.7 It is further noteworthy that subsequent to such withdrawal, the respondents proceeded to release the petitioner's bank guarantees on 16.12.2024, unconditionally. The petitioner, however, accepted the same under protest, thereby preserving its right to challenge the underlying action.

31. The petitioner has, thus, approached this Court by way of the present petitions, assailing the legality and validity of the withdrawal of the work order dated 24.04.2024 as being arbitrary and unsustainable; and challenging the subsequent issuance of a fresh Notice Inviting Bid (NIB) dated 03.04.2025, to the extent it pertains to preparation of a DPR for the OTS flyover project, during the pendency of the earlier writ petition. In light of the above factual matrix, it is evident that the first cause of action arose upon issuance of the withdrawal letter dated 24.04.2024, whereby the respondents unilaterally rescinded the contract. The legality, justification, and sustainability of the said communication thus assume central importance in the adjudication of the present dispute. The contents of the said withdrawal letter dated 24.04.2024, being material for examining the decision-making

process and the reasons recorded therein, are reproduced verbatim hereunder:

*"The aforesaid work was awarded to you vide this office Work Order No JDA/EE TR Works-II/WO/2022-2023/Dec/01 dated 27.12.2022 amounting Rs. 1,84,30,00,000.00 **with stipulated dates of commencement and completion as 06.01.2023 and 05.01.2024 respectively.** The work was not started during the stipulated period and also cannot be taken-up as per EPC stipulation due to site conditions and various to reasons. Therefore, the competent authority of JDA has taken action as per the relevant clause of agreement (R.P.W.R. 100) and decided to withdraw the whole work of **"Traffic improvement and beautification work at OTS crossing JLN Marg, JDA, Jaipur (Construction of suspended bridge, Traffic island, Rotaries, Underground art gallery, Pedestrian pathway, Sculpture, fountain, improvement of existing drainage system and road surface, etc.) on Engineering, Procurement and Construction (EPC) basis" amounting to Rs. 18430.00 lakhs under Clause-32 of the Contract Agreement (R.P.W.R. 100).**"*

32. The subsequent cause of action arose during the pendency of the earlier writ proceedings, upon issuance of a fresh Notice Inviting Bids (NIB) dated 03.04.2025 (Annexure-1), whereby the respondents initiated a new tendering process for preparation of a Detailed Project Report (DPR), inter alia, covering the development of the OTS flyover. The issuance of the said NIB assumes significance for multiple reasons. Firstly, it pertains, at least in part, to the very subject matter and geographical location forming the basis of the earlier contract awarded to the petitioner. Secondly, the initiation of a fresh tender process, without resolving or lawfully terminating the existing contractual relationship, raises

serious concerns regarding the continuity, fairness, and transparency of State action. It is the case of the petitioner that the fresh NIB is not an independent or distinct project, but is intrinsically connected with, and substantially overlaps the scope of, the original contract, thereby rendering the same arbitrary and legally unsustainable. The respondents, on the other hand, have sought to justify the same as a policy decision based on a revised DPR and altered project configuration. In these circumstances, the issuance of the NIB dated 03.04.2025 constitutes a distinct and recurring cause of action, giving rise to an independent challenge in Writ Petition No. 8120/2025, while also having a direct bearing on the legality of the earlier withdrawal of the petitioner's contract.

33. Consequently, for the purposes of clarity and procedural convenience, this court proceed to frame the following issues for its determination:

Issue No. 1: Whether the present petitions are maintainable, as the same revolve around a dispute which is contractual in nature, and allegedly improper authorization of the deponent?

34. The respondents have raised a preliminary objection assailing the maintainability of the present writ petitions on two counts: firstly, that the petition has not been instituted by a duly authorized person on behalf of the petitioner-company; and secondly, that the dispute arises out of a contractual relationship and is, therefore, not amenable to writ jurisdiction.

(A) Objection regarding authorization of the deponent

35. Insofar as the first limb of objection is concerned, it was contended that the writ petition has been filed by Mr. Ajai Kumar Gupta, Managing Director of the petitioner-company, without proper authorization. Upon consideration of the record, this Court finds that the petitioner is a company, which is a juristic person distinct from its shareholders and directors, and necessarily acts through natural persons. It is not in dispute that Mr. Ajai Kumar Gupta is not only a shareholder but also the Managing Director of the petitioner-company and has executed the contract in question on behalf of the company. A resolution authorizing him in this regard has also been placed on record. Thus, the legal position in this regard is no longer *res integra*, as in the ratio encapsulated in **United Bank of India vs. Naresh Kumar, (1996) 6 SCC 660**, it has been categorically held that since a company is a juristic entity, pleadings on its behalf have to be signed and verified by a competent person, and even in the absence of initial authorization, such defect is curable and can be ratified subsequently. Further, under Order XXIX Rule 1 of the Code of Civil Procedure, a company is competent to authorize any person to sign and verify pleadings on its behalf, and such authorization need not necessarily be contemporaneous, but can be established on record at any stage. Thence, in view of the aforesaid settled legal position and the material available on record, this Court is satisfied that the objection raised by the respondents is purely technical in nature and stands duly cured. Accordingly, the same is rejected.

