

(2026) 07 DEL CK 0229

In the Delhi High Court, Principal Bench, New Delhi

Case No : W.P.(C) 10788/2025

T Suryanarayana Reddy

APPELLANT

Vs

National Highways Authority Of India & Ors.

RESPONDENT

Date of Decision : 03-07-2026

Acts Referred:

Bhartiya Nyaya Sanhita — Section 316(2), 319(2), 318 (4), 338, 336 (3), 340 (2)
Constitution of India — Article 226, 32, 14
Code of Civil Procedure — Order 9 Rule 13
Indian Evidence Act — Section 63

Citation : (2026) 07 DEL CK 0229

Hon'ble Judges : Sachin Datta, J

Bench : Single Bench

Advocate : Mr. Ram Babu, Mr. Angad Mehta, Mr. Nalin Kohli, Ms. Nimisha Menon, Mr. Parmod Kalirana, Mr. Manish Choudhary, Mr. Amaya Vaid, Mr. Aman Yadav

Final Decision : Disposed Of

Judgement

1. The present petitions have been filed by the petitioners, who are private contractors/agencies engaged by the respondent/National Highway Authority of India (NHAI) for user fee collection at the fee plazas under the NHAI. The petitioners assail communications/letters issued to them between 18.07.2025 and 18.08.2025 by the respondent/NHAI, in terms whereof, following actions have been taken against them: -

(i) the petitioners have been debarred from participating in future tender/s issued by the respondent no.1 for a period of one year;

(ii) ongoing contracts of the petitioners in W.P(C)11106/2025; W.P(C) 11172/2025; W.P(C) 11684/2025; W.P(C)12044/2025; W.P(C) 12091/2025 have been terminated [by invoking the certain provisions of the Contract Agreement executed between the parties];

(iii) the performance securities furnished by the petitioners with respect to the

contract agreements, for operating the subject fee plazas, have sought to be encashed.

2. At the outset, it is noted that impugned communications have been issued by the respondent in identical factual conspectus and the petitioners raise similar ground of challenge against the common respondent. In the circumstances, it is considered apposite to dispose of the petitions by way of a common order.

3. Further, for the sake of convenience, W.P.(C) 12780/2025 captioned as **M/s Ashish Agarwal vs National Highways Authority of India and Anr.**, is taken up as the lead matter. The reference to the facts as noted, unless the context indicates otherwise, are the facts as obtained from the said petition.

FACTUAL MATRIX

4. Pursuant to a raid carried out on 22.01.2025 by the Uttar Pradesh Task Force (hereinafter referred as "the UPSTF") at Shivgulam Toll Plaza, Atraula, PS Lalganj, District Mirzapur, three individuals were arrested for allegedly causing losses to the national exchequer by creating, installing and operating parallel/ counterfeit software at various toll plazas of NHAI. Subsequent thereto, an FIR bearing no. 0017/2025 was registered and one of the arrested persons/accused (Mr. Alok Kumar) in his confessional statement identified certain toll plazas, including that of the petitioners, and claimed that he had installed and operated parallel software systems for embezzlement of toll fees.

5. On the basis of the aforementioned statement, the UPSTF issued a press statement no.36 dated 22.01.2025 recording names of the toll plazas identified thereof as under [translated version alongwith true copy annexed as Annexure P-17 in W.P.(C) 12780/2025] :

"SPECIAL TASK FORCE, UTTAR PRADESH, LUCKNOW.

PRESS NOTE NO. 36, DATED 22.01.2025

03 members of gang have been arrested for causing loss to the National Revenue by way of embezzling of Toll Tax worth Crores of Rupees by committing fraud through additional concomitant/parallel software from vehicles without fast tag at various toll plazas of National Highway Authority of many States.

