
(2026) 08 GAU CK 3895
In the Gauhati High Court
Case No : WP(C)/3398/2026

M/S Rana Construction And Engineers Pvtl. Ltd. APPELLANT
Vs
The State Of Assam & Ors. RESPONDENT

Date of Decision : 03-08-2026

Acts Referred:

Constitution of India — Article 226

Citation : (2026) 08 GAU CK 3895

Hon'ble Judges : Sanjay Kumar Medhi, J

Bench : Single Bench

Advocate : MR. K N CHOUDHURY, MR. R M DEKA, N GAUTAM, MR. TANUZ KASHYAP, DY.S.G.I., SC, PWD, Shri K.N. Choudhury, Shri R.M. Deka, Shri B. Gogoi

Final Decision : Allowed

Judgement

The instant petition under Article 226 of the Constitution of India has been filed seeking the following reliefs:

"In the premises aforesaid, it is therefore respectfully prayed that Your Lordships may be pleased to admit this application, call for the records and issue a Rule calling upon the Respondents to show cause as to why a writ in the nature of:

a.Certiorari shall not be issued for setting aside the impugned office order No.BRD/RD/05/2026/15 dated 20.06.2026 issued by the Chief Engineer, PWD (NH) Works, Assam, whereby, the petitioner has been debarred from participating in any ongoing or future tenders under the Department of PWD (NH) Works Assam for a period of one year, and/or

b.Mandamus shall not be issued directing the respondents to forthwith recall/rescind/cancel and/or forbear from giving effect to the impugned officeorder No.BRD/RD/05/2026/15 dated 20.06.2026 issued by the Chief Engineer, PWD (NH) Works, Assam, whereby, the petitioner has been debarred from participating in any ongoing or future tenders under the Department of PWD (NH) Works, Assam for a period of one year, and

C.Mandamus shall not be issued directing the respondents to forthwith allow the petitioner to participate in the ongoing and future tender processes under the respondents, and

upon cause/s shown and upon perusing the records and after hearing the parties, Your Lordships may be pleased to make the Rule absolute and/or to pass such further or other order/s as Your Lordships may deem fit and proper.

..."

2. As per the facts projected, 3 works under the Karimganj NH Division were issued to the petitioner pursuant to a tender process which he claims to have completed and certificates towards successful completion were also issued. The work was, however, visited by the Hon'ble Union Minister of State (RT&H) and certain concerns were raised on the condition of the road stretches. The respondent no. 4 has informed the petitioner that on 27.03.2026 certain samples were collected and though the petitioner had requested for supply of duplicate samples for independent testing in terms of the contract agreement, the same was, however, declined. The respondent no. 2 had forwarded a report of the Assam Engineering College Consultancy Cell alleging deficiency in the binder content and had directed the petitioner to undertake the rectification. However, the petitioner had independently collected the samples and got those tested at an NABL accredited laboratory and the Test Report dated 30.05.2026 had confirmed that the standards were maintained. Accordingly, the petitioner had submitted a representation, enclosing the said report on 05.06.2026. However, on 09.06.2026, a show cause notice was issued which was replied to on 13.06.2026. There was also a personal hearing on 20.06.2026 in which, the petitioner had produced the Test Report which had confirmed the binder content falls within the prescribed specification. However, vide the impugned order dated 20.06.2026, the petitioner has been debarred from participating in tender for a period of 1 year. It is this action which is the subject matter of challenge in the present writ petition.

3. I have heard Shri K.N. Choudhury, learned Senior Counsel assisted by Shri R.M. Das, learned counsel for the petitioner. I have also heard Shri B. Gogoi, learned Addl. A.G. representing the Public Works Department.

4. Shri Choudhury, learned Senior Counsel has submitted that the impugned action is in violation of the norms as laid down in the guidelines forwarded vide a communication dated 23.02.2018 by the Ministry of Road Transport and Highways. He has specifically drawn the attention to Clause 8 of the said guidelines which requires the State PWD to evaluate the bids which are up-to 5 crores as per the Ministry's extant guidelines.

5. The learned Senior Counsel has also drawn the attention to Sl. No. 5 of the communication dated 06.10.2021 containing the nature of the action which can be taken against a contractor for a kind of deficiency. He has submitted that as per the prescription given under Sl. No. 5, in the failure to complete rectification, the debarment can be made till such rectification is completed. He has submitted that in the instant case, the debarment is specified to be for a period of 1 year. He has also drawn the attention of this Court to the requirement of an approval by the Director General (RD) and SS in respect of NH works as provided in

paragraph 6 of the said communication. He has specifically submitted that no such approval was granted by the Director General (RD) and SS which is a mandatory requirement. He has submitted that without even urging the grounds on the merits of the action taken, the decision making process itself appears to be not in the manner prescribed by law and therefore, the present is the fit case for interference by this Court.

6. Shri Gogoi, learned AAG, on the other hand, has defended the action and has submitted that the impugned action is taken bona fide and in the interest of public. It is submitted that before the impugned action was taken, the samples were tested in the prescribed laboratory where the binder content was found to be shortcoming. He has also submitted that the petitioner was given due opportunity, including personal hearing whereafter only, the impugned decision has been taken. The learned State Counsel has, however, fairly submitted that the instructions do not cover the aspect as to whether any approval was taken by the authority mentioned in paragraph 6 of the communication dated 06.10.2021. He has also submitted that though the blacklisting is for a period of 1 year, there is no dispute to the prescription that such blacklisting can be till a period when the rectification is done.

7. After hearing the learned counsel for the parties, this Court is of the opinion that instead of going into the inter-se merits of the respective parties wherein such scope is also limited, it appears that in the decision making process itself, there is a violation of the prescribed norms. It is not in dispute that the Ministry's guidelines would be applicable as per the communication mentioned above which amongst others, requires approval of the Director General (RD) and SS. As observed above, there is nothing on record to show that such approval was indeed taken from the said authority.

8. In view of the above, this Court is of the opinion that the impugned action is not sustainable in law and is accordingly set aside. The respondent would, however, be at liberty to take appropriate action by strictly following the law. While doing so, the prescription laid down that such blacklisting can be for a period till rectification is done, as provided in Sl. No. 5, would also have to be taken into consideration.

9. At this stage, Shri Choudhury, learned Senior Counsel for the petitioner has submitted that in the meantime, a communication dated 01.08.2026 has been issued whereby in terms of the blacklisting order, the registration of the petitioner has been suspended and this fact has been brought on record by way of an additional-affidavit.

10. Though Shri Gogoi, learned Addl. A.G. has raised the issue that such order may give rise to a fresh cause of action, this Court is of the opinion that the office order dated 01.08.2026 as enclosed in the additional-affidavit filed on 03.08.2026 is only a consequence of the principal order which has already been interfered with. This Court is also of the opinion that in a writ proceeding,

connected facts can be brought on record by way of an additional-affidavit which would be treated to be a part of the pleadings as held by the Hon'ble Supreme Court in the case of **Sri-La Sri Subramania Desika Gnanasambanda Pandarasannidi Vs. State of Madras and Anr.**, reported in **AIR 1965 SC 1578**. In view of the above, the consequential order dated 01.08.2026 also stands set aside.

11. The writ petition stands allowed in the manner indicated above.