(B) Objection regarding maintainability of writ petition in contractual matters

36. The second limb of objection pertains to the maintainability of the writ petition on the ground that the dispute arises out of a contract. Albeit it is true that ordinarily disputes arising out of contractual obligations are not entertained in writ jurisdiction, the said rule is subject to well-established exceptions; as where the action of the State or its instrumentalities is arbitrary, violative of principles of natural justice, or involves a public law element, the writ court would be justified in exercising jurisdiction under Article 226 of the Constitution. In the present case, it is not disputed that a validly executed EPC contract existed between the parties. The grievance of the petitioner, however, is not confined to mere enforcement of contractual terms. Rather, the challenge is directed against the manner in which the contract has been withdrawn.

37. The record reveals that the contract was withdrawn vide order dated 24.04.2024, which is alleged to have been passed *ex parte*, without affording any opportunity of hearing to the petitioner. It was further contended that the invocation of Clause 32 of the Special Conditions of Contract is misconceived and *dehors* the contractual framework. Additionally, it has been brought on record that extensions of time were granted by the respondents, and bank guarantees were dealt with unilaterally, indicating subsistence of the contractual relationship; the delay, if any, was attributable to the respondents themselves; and thereafter, a fresh tender was floated by altering and reducing the

scope of work, allegedly without safeguarding the petitioner's interests and without resorting to "risk and cost" provisions.

The petitioner has also invoked the doctrines of promissory estoppel and legitimate expectation, asserting that the respondents, having induced the petitioner to act upon the contract and having permitted continuation of work through extensions, could not have abruptly withdrawn the contract in an arbitrary manner. The aforesaid facts, taken cumulatively, demonstrate that the controversy involves allegations of arbitrariness, lack of fairness, and violation of natural justice by a State instrumentality, thereby introducing a clear public law element into the dispute; and in such circumstances, this Court is of the considered view that the present case falls within the recognized exceptions where judicial review in contractual matters is permissible. Accordingly, the writ petitions are held to be maintainable. To extract more strength, this Court deems it appropriate to assert reliance upon the ratio encapsulated in **Tata cellular v. Union of India: (1994) 6 SCC 651, Sudhir Kumar Singh (supra)** and **ABL International Ltd. (Supra)**. The relevant portion of the **Sudhir Kumar Singh (supra)** is reproduced as under:

"21. *Dr Singhvi's preliminary objection as to Respondent 1 having to approach a civil court, and not a writ court, for actions that pertain to breach of contract, need not detain us. In **ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd. [ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd., (2004) 3 SCC 553], this Court held***

that it was no longer res integra that a writ petition under Article 226 of the Constitution is maintainable at the instance of an aggrieved party to enforce a contractual obligation of the State or its instrumentality when the State acts in an arbitrary manner, as follows : (SCC pp. 564-67, paras 8-14)....

11. In Gujarat State Financial Corpn. v. Lotus Hotels (P) Ltd. [Gujarat State Financial Corpn. v. Lotus Hotels (P) Ltd., (1983) 3 SCC 379] this Court following an earlier judgment in Ramana Dayaram Shetty v. International Airport Authority of India [Ramana Dayaram Shetty v. International Airport Authority of India, (1979) 3 SCC 489] held : (Gujarat State Financial Corpn. case [Gujarat State Financial Corpn. v. Lotus Hotels (P) Ltd., (1983) 3 SCC 379], SCC p. 380)

'The instrumentality of the State which would be "other authority" under Article 12 cannot commit breach of a solemn undertaking to the prejudice of the other party which acted on that undertaking or promise and put itself in a disadvantageous position. The appellant Corporation, created under the State Financial Corporations Act, falls within the expression of "other authority" in Article 12 and if it backs out from such a promise, it cannot be said that the only remedy for the aggrieved party would be suing for damages for breach and that it could not compel the Corporation for specific performance of the contract under Article 226.'

22. This principle in ABL International Ltd. [ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd., (2004) 3 SCC 553] has been consistently upheld by this

Court in Noble Resources Ltd. v. State of Orissa [Noble Resources Ltd. v. State of Orissa, (2006) 10 SCC 236], para 15; Food Corpn. of India v. SEIL Ltd. [Food Corpn. of India v. SEIL Ltd., (2008) 3 SCC 440], para 16; Central Bank of India v. Devi Ispat Ltd. [Central Bank of India v. Devi Ispat Ltd., (2010) 11 SCC 186: (2010) 4 SCC (Civ) 401], para 28; and Surya Constructions v. State of U.P. [Surya Constructions v. State of U.P., (2019) 16 SCC 794], para 3.

43. Judged by the touchstone of these tests, it is clear that Respondent 1 has been completely in the dark so far as the cancellation of the award of tender in his favour is concerned, the audi alteram partem rule having been breached in its entirety. As has been correctly argued by Shri Rakesh Dwivedi, prejudice has indeed been caused to his client, not only from the fact that one year of the contract period has been taken away, but also that, if the impugned High Court judgment [Sudhir Kumar Singh v. State of U.P., 2019 SCC OnLine All 5798] is to be set aside today, his client will be debarred from bidding for any of the Corporation's tenders for a period of three years.

45. We, therefore, uphold the impugned judgment [Sudhir Kumar Singh v. State of U.P., 2019 SCC OnLine All 5798] of the High Court on the ground that natural justice has indeed been breached in the facts of the present case, not being a case of admitted facts leading to the grant of a futile writ, and that prejudice has indeed been caused to Respondent 1. In view of this finding, there is no need to examine the

other contentions raised by the parties before
US."

Issue No. 2 – Whether the invocation of Clause 32 of the Special Conditions of Contract and consequent withdrawal of the contract is legally sustainable in the facts of the present case?