On 21.01.2025, Special Task Force (STF), Uttar Pradesh achieved remarkable success in arresting 03 members of gang for causing loss of national revenue by embezzling Toll Tax worth Crores of Rupees by committing fraud through parallel software from vehicles without fast tag at various Toll Plazas of National Highway Authority of many states
DETAILS OF ARRESTED ACCUSED:-

1. Alok Kumar Singh Son of Late Arun Kumar Singh Resident of Faridabad Siddikpur, ITI, Police Station Sarai Khwaja, District Jaunpur. Present address at SSR Tower - 116 (C) Harhua, Kazisarai, Varanasi, Uttar Pradesh.

2. Manish Mishra Son of Mohan Lal Mishra Resident of Kanjwar Police Station Majhau, Sidhi, Madhya Pradesh.

3. Rajiv Kumar Mishra Son of Brijesh Mishra Resident of Paranipur, Police Station Meja, Prayagraj, Uttar Pradesh.

RECOVERY:

(1) 02 Laptops (2) 01 Printer (3) 05 Mobile Phones (4) 01 Vehicle Maruti XL – 6 (5) Cash amount of Rs. 19,580/-

PLACE/DATE OF ARRESTING:

Shivgulam Toll Plaza Atraula Police Station Area Lalganj District Mirzapur. Date: 22.01.2025 Time 03.50 AM.

For the past several days, STF Uttar Pradesh was receiving information about fraudulent Toll Tax embezzlement from vehicles without Fast Tag or with insufficient funds in the Fast Tag account at various toll plazas of National Highways by using separate software in addition to the NHAI software/server in the Toll Plaza booth computer. In relation to which, a team was formed under the supervision of Shri Vinod Kumar Singh, Additional Superintendent of Police, STF Varanasi and Shri Vimal Kumar Singh, Deputy Superintendent of Police, STF Lucknow and accordingly action was being taken for collecting information.

During the course of collection of information, it was found that a person who makes and installs software other than NHAI's software/server was in Varanasi. On the information of the secret informer, a team consisting of Inspector Shri Deepak Singh, Inspector Rizwan, Inspector Anil Kumar Singh, U.N. Satyaprakash Singh, Sub Inspector Ranvijay Tiwari, Alok Rai, Ajay Jaiswal, Aniruddh Suvan Tripathi, Constable Akit Singh and Pushp Kumar on 21-01-2025 at 16.00 pm from near Babatpur Airport for interrogation brought one person named Alok Kumar Singh.

On being asked Alok Kumar Singh told that he is an MCA and having good knowledge of software development. He has also worked at Toll Plazas in the past. He has worked with Riddhi-Siddhi Company, Sawant and Sukhantu in the past. From there, he came in the contact of companies/firms who undertake/take contracts for Toll Plazas. He knows that Fast Tag is mandatory at all Toll Plazas in India. Vehicles passes through Toll Plazas without Fast Tag are charged Double Toll Tax as penalty. With the aim of embezzling double fee from vehicles Without Fast Tag, thereafter, Alok Kumar Singh, in connivance with Toll Plaza owners/managers has created a software that is installed in the system installed at one of the Booths of the Toll Plaza in which NHAI software is installed. And with the connivance of IT personnel working at the Toll Plaza through various means in the same he got installed the software (online or offline). He has direct online access to it from his personal laptop. Double Toll Fee charged from vehicles Without Fast Tag passing through Toll Plaza is collected through software developed by Alok Singh. Its printed slip is similar to the NHAI software. Details of every Toll/Booth/Transaction are displayed on Alok Singh's laptop. As per rules, 50% of the Toll Tax collected from vehicles Without Fast Tag has to be deposited by the Toll Plaza in the account of NHAI. But through the aforesaid software installed by Alok Singh, the Toll Plaza Owners/Managers embezzle the amount collected from vehicles Without Fast Tag. After the said illegal collection/embezzlement the vehicle is allowed to pass by showing it as exempted from vehicle Fee. On an average, 05% of the Toll Tax collected from vehicles Without Fast Tag is collected through the original software of NHAI. So that no one has any doubt that the Toll Tax of vehicles Without Fast Tag is not going to the account of NHAI. The Toll Plaza Owners/Managers illegally distribute the embezzled amount among the Toll Plaza IT personnel, other personnel and themselves and Alok Singh and his associates and take advantage of the same. Alok Singh also told that under the supervision of his Associates Sawant and Sukhantu, Toll Tax is being embezzled by installing such software at more than 200 toll plazas in the country. Alok Singh has installed his software at 42 Toll Plazas and receives the money received from it online/offline in his own, family members and his fatherin-

