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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010360292026
+ **ARB. A. (COMM.) 57/2026, CAV 369/2026, I.A. 21237/2026,**
I.A. 21238/2026, I.A. 21239/2026
NATIONAL HIGHWAYS AUTHORITY OF INDIA

.....Petitioner

Through: Mr. Tushar Mehta, Solicitor
General, Mr. Abhay Gupta, Mr.
Ankur Saboo, Mr. Yugantar
Singh Chauhan, Ms. Ipshita
Dutta, Advs.

versus

M/S ROADWAY SOLUTIONS INDIA INFRA LTD

.....Respondent

Through: Mr. Dayan Krishnana, Senior
Advocate along with Mr.
Sandeep Sharma, Mr. Samir
Malik, Mr. Varun Kalra, Mr.
Nishant Thakur, Mr. Krishan
Kumar, Advs.

CORAM:
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT(ORAL)

% **07.08.2026**

1. The present appeal is preferred under Section 37(2)(b) of the Arbitration and Conciliation Act, 1996¹ seeking to quash and set aside *exparte ad-interim* order dated 30.07.2026 passed by the learned Arbitral Tribunal in an application under Section 17 of the Act filed by the Respondent.

¹ "the Act" hereinafter



2. The relevant facts of the case are that an Engineering, Procurement, and Construction Contract² dated 19.01.2024 was awarded by the Appellant to the Respondent for the construction of an Eight Lane access-controlled Section of the Vadodara-Mumbai Expressway from 154+600 Km to 190.00 Km in the state of Gujarat.

3. Disputes subsequently arose regarding the progress and performance of the works, following which the parties entered into settlement agreements dated 23.08.2024, 04.04.2025 and 12.08.2025.

4. In the interregnum, the appellant also issued a Notice of Intent to Terminate dated 16.06.2025, which however came to be challenged by the Respondent under Section 9 of the Arbitration and Conciliation Act, 1996, but subsequently the said proceedings were withdrawn on 30.06.2025.

5. A further Notice of Intention to Terminate dated 23.12.2025 was thereafter issued by the Appellant, leading to another Section 9 petition by the Respondent.

6. By order dated 02.01.2026, the learned Single Judge of this court passed an interim order restraining the Appellant from acting upon the said notice, however, in appeal, the Division Bench of this court by order dated 13.01.2026 permitted the Appellant to pass an appropriate

² “EPC” hereinafter



order pursuant to the notice of termination and, if considered necessary, to issue a fresh tender and engage another agency for completion of the project.

7. Pursuant thereto, the Appellant terminated the EPC Contract on 17.01.2026 and issued a Request for Proposal for completion of the balance works on 23.01.2026.

8. The Respondent challenged the aforesaid Division Bench order before the Hon'ble Supreme Court, which by order dated 02.02.2026 disposed of the proceedings while leaving the parties' disputes and grievances open for adjudication in arbitration. A three member Arbitral Tribunal was thereafter constituted, and at its first hearing on 18.06.2026, timelines for pleadings and further proceedings were fixed.

9. During the pendency of the arbitration, the Appellant issued a Show Cause Notice dated 06.07.2026 proposing to declare the Respondent a "Non-Performer" and to initiate consequential debarment proceedings.

10. The Respondent submitted its reply to debarment proceedings on 16.07.2026 disputing the allegations and also sought a personal hearing.

11. Before any final order on the show cause notice was passed, the Respondent, on 28.07.2026, filed an application under Section 17 of the Arbitration and Conciliation Act seeking, suspension of the termination



dated 17.01.2026, and restraint against any final declaration of the Respondent as a Non-Performer or its debarment.

12. It is made out from the record that the said application was served upon the Appellant by email on 28.07.2026. Immediately after two days, on 30.07.2026, before the Appellant could file their response or even without hearing on the said Section 17 application, the Arbitral Tribunal directed the Appellant to “maintain *status quo*”, as existing on 28.07.2026, until further orders.

13. Mr. Tushar Mehta, learned Solicitor General vehemently submits and flags an order dated 05.05.2026, whereby the Hon’ble Supreme Court directed the Respondent to pay Rs. 5,00,000 as costs for casting aspersions on then presiding arbitrator.