38. This Court has carefully perused the impugned order of withdrawal as well as Clause 32 of the Special Conditions of Contract. A conjoint reading of the same indicates that invocation of Clause 32 is not unfettered, but is conditioned upon the existence of certain foundational requirements. The following ingredients must necessarily be satisfied before resorting to such drastic action:

- (i) existence of a justifiable and valid reason;
- (ii) failure on the part of the contractor to maintain the stipulated progress of work;
- (iii) lapse or default attributable to the contractor in execution of any part of the work;
- (iv) issuance of a specific notice in writing calling upon the contractor to remedy such default and failure to comply therewith;
- (v) consequent engagement of another agency for execution of the work;
- (vi) continuation of the work in public interest through such alternate agency; and
- (vii) invocation of "risk and cost" provisions, including recovery of losses occasioned due to such default from the contractor.

39. Upon a meticulous examination of the record, particularly the note-sheets spanning from the year 2023 till 20.04.2024, it emerges that although reasons were recorded for withdrawal of the contract, the same were not attributable to any default on the part of the petitioner. On the contrary, the material on record demonstrates that the impediments in execution arose on account of factors beyond the control of the petitioner, inter alia, including operation of the Model Code of Conduct, which restrained decision-making by the authorities; objections and protests raised by MNIT, OTS; difficulties in shifting of the Bisalpur pipeline; requirement of felling of a substantial number of trees; and proposed alteration in the scope of work, which, as per the respondents themselves, was not permissible under the EPC framework. These circumstances clearly indicate that the delay, if any, was institutional and administrative in nature, and cannot be fastened upon the petitioner.

40. It is further noteworthy that the petitioner was granted extension of time *suo motu* by the respondents, without imposition of any liquidated damages or penalty, as contemplated under the relevant contractual clauses. Even more significantly, after withdrawal of the contract, the bank guarantees furnished by the petitioner were released without any deduction or adjustment towards alleged losses. Such conduct on the part of the respondents unequivocally establishes that the petitioner was not treated as being in default; no loss was attributed to the petitioner; and thus the essential preconditions for invoking Clause 32, particularly those relating to default and risk-and-cost

consequences, were conspicuously absent. Withal, in the absence of these foundational requirements, the invocation of Clause 32 stands vitiated and unsustainable in law.

41. This Court likewise finds substance in the contention of the petitioner that the stand now sought to be advanced by the respondents is contrary to their own record; as the note-sheets and contemporaneous correspondence, including letters dated 25.03.2023, 12.06.2024 addressed to the Chief Secretary, communications from MNIT, the extension granted on 04.01.2024, extending the contract till 30.04.2024, and the release of bank guarantees on 29.07.2024, collectively demonstrate that the delay was not attributable to the petitioner. It is a settled principle of law that the validity of an administrative order must be judged on the basis of the reasons contained therein and cannot be supplemented by fresh reasons at a later stage. In this regard, reliance is appositely placed on the principle laid down in **Mohinder Singh Gill (supra)**, wherein it has been held that an order must stand or fall on the reasons contained in it, and cannot be improved upon subsequently, for orders "are not like old wine becoming better as they grow older." The relevant extract therefrom is reiterated hereinbelow:

"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later

brought out. We may here draw attention to the observations of Bose, J. in *Gordhandas Bhanji* [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16]:

"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older."

(Emphasis supplied)

42. In view of the aforesaid analysis, this Court holds that the invocation of Clause 32 and the consequent withdrawal of the contract is arbitrary, *dehors* the contractual framework, and unsustainable in law, the essential preconditions for its invocation having not been satisfied.

43. However, the pleadings in the reply affidavit and the submissions advanced on behalf of the respondents by the Officer In-charge Shri Sanjeevan Jain, and learned counsel representing for and on behalf of JDA, qua the above-discussed appear to be an afterthought and a misrepresentation of the factual position as borne out from the official record. This Court cannot remain oblivious to the conduct of the officers of the respondent-authority and the submissions advanced on their behalf, which are found to be contrary to the contemporaneous record and the contractual

framework governing the parties. Such conduct, particularly on the part of a State instrumentality, deserves to be viewed seriously and is accordingly taken note of adversely.

Issue No. 3 – Whether the Doctrines of Promissory Estoppel and Legitimate Expectation be applicable in the prevailing circumstances?

44. From the material placed on record, it stands established that the petitioner, acting upon the assurances flowing from a duly executed and legally enforceable EPC contract, had altered its position to its detriment. The petitioner had mobilized substantial resources, undertaken surveys, prepared drawings and designs, procured materials to the extent of approximately Rs. 20 crores and incurred overall financial expenditure of nearly Rs. 40 crores in furtherance of the project. In such circumstances, the principles of promissory estoppel and the doctrine of legitimate expectation are clearly attracted. The respondents, having induced the petitioner to act upon the contract and having permitted continuation of the project over a considerable period, cannot be permitted to resile from their promise in an arbitrary and unilateral manner. The justification sought to be advanced by the respondents, including change in Government or administrative difficulties in execution of the project, cannot absolve them of their obligations under a concluded and binding contract, as it is well settled that State action must be informed by fairness, reasonableness and non-arbitrariness, and the State cannot be

permitted to wriggle out of its contractual commitments on extraneous or political considerations.