law's bank account/wallet. Alok Singh also told that he has been doing this work for the last two years. On an average of Rs. 45,000/- Toll Tax embezzlement was found daily from the said software installed at Atraila Shiv Ghulam Toll Plaza Lalganj, Mirzapur. Investigation is being continued about other Toll Plazas. Based on the information received from Alok Singh, the employee Manish Mishra who used to collect money from vehicles Without Fast Tag and issue Toll Slips through phone and Toll Manager Rajiv Kumar Mishra were arrested from Atraila Shiv Ghulam Toll Plaza Lalganj Mirzapur. The aforesaid items/case property were recovered from them. Investigation is being continued about other facts. The list of toll plazas where accused Alok Singh has installed separate software apart from NHAI server is as follows:

1. Harro Toll Plaza Prayagraj U.P.
2. Mungari Toll Plaza Prayagraj U.P.
3. Umapur Toll Plaza Prayagraj U.P.
4. Andi Toll Plaza Lohara, Azamgarh U.P. (A.K.C.C. Company)
5. Baghpat Toll Plaza Baghpat U.P. (A.K.C.C. Company)
6. Faridpur Toll Plaza Bareilly U.P.
7. Patni Pratappur Toll Plaza Shamli U.P.
8. Atraila Shiv Ghulam Toll Plaza Mirzapur U.P.
9. Nainsar Toll Plaza Gorakhpur U.P.
10. Chikli Toll Plaza Madhya Pradesh
11. Jangabani Toll Plaza Madhya Pradesh
12. Mohtara Toll Plaza Madhya Pradesh (A.K.C.C. Company)
13. Shalibada Toll Plaza Madhya Pradesh
14. Shahdol Toll Plaza Madhya Pradesh
15. Gahara Toll Plaza Madhya Pradesh
16. Phulera Toll Plaza Jaipur Rajasthan
17. Kadashahna Toll Plaza Rajasthan (AKCC Company)
18. Shahpur Toll Plaza Rajasthan
19. Shauli Toll Plaza Rajasthan Company Anuvejan
20. Madanpur Toll Plaza Assam Company RK Jain
21. Balachera Toll Plaza Assam
22. Bhojpuri Toll Plaza Chhattisgarh Company AKCC
23. Maharajpur Toll Plaza Chhattisgarh
24. Mudiapara Toll Plaza Chhattisgarh
25. Kumhari Toll Plaza Durg Chhattisgarh
26. Van Toll Plaza Jammu
27. Dashrkhed Toll Plaza Maharashtra
28. Khani Bade Toll Plaza Belbadi Maharashtra
29. Mokha Toll Plaza Gujarat Company AKCC
30. Rohisa Toll Plaza Gujarat Company AKCC

31. Okha Mandi Toll Plaza Gujarat
32. Kuchadi Toll Plaza Gujarat
33. Nawasari Toll Plaza Jharkhand
34. Turup Toll Plaza Jharkhand Company AKCC
35. Tand Balidha Toll Plaza Jharkhand
36. Lal Toll Plaza Punjab
37. Jigha Toll Plaza Punjab Company AKCC
38. Gobari Toll Plaza West Bengal
39. Paschim Madati Toll Plaza West Bengal
40. Kadli Gadh Toll Plaza Odisha
41. Sanwara Toll Plaza Himachal Pradesh
42. Jangaon Toll Plaza Telangana. The Case being Case Crime No. 17/2025 for the charges of offence punishable U/s 316(2), 319(2), 318 (4), 338, 336 (3), 340 (2) Bhartiya Nyaya Sanhita (BNS) at Police Station Lalganj, District Mirzapur got registered against arrested accused persons. Further legal action shall be initiated by local police."