14. Learned Solicitor General has further taken this Court through the direction passed in the impugned order 30.07.2026 and submits that there was no urgency existing as on that day and, merely notice on debarment proceedings was issued.

15. The learned Solicitor General appearing for the Appellant has also highlighted an email dated 04.08.2026 where one of the co-arbitrator stated that he had not consented to the grant of *ad-interim ex-parte* protection and that the discussion within the Tribunal was intended solely for fixing a hearing date for application under Section 17 of the Arbitration and Conciliation Act, 1996.



16. Learned Solicitor General challenges the impugned order dated 30.07.2026 primarily on the ground that it was passed without affording an opportunity of hearing to the Petitioner as well as on the back of one of the Co-arbitrator.

17. Further, he submits that Learned tribunal failed to specify the precise scope of the *status quo*, and it lacked reasoned findings on the classic tripartite principles for interim relief. Thus, he raises strong reservations and submits that conduct of this nature is one of the principal reasons for the diminishing faith of the general public in arbitration and such instances are precisely what erode public confidence in the arbitral process.

18. *Per contra*, Mr. Dayan Krishnan, learned Senior Counsel appearing for the Respondent submits that genuine urgency existed at the time of filing of section 17 application because the show cause notice for debarment dated 06.07.2026 had already been replied on 16.07.2026 and a final non-performer/debarment order could have been passed at any time thereafter.

19. It is also contended that an order of debarment / blacklisting would inflict immediate catastrophic and irreversible reputational and commercial damage, disabling the Respondent from participating in future public tender across the Country.



20. I have heard learned Counsel for both parties and perused the material on record. This court upon perusal of the impugned order 30.07.2026 finds that same is without any reasoning and no urgency or *prima facie* case is even considered in the impugned order.

21. This Court having glanced through the omnibus relief(s) claimed in the Section 17 application by the Respondent, have its own doubt about the expansive reliefs claimed in the Section 17 application, including but not limited to reliefs being sought regarding termination of contract, which admittedly came to be effected way back in January 2026.

22. Such relief claimed in an application under section 17 is bound to raise doubts in anyone's mind since the relief(s) sought in section 17 application are practically of substantive and final in nature.

23. To this, the learned Senior Counsel for the respondent fairly submits that these kind of relief(s) should not be sought in a section 17 application and relevant prayer is only with respect to debarment.

24. It is made out from the record that the application under Section 17 of the Act, is due to be heard by the Arbitral Tribunal in a contested hearing on 12.08.2026.



25. At this stage, learned Solicitor General appearing for the Appellant submits that no order of debarment/blacklisting shall be passed without providing an opportunity of hearing to the Respondent and the Appellant are yet to fix a hearing on debarment. Learned Solicitor General further submits that there shall not be any debarment order before 12.08.2026.

26. In these circumstances, this Court is of the considered view that it would be in the best interest of justice that both parties advance their full arguments before the learned Arbitral Tribunal.

27. Accordingly, both parties are directed to present their respective arguments on application under Section 17 before the learned Arbitral Tribunal on the date already fixed i.e. 12.08.2026.

28. The pleadings, if any, pertaining to section 17 application shall be completed between the parties before 11.08.2026 and the learned Arbitral Tribunal is requested to complete the hearing and decide the application under Section 17 on 12.08.2026.

29. The learned arbitral tribunal is requested not to grant any adjournment or indulgence on 12.08.2026.

30. It is clarified that in view of the statement made by the learned Solicitor General that Respondents shall not be debarred before 12.08.2026, *ad-interim* relief granted vide order dated 30.07.2026 by



the learned Arbitral Tribunal is hereby set aside.

31. Accordingly, the present appeal is allowed in the aforesaid terms.

32. It is clarified that the observations or any findings made herein are solely for the purpose of deciding the present appeal.

33. The learned Arbitrator Tribunal shall adjudicate the disputes independently and on their own merits, uninfluenced by any observations or finding contained in the present order.

OM PRAKASH SHUKLA, J

AUGUST 7, 2026/at