45. Thence, the impugned action of withdrawal of the contract, coupled with the issuance of a fresh tender for preparation of DPR, clearly indicates that the decision is not founded on any contractual default attributable to the petitioner, but is rather a consequence of a change in policy coinciding with change in Government. Such action, in the considered opinion of this Court, is arbitrary, capricious and violative of Article 14 of the Constitution of India, and falls foul of the mandate governing "State" under Article 12. In this regard, reliance placed by the petitioner on the judgments in **IFGL Refractories Ltd. (supra)**, **U.P. Power Corporation Ltd. (supra)**, and **Sivanandan C.T. (supra)**, is well-founded, as the said authorities reiterate that the State and its instrumentalities are bound by the doctrines of fairness, promissory estoppel and legitimate expectation, and cannot act to the prejudice of a party who has altered its position based on a representation or promise. Accordingly, the present issue is answered in favor of the petitioner. Relevant portion of the above said judgments can be summarized by reproducing the relevant extract of the judgment **IFGL Refractories Ltd. (supra)**, which is as under:

"115. According to this Court, the true principle of promissory estoppel seemed to be that where one party has, by his words or conduct, made to the other a clear and unequivocal promise which is intended to create legal relations or effect

a legal relationship to arise in the future, knowing or intending that it would be acted upon by the other party to whom the promise is made. Where it is in fact so acted upon by the other party, the promise would be binding on the party making it, and he would not be entitled to go back upon it, if it would be inequitable to allow him to do so, having regard to the dealings which have taken place between the parties. This would be so irrespective of whether there is any pre-existing relationship between the parties or not.

116. It was further observed that it is not necessary, in order to attract the applicability of the doctrine of promissory estoppel, that the promisee, acting on the promise, should suffer any detriment. ***What is necessary is only that the promisee should have altered his position in reliance on the promise. This Court was of the view that the doctrine of promissory estoppel is also applicable against the government, where the government makes a promise knowing or intending that it would be acted upon by the promisee.*** Where, in fact, the promisee, acting on it, alters his position, the government would be held bound by the promise. The promise would be enforceable against the government at the instance of the promisee, notwithstanding that there is no consideration for the promise and the promise is not recorded in the form of a formal contract.

.....

133. *This litigation is a fine specimen of the bureaucratic lethargy. It is this bureaucratic lethargy which gave rise to this long drawn litigation. This Court in many of its decisions has reminded various State Governments that if the object of formulating the industrial policy is to encourage investment, employment and growth, the bureaucratic lethargy of the State apparatus is clearly a factor which will discourage entrepreneurship."*

(Emphasis supplied)

Issue No. 4 - Nature, Scope, and Validity of the power exercised under Clause 32 of the Contract by the respondents:

47. In the present case, this Court finds that the delay in execution of the project is not attributable to the petitioner, but is squarely traceable to the respondents themselves. A bare perusal of the impugned order dated 24.04.2024, purportedly issued under Clause 32 of the Special Conditions of Contract, reveals that no specific fault or breach has been imputed to the petitioner. The impugned order employs vague and non-specific expressions such as "site conditions" and "various reasons", without delineating any concrete default on the part of the petitioner. Such generalized observations, in the absence of any specific finding of breach, fall short of the requirements necessary for invoking a penal contractual clause like Clause 32. On the contrary, the contemporaneous record, including the note-sheets and official correspondence placed before this Court (inter alia,

communications addressed by the respondent-JDA to the Chief Secretary; objections and correspondence emanating from MNIT, OTS; difficulties in acquisition and handing over of clear and encumbrance-free site; and other infrastructural and administrative constraints affecting execution), unequivocally establishes that the impediments in execution existed from the very inception of the contract till its withdrawal, and were entirely beyond the control of the petitioner. The cumulative effect of these documents clearly attributes the delay to systemic and administrative shortcomings on the part of the respondent-JDA, rather than any lapse on the part of the petitioner.

47. It is a settled principle that where delay is attributable to the employer, the contractor cannot be penalized for non-performance within the stipulated time. The absence of any allegation of default, coupled with the existence of documented impediments attributable to the respondents, renders the invocation of Clause 32 wholly untenable. In this backdrop, it becomes apposite to refer to the relevant provisions of the bid document, particularly those contained in Schedule 'C' (Annexure-3), which govern the obligations of the employer in providing requisite site conditions and facilitating execution of the work. The said clauses, which have a direct bearing on the issue at hand, are reproduced hereunder:

"SCHEDULE C. – LIST OF DRAWINGS TO BE SUPPLIED BY THE BIDDER

A. The successful bidder has to submit at least three conceptual plans for the project before the JDA committee and the committee reserves the right for approval of plan.

B. The successful bidder has to submit the planning and working drawings of approved plan and finally to be vetted from MNIT/IIT at his own cost. The structural design should be prepared using latest software. The same will need approval by JDA before execution.

C. The successful bidder must note that all activities related to project must be completed within 12 months of speculated period”

A condition for approval under the heading "Scope of work & specification" sub heading "Super-Structure" (Annexure-3) of the Contract Agreement, which is reproduced as under:-

"SUPER STRUCTURE

1. The super structure shall be steel based plate or composite girder of grade E350 BR steel, preferably precast and/or with sacrificial shuttering. The make of steel plates can only be SAIL/JINDAL/TATA STEEL. The contractor shall be responsible for preparation of QAP/WPSS and preliminary fabrication drawings. After the preparation of these documents, they shall be duly checked and approved or get proof checked from IIT/reputed institutions empanelled consultant as approved by EIC at his own cost and got approved by JDA prior to use. Any direction by JDA shall be incorporated as regards the same.