6. Thereafter, a show cause notice dated 25.01.2025 came to be issued by the NHAI to the petitioner followed by a letter/communication dated 18.03.2025, *inter-alia* debarring the petitioner for a period of 2 years from participating in any tender issued by the NHAI. The relevant portion of the said letter/communication dated 18.03.2025 reads as under:

"6. After giving you an ample opportunity of being heard and finding your replies unsatisfactory and considering the seriousness of the issue involved; the Authority has decided to Terminate the Contract Agreement for the subject fee plaza by invoking Clause 35(3) of the Contract Agreement and also Debar you/your Firm (including Directors/Owners) for a period of Two (02) years as per the Clause-21 (i) of the Contract Agreement and Clause 3.1 & 3.2 of the RFQ. Further, considering that you have failed to disprove the finding of UP STF regarding unauthorized cash collection and non- deposition of actual double fee collected from non-FASTag vehicles to NHAI Account, the Performance Security (Cash+BG) for the subject fee plaza, is being en-cashed in violation of the provisions of the Contract Agreement."

7. Against the communication/letter dated 18.03.2025 issued by the NHAI, the petitioner preferred W.P(C) 3640/2025 before this Court. *Vide* an order dated 28.03.2025, the communication/letter dated 18.03.2025 came to be set-aside by this Court on account of being issued in violation of the principles of natural justice, particularly on account of the failure of NHAI to afford the petitioner an opportunity of personal hearing, and also various discrepancies in the impugned communication. However, NHAI was given liberty to issue a fresh show cause notice and pass a speaking/reasoned order, after granting petitioners an opportunity of personal hearing. The relevant portion of the said order reads as under: -

"4.....It is submitted that the impugned letter fails to even notice much less deal with the submissions made by the petitioners in response to the show cause notice."

5. Further, it is brought to the attention of this Court that whereas the show cause notice sought to debar the petitioner only for a period of one year, the impugned letter purports to terminate the contract and also debar the petitioner for a period of two years.

6. It is further submitted that the show cause notice made no reference to any termination action by the respondent.

7. Lastly, it is submitted that the impugned communication have been passed in utter violation of the principles of natural justice inasmuch as no hearing whatsoever was afforded to the petitioner. This is not refuted by learned counsel for the respondent.

8. The respondent seeks to justify the impugned order on the basis of the statement made by one Mr. Alok Kumar Singh to the UPSTF. The same is, however, vehemently denied by learned senior counsel for the petitioner.

9. Respective counsel for the parties have been heard at some length.

10. It is noticed that communications / letters issued by the NHA I which are similar to the impugned communication in the present case and were issued in an identical factual matrix, have been set aside by this Court vide order dated 21.03.2025 in W.P.(C) 3513/2025 and W.P.(C) 3515/2025.

11. In the circumstances and considering the aforementioned discrepancies in the impugned communication/s, and particularly considering that no opportunity for personal hearing was afforded to the petitioner prior to issuance thereof, the same is clearly unsustainable in law. Accordingly, the impugned communication/s are set aside.

12. However, it is clarified that the same shall not preclude the respondent from issuing a fresh show cause notice, followed by an opportunity of hearing to the petitioner, and thereafter pass a speaking order. Let the said exercise be done as expeditiously as possible."

8. Pursuant thereto, a fresh Show-Cause Notice dated 23.06.2025 was issued to the petitioners by the NHA I. Further, on 26.06.2025, an opportunity of hearing was also afforded by the NHA I to the petitioners.