.....

21. All fabrication of structural steel work should be carried out by Research Designs and Standards Organization (RDSO) approved vendors.”

48. The contractual framework, particularly the aforementioned clauses as contained in Schedule 'C' (Annexure-3), casts an obligation upon the employer to provide requisite site conditions and facilitate unhindered execution of the work. Failure

on the part of the employer to discharge these foundational obligations cannot be used as a ground to penalize the contractor. Thus, in the present case, the material on record unmistakably establishes that the respondents themselves failed to provide the necessary conditions for execution of the project. Consequently, the petitioner cannot be held responsible for non-achievement of progress within the stipulated timeline.

49. In view of the aforesaid analysis, this Court holds that the delay in execution of the contract is squarely attributable to the respondents, and not to the petitioner. The essential precondition for invoking Clause 32, namely default or failure on the part of the contractor, being absent, the action of the respondents in withdrawing the contract is rendered arbitrary, unjustified, and contrary to the contractual provisions.

50. It is further noteworthy, that the contractual matrix governing the parties unequivocally establishes that the obligation to provide a clear, encumbrance-free site vested solely with the respondent-JDA. The "Summary of Work" and the relevant clauses of the Special Conditions of Contract make it abundantly clear that the petitioner's obligations were contingent upon the respondents first fulfilling their foundational duties, namely:

- (i) making available the land,
- (ii) ensuring a clean and obstruction-free site, and
- (iii) facilitating approvals of drawings and designs within a reasonable time frame.

51. The record further demonstrates that the petitioner had, in fact, diligently performed its reciprocal obligations. The

drawings and designs were prepared and submitted for approval; procurement of steel was undertaken strictly from approved manufacturers; and substantial mobilization of resources was effected. However, the corresponding approvals and site facilitation, which were prerequisites for meaningful execution, remained pending due to administrative and institutional constraints attributable to the respondents. The contemporaneous correspondence forming part of the note-sheet assumes critical importance. The letters exchanged between the parties, including Annexure-13 i.e. letter dated 04.01.2024, whereby extension of time was granted unilaterally without imposition of liquidated damages, constitute a clear and unequivocal acknowledgment by the respondents that the delay was not attributable to the petitioner. This Court is of a stern view that in contractual jurisprudence, such conduct amounts to a waiver of alleged breach and operates as an admission against the employer. Further, the petitioner's representation/letter (Annexure-15) seeking price variation upon extension of time reinforces the position that the contract was treated as subsisting by both parties. The respondents neither rejected the continuation of the contract on grounds of default nor invoked any penal provisions contemporaneously. Therefore, the fact of considerable significance is that the respondents returned the bank guarantees furnished by the petitioner without invoking Clauses 2, 3, and/or 37 of the Special Conditions of Contract, which otherwise provide for consequences in the event of contractor default. This omission is not merely procedural but substantive in nature, it thus,

unequivocally establishes that no breach or default was ever crystallized against the petitioner.

52. In such circumstances, the subsequent invocation of Clause 32 for withdrawal of work is *ex facie* inconsistent with the prior conduct of the respondents and is legally untenable. A contracting authority cannot approbate and reprobate, having treated the contract as valid and subsisting, it cannot later attribute delay to the contractor without any intervening material change. This Court also finds substance in the petitioner's contention that the issuance of a fresh Notice Inviting Bid (NIB) for preparation of a new DPR for the very same project is manifestly arbitrary. The record does not disclose any rational or technical basis necessitating a fresh DPR. On the contrary, the material indicates that the core objectives of the project i.e. decongestion of traffic, seamless flow, and enhancement of aesthetic value of JLN Marg-remained unchanged across the relevant period. In consequence, the attempt of the respondents to draw a distinction between the projects of the years 2021-22 and 2024-25 is not borne out from any contemporaneous record. Such a plea appears to be an afterthought devised to justify an otherwise arbitrary decision, particularly when no substantive alteration in scope, alignment, or purpose has been demonstrated.

53. Consecutively, it is equally germane to jot down that the abrupt abandonment of the ongoing contractual process, despite the petitioner having invested an amount exceeding Rs. 40 crores and the contract itself having been extended for a period of two years, is not only inequitable but also violative of the

principles of fairness and reasonableness which govern State action under Article 14 of the Constitution. The legal position in this regard stands settled by the judgment of the Hon'ble Supreme Court in **K. Shyam Sunder (supra)**, wherein it has been held that a change in government or policy cannot, by itself, be a ground to annul or disturb a concluded and legally enforceable contract, unless it is demonstrated that the earlier decision was contrary to statutory provisions or against public interest. The relevant extract from the ratio encapsulated in **K. Shyam Sunder (supra)**, is reproduced hereinbelow:

*"35. Thus, it is clear from the above, that unless it is found that act done by the authority earlier in existence is either contrary to statutory provisions, is unreasonable, or is against public interest, the State should not change its stand merely because the other political party has come into power. **Political agenda of an individual or a political party should not be subversive of rule of law.**"*

(Emphasis laid)

54. The same has also been held in the dictum enunciated in **Shishir Realty Pvt. Ltd. (supra)**. The relevant portion of the same is reproduced as under:-

"61. When a contract is being evaluated, the mere possibility of more money in the public coffers, does not in itself serve public interest. A blanket claim by the State claiming loss of public money cannot be used to forego contractual obligations, especially when it is not based on any evidence or examination. The larger public interest of upholding contracts and the fairness of public authorities is also in play. The courts need to

have a broader understanding of public interest, while reviewing such contracts.

...

63. Similarly, this Court in *A.P. Dairy Development Corpn. Federation v. B. Narasimha Reddy* [*A.P. Dairy Development Corpn. Federation v. B. Narasimha Reddy*, (2011) 9 SCC 286] held as under : (SCC p. 306, para 40)

"40. In the matter of the Government of a State, the succeeding Government is duty-bound to continue and carry on the unfinished job of the previous Government, for the reason that the action is that of the "State", within the meaning of Article 12 of the Constitution, which continues to subsist and therefore, it is not required that the new Government can plead contrary to the State action taken by the previous Government in respect of a particular subject. The State, being a continuing body can be stopped from changing its stand in a given case, but where after holding enquiry it came to the conclusion that action was not in conformity with law, the doctrine of estoppel would not apply. **Thus, unless the act done by the previous Government is found to be contrary to the statutory provisions, unreasonable or against policy, the State should not change its stand merely because the other political party has come into power.** 'Political agenda of an individual or a political party should not be subversive of rule of law.' The Government has to rise above the nexus of vested interest and nepotism, etc. as the principles of governance have to be tested on the touchstone of justice, equity and fair play."

(emphasis supplied)

55. Further, upon a comprehensive perusal of the contractual stipulations, this Court is of the considered view that

the existing contract itself provided sufficient flexibility to accommodate necessary modifications. It is evident that justifiable and material alterations in the scope of work could have been undertaken, particularly if such changes were effected in a timely manner and upon due consideration of expert opinion. Notably, the appointed consultant under the contract continued to remain engaged and available for such evaluative inputs. The contractual framework, in fact, envisaged stage-wise execution and corresponding payments, coupled with sub-categorization of work components. In such a scenario, it was well within the domain of the respondents to restructure, reduce, or expand the scope of work, and to proceed with execution in a phased manner, rather than abandoning the contract in its entirety. Moreover, a specific clause under the Special Conditions of Contract expressly contemplates variation, alteration, or modification of the contractual scope, even stipulating that no additional compensation would be payable on such account. This clearly indicates that the contract was designed to be adaptable to evolving project requirements. Consequently, any required adjustments could have been mutually deliberated and resolved between the parties, without resorting to termination or withdrawal.

56. This position finds support from the judgment in enunciated in **Yash Construction Company v. The Secretary, Ministry of Road Transport and Highways (MoRT & H), Writ Petition No. 9620/2022**, decided on 16.12.2022, wherein it has been recognized that modifications in contractual scope, where

contractually permissible, ought to be addressed within the framework of the existing agreement rather than leading to its abrupt discontinuation. The relevant extract from the said ratio is reiterated hereinbelow:

"23. To sum up, the decision of the respondents to abort the process of tender wherein the Petitioners were the successful L1 bidders on the sole ground that the notice inviting tender stipulated 24 months as the period for completion of the work instead of 18 months and even when the petitioners expressed their readiness and willingness to complete the work at the same cost offered by them which does not suffer from the sin of post tender negotiations, the decisions of the respondents is clearly arbitrary and would lead to a loss of public money. The cases are fit to be interfered with."

(emphasis supplied)

57. It is also opined that when a contract is entered into between the State or its instrumentalities and a private party upon a duly concluded tender process, any dispute arising out of such contractual relationship does not entirely oust the jurisdiction of this Court under judicial review. It is well-settled that the actions of the State, even in contractual matters, must withstand the test of fairness, reasonableness, and non-arbitrariness, as enshrined under Article 14 of the Constitution of India. Thus, the State cannot be permitted to cloak arbitrary or unreasonable conduct behind the mere existence of a contract, nor can it evade judicial scrutiny on the specious plea of availability of alternate remedies. The doctrine of fairness permeates all State actions, and contractual dealings are no exception, particularly where such

actions bear a public law element. In exercising the power of judicial review, this Court is therefore required to examine whether the decision-making process adopted by the State is just, transparent, and free from arbitrariness, and not merely whether the action is in strict conformity with the terms of the contract. The presence of contractual stipulations or dispute resolution mechanisms does not denude this Court of its constitutional obligation to ensure adherence to the mandate of Article 14.

58. In this regard, reliance is placed upon the celebrated judgment of **Subodh Kumar Singh (supra)**, wherein it has been held that State action in contractual matters remains amenable to judicial review, particularly when it is demonstrated that such action is arbitrary, unfair, or actuated by extraneous considerations, notwithstanding the existence of contractual remedies. The relevant extract of the said judgment is reproduced hereinbelow:

"126. The sanctity of public tenders lies in their role in upholding the principles of equal opportunity and fairness. Once a contract has come into existence through a valid tendering process, its termination must adhere strictly to the terms of the contract, with the executive powers to be exercised only in exceptional cases by the public authorities and that too in loathe. The courts are duty bound to zealously protect the sanctity of any tender that has been duly conducted and concluded by ensuring that the larger public interest of upholding bindingness of contracts are

not sidelined by a capricious or arbitrary exercise of power by the State. It is the duty of the courts to interfere in contractual matters that have fallen prey to an arbitrary action of the authorities in the guise of technical faults, policy change or public interest, etc.