9. Consequently, NHA I relying upon confessional statement of the accused in FIR bearing no. 017/2025; Press Note No.36 dated 22.01.2025 issued by the UP STF and post-raid surge in figures of cash collection, debarred the petitioners [in terms of clause 21(i) of the Contract Agreement] for a period of 1 year from participating in future tender/s issued by the NHA I and also sought to encash performance security furnished by the petitioner as stipulated in Clause 17(c) of the Contract Agreement. In addition to the aforesaid, it was decided to terminate the ongoing contracts of the petitioners in W.P (C) 11106/2025; W.P(C) 11172/2025; W.P(C) 11684/2025; W.P(C) 12044/2025; and W.P(C) 12091/2025.

10. Aggrieved, the petitioners preferred the present batch of petitions assailing the impugned decisions undertaken by the NHA I.

SUBMISSIONS ON BEHALF OF THE PETITIONERS

11. Learned counsels appearing on behalf of the petitioners have advanced the following common submissions: -

i. The impugned decision is premised upon mere conjectures and surmises

inasmuch as the primary basis for passing of the impugned decision is that the name of the petitioners have been recorded in the press statement issued by the UP STF. However, NHAI failed to take into consideration the fact that neither were the petitioners named in the chargesheet nor any incriminating material was found/seized by the UP STF during the said raid against them.

ii. Prior to the raid dated 22.01.2025 conducted by UP STF, during regular inspections (undertaken by the respondent, its officials, system integrators, and authority engineer) no irregularity whatsoever was discovered at the concerned toll plazas. Furthermore, even pursuant to the said raid, despite the toll plazas undergoing detailed investigations, no irregularity or seizure, particularly pertaining to the usage of any illegal software/POS was discovered and on contrary, the NHAI itself gave clearance to the petitioners.

iii. NHAI has a three-layered mechanism to supervise the user fee collections. All software at fee plazas are installed by the respondent/NHAI and its operation and maintenance are also undertaken by the agencies appointed by the NHAI. Therefore, the petitioners have no involvement, as regards thereto.

iv. Data relied upon by NHAI to substantiate sudden pre-raids and post-raids surge in toll cash collection is premised upon the data/report which the petitioners submit to the respondent on a regular basis. No discrepancy was reported by the respondent to the said data/report before or after the raid dated 22.01.2025. However, abruptly, just to justify lack of evidence against the petitioners, NHAI took refuge behind fluctuation in cash collection at the toll plazas of the petitioners to somehow implicate/ make allegations against the petitioners.

v. Undisputedly, toll collection is directly proportionate to the traffic flow, which depends upon variety of factors such as time, geography/location, regional events, weather conditions etc. Thus, considering that traffic patterns are subjective in nature, there can be no correlation between Electronic Toll Collection (ETC) and cash collection; and sudden surge in cash flow recorded during the concerned period was attributable to Maha Kumbh Mela 2025, regional tourism to major pilgrimage sites, infrastructural changes, seasonal variations etc. The same can also be substantiated from the collections recorded by various other toll plazas across the country, which have not been named in the press note released by UP STF.

vi. Cash collection is only a minimal percentage when compared to the FASTag collection. It is only due to the low base value that the variation in cash flow percentage seems more significant than that of FASTag. Furthermore, the variation in FASTag collection has not been considered by the NHAI.

vii. Without any lapse on part of the petitioners, on mere assumptions, the decision to debar, terminate contracts and encash Performance Security was taken. The same is highly disproportionate and arbitrary, especially in the light of the settled position of law that debarring/ of a firm is equivalent to its civil death and should be issued cautiously and sparingly by the concerned authorities.

12. Further, the learned counsel on behalf of the petitioners in W.P(C) 12044/2025 and W.P(C) 14768/2025 submitted that at the time when the alleged misappropriation was discovered at the concerned toll plaza, the predecessor agency was operating fee collection therein and not the petitioners, thus, debarment of the petitioner is arbitrary.

13. It has also been contended by the learned counsel on behalf of the petitioner in W.P(C) 14768/2025 that contrary to the *modus operandi* alleged and the insinuations made i.e. post raid reduction the ratio of exempt vehicles and cash collection would reduce and ratio of cash collection increase, there has been an increase in both the exemption ratio and cash ratio in post raid period. Furthermore, a seasonal spike is not uncommon, even in the year 2024, petitioners cash collection went from 0.90% in March to 4.86% in April and then to 1.36% in May.