127. *The sanctity of contracts is a fundamental principle that underpins the stability and predictability of legal and commercial relationships. When public authorities enter into contracts, they create legitimate expectations that the State will honour its obligations. Arbitrary or unreasonable terminations undermine these expectations and erode the trust of private players from the public procurement processes and tenders. Once a contract is entered, there is a legitimate expectation that the obligations arising from the contract will be honoured and that the rights arising from it will not be arbitrarily divested except for a breach or non-compliance of the terms agreed thereunder. In this regard we may make a reference to the decision of this Court in Sivanandan C.T. v. High Court of Kerala wherein it was held that a promise made by a public authority will give rise to a legitimate expectation that it will adhere to its assurances.*

....

130. *Cancellation of a contract deprives a person of his very valuable rights and is a very drastic step, often*

due to significant investments having already been made by the parties involved during the subsistence of the contract. Failure on the part of the courts to zealously protect the binding nature of a lawful and valid tender would erode public faith in contracts and tenders. Arbitrary terminations of contract create uncertainty and unpredictability, thereby discouraging public participation in the tendering process. When private parties perceive that their contractual rights can be easily trampled by the State, they would be dissuaded from participating in public procurement processes which may have a negative impact on such other public-private partnership ventures and ultimately it is the public who would have to bear the brunt thereby frustrating the very object of public interest.

131. We caution the public authorities to be circumspect in disturbing or wriggling out of its contractual obligations through means beyond the terms of the contract in exercise of their executive powers. We do not say for a moment that the State has no power to alter or cancel a contract that it has entered into. ***However, if the State deems it necessary to alter or cancel a contract on the ground of public interest or change in policy then such considerations must be bona fide and should be earnestly reflected in the decision-making process and also in the final decision itself. Otherwise, it would***

***have a very chilling effect as participating and winning a tender would tend to be viewed as a situation worse than losing one at the threshold.”
(emphasis supplied)***

CONCLUSION:

59. In addition to the findings recorded hereinabove, this Court deems it appropriate to observe that the present writ petitions are maintainable inasmuch as the challenge laid is not to a mere contractual dispute but to the arbitrary and unreasonable exercise of State power, thereby attracting the rigours of Article 14 of the Constitution of India. The decision making process adopted by the respondents fails to satisfy the settled parameters of judicial review, being vitiated by non-application of mind, disproportionality, and manifest unreasonableness, particularly when less drastic alternatives such as modification of scope, phased execution, or contractual adjustments, were admittedly available under the contract itself. The contemporaneous record further establishes that the respondents, by granting extensions without levy of liquidated damages, returning bank guarantees, and permitting continued performance, had effectively waived any alleged default and induced legitimate expectation in favour of the petitioner, who, acting upon such representation, altered its position by making substantial financial investments. The subsequent attempt to attribute delay to the petitioner is thus hit by the doctrines of promissory estoppel and waiver, and cannot be countenanced.



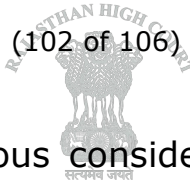
60. Further, the abrupt abandonment of the subsisting contract and initiation of a fresh DPR process, in absence of any documented policy change or technical justification, is not only arbitrary but also indicative of malice in law, being founded on extraneous considerations rather than public interest. The respondents have failed to demonstrate that such action advances any larger public good; rather, the same results in avoidable delay, escalation of costs, and wastage of public resources, thereby failing the test of proportionality. This Court also finds that the impugned action is contrary to the principles governing State contracts, as the petitioner has approached this Court with clean hands and established its continuous readiness and willingness to perform, while the respondents' own record belies their stand taken before this Court, rendering their defence unsustainable.

61. It is noteworthy that this Court has rendered its findings strictly on the basis of contemporaneous official record produced by the respondents themselves, and not on disputed questions of fact, thereby obviating the necessity of relegating the petitioner to an alternate remedy. The record, particularly the internal note-sheets of the respondent-authority, unmistakably reflects an admission on the part of the State that the withdrawal of the contract was occasioned on account of site-related constraints and other administrative reasons, none of which can be attributed to the petitioner. It is hereby opined that from the very inception of the contract, the petitioner was kept uninformed of the material impediments affecting execution, on the contrary, encouraged to proceed with mobilization, resulting in substantial



investment in machinery, manpower, and procurement of materials. Despite the existence of contractual provisions permitting alteration or modification of scope of work, the respondents, for reasons best known to them, failed to exercise such enabling provisions; and instead of adopting a pragmatic and legally permissible course of restructuring the project, the respondents proceeded to abruptly terminate a legally enforceable contract by erroneously invoking Clause 32 of the contract, and this Court is of an opinion that invocation of Clause 32 without determination of default renders the action void *ab initio*, as also addressed in details hereinabove; and that the same was wholly inapplicable in the absence of any contractor default.

62. What further compounds the arbitrariness of the respondents' conduct is the immediate issuance of a fresh tender for preparation of a DPR qua the same OTS flyover project, without disclosing any rational basis or change in circumstances warranting such action. This decision, viewed in light of the existing contractual framework and the petitioner's ongoing performance, is manifestly arbitrary and indicative of non-application of mind. The submissions advanced on behalf of the respondents attributing delay and non-performance to the petitioner stand squarely contradicted by their own record, including the note-sheets and official correspondence placed before this Court. Such conduct not only undermines the credibility of the decision-making process but also borders upon misrepresentation before the Court. From the material placed on record, it *prima facie* emerges that the withdrawal of the contract



was influenced by extraneous considerations, including the need to accommodate objections raised by certain institutions such as MNIT and OTS, as well as other influential stakeholders. The consequential decision to alter the project configuration, inter alia, reducing the flyover capacity from eight lanes to six lanes and eliminating service roads, further demonstrates a departure from the original project objectives, thereby frustrating the very purpose for which the contract was awarded. In light of the foregoing analysis, this Court is of the considered opinion that the impugned action of the respondents is arbitrary, unreasonable, and violative of Article 14 of the Constitution of India, and the principle of legitimate expectation, and cannot be sustained in law.

DIRECTIONS:

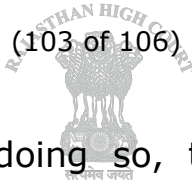
63. The writ petitions are accordingly **allowed** in terms of the prayers made, with the following directions:

63.1 The impugned order dated 24.04.2024, issued under Clause 32 of the Special Conditions of Contract, is hereby quashed and set aside.

63.2 The Notice Inviting Bid (NIB/NIT) for preparation of DPR, to the extent it pertains to the OTS flyover project, is also quashed.

63.3 The petitioner shall get all consequential benefits, and it be entitled to pursue its lawful claims arising out of the contract in accordance with law.

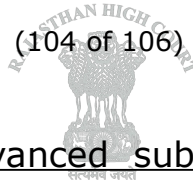
63.4 The respondents are directed to proceed with the execution of the project forthwith, in accordance with the subsisting contract, and to take all necessary steps to ensure its



timely completion. While doing so, the respondents shall duly consider price variation, contractual adjustments, and other permissible claims, in accordance with law and the terms of the contract.

63.5 The respondents shall also ensure that the project is implemented in its true spirit, in alignment with the policy vision reflected in the State Budget announcements for the years 2021–2022 and 2024–2025.

64. This Court further deems it necessary to direct an inquiry into the decision-making process leading to the withdrawal of the contract, in view of the glaring inconsistencies between the stand taken by the respondents before this Court and the contemporaneous official record, including the note-sheets and internal communications. The material placed on record *prima facie* discloses that the impugned decision was not founded upon any objective assessment of contractual breach, but was instead influenced by extraneous considerations and administrative lapses, thereby resulting in arbitrary exercise of power. This Court is of a stern view that in matters involving public contracts, the State and its instrumentalities are under a heightened obligation to act in a fair, transparent, and accountable manner, particularly when decisions entail significant financial implications and affect public interest. The present case reveals that despite the availability of lawful and contractual alternatives, the respondents chose to adopt a course which not only defeated a subsisting contract, but also led to potential loss to the public exchequer and delay in execution of a project of public importance. Further, the fact that



the respondents have advanced submissions before this Court which are not borne out from their own record raises serious concerns regarding the integrity of the decision making process; and it is opined that such conduct, if left unchecked, would erode public confidence in administrative functioning and undermine the rule of law.

65. This Court further considers it apposite to underscore that while the State is entitled to act in furtherance of sovereign and public interest, such doctrine cannot be invoked as a *carte blanche* to justify actions which are otherwise arbitrary, disproportionate, or unsupported by the record. The doctrine of sovereign interest, read in conjunction with the principles of public trust, fairness in administrative action, and accountability, mandates that every decision of the State must demonstrably serve a legitimate public purpose and withstand judicial scrutiny on the touchstone of Article 14 of the Constitution of India. Any departure from an existing contractual obligation must therefore be founded upon cogent, transparent, and bona fide considerations, and not on extraneous or undisclosed factors. Simultaneously, this Court deems it necessary to observe that the Officer-in-Charge representing the department before the Court bears a solemn responsibility. Such officer, while swearing affidavits and placing records before the Court, acts not merely as a departmental functionary but as an extended arm of the justice delivery system, rendering assistance to the learned counsel representing the State. The officer thus assumes a position akin to that of an officer of the Court, and is expected to maintain the highest standards of



candour, accuracy, and responsibility in all submissions made on affidavit. Any statement made must be strictly in consonance with the official record, and due diligence is expected before affirming pleadings. Casual, misleading, or inconsistent averments not only impair the adjudicatory process but also amount to a serious dereliction of duty, warranting appropriate scrutiny.

66. Thus, a structured inquiry to ascertain the circumstances under which such decision was taken, to identify any procedural irregularities, lapses, or misconduct, and to ensure that accountability is fixed upon the officers responsible, be taken. Such a direction is not punitive in nature but is essential to uphold the principles of good governance, administrative accountability, and transparency in State action. Accordingly, the Chief Secretary, of the State of Rajasthan, is directed to take appropriate measures in this regard, strictly in consonance with the directives enumerated herein, against the erring officer(s), within an upper limit of two months from the date of pronouncement of this judgment.

67. In addition, this Court deems it appropriate to record that *prima facie* misrepresentation has been made before this Court by the Officer-in-charge/erring officers, whose pleadings were found to be inconsistent with the official record. The competent authority is directed to initiate appropriate proceedings and take action in accordance with law.

68. Consequently, the instant petitions stand **allowed**, with above mentioned directions. There shall be no order as to costs. Pending applications, if any, shall stand disposed of accordingly.



69. Registrar (Judicial) is directed to retain a xerox copy of file no. 5 and 6 from the records furnished by the respondent-JDA; and thereafter return the records, *in toto*, to the concerned officer, strictly in compliance with the due procedure.

(SAMEER JAIN),J

Pooja /