SUBMISSIONS OF BEHALF OF THE RESPONDENT NO.1/NHAI

14. Learned counsel for the respondent submitted that the purview of judicial review is limited and an interference is only warranted if the impugned action is perverse, arbitrary or in violation of principle of natural justice. However, in the present petitions, judicial review is unwarranted inasmuch as the impugned decisions are reasoned and have been undertaken by the respondent in compliance with the principles of natural justice. Prior to passing of the impugned decision, the petitioners were issued detailed Show Cause Notices and also afforded an opportunity of hearing.

15. It is also submitted that debarment order is a reasoned administrative decision, premised upon cogent and credible material contained in the FIR and subsequent investigations undertaken by the UP-STF, including the statement of principal accused during the investigation, which expressly named 42 toll plazas, including that of the petitioners.

16. The tolling operators/ petitioners herein are responsible for ensuring that their respective toll plazas are operated without manipulation. The petitioner cannot shift responsibility onto IHMCL or the System Integrator, as the Contract imposes independent and non-derogable obligations upon the toll contractor. Further, the IHMCL only checks the proper functioning of the system, is not embedded in the petitioners' staffing hierarchy, does not control their employees, and cannot physically prevent the toll operator from adopting a parallel off-system practice that is not reflected in the ETC data. Thus, role of a system integrator is very limited.

17. On merits, it is contended that pursuant to the raid conducted by the UP-STF, an extraordinary and statistically inexplicable surge in cash collection came to be recorded across the toll plazas operated by the petitioners. Attribution of the said surge to regional tourism to major pilgrimage sites including Maha Kumbh Mela 2025; infrastructural changes; seasonal variations etc., is untenable inasmuch as

(i) raid was undertaken on a weekday (with no long weekend/holidays around the corner) (ii) even if traffic truly surged as alleged, Electronic Toll Collection (ETC) collections ought to have also necessarily reflected proportionate increase (which did not occur). Absent manipulation, spike only in cash collection is statistically impossible (iii) Maha Kumbh Mela 2025 began much earlier and the sudden abrupt surge in cash collection immediately from the day pursuant to the raid clearly severes any causal link and instead points towards the cessation of illicit suppression mechanism.

18. Further, the illegal parallel system was admittedly designed to operate covertly and through mobile devices, enabling its instantaneous removal or disabling upon the risk of detection, as admitted by the principal accused himself. Consequently, the non-recovery of any physical device or software neither negates the misconduct nor undermines the material relied upon by NHA, especially when supported by contemporaneous investigative inputs and corroborative circumstantial evidence.

19. It is further contended that the reliance placed by the petitioner upon an inspection report dated 18.03.2025 [in W.P(C) 10788/2025] and 17.03.2025 [in W.P(C) 10788/2025] which records that no incriminating material was found pursuant to inspection at the toll plaza of the petitioner, is also misplaced since the said report was prepared much after the impugned event, providing the petitioners sufficient opportunity to rectify and/or disable/alter the system configurations. The said circumstances, evidently rendered the inspection unreliable for determination of a past conduct.

20. It is submitted that administrative actions including debarment, do not require proof of fraud or guilt equivalent to the standard applicable in criminal proceedings, or even to the strict standard of a civil trial. The governing test is existence of a reasonable grounds leading to a loss of confidence in the contractor's integrity and is sufficient to justify preventive administrative action and exercise of a public authority's inherent right to decide with whom it will contract.

REASONING AND CONCLUSION

21. The legal position is well settled that blacklisting/debarment of an entity is akin to its civil death, and the same is amenable to judicial review under Article 226 of the Constitution of India on the touchstone of adherence to procedural due process, Wednesbury unreasonableness, the principles of natural justice, and proportionality. The said position has been reiterated by the Supreme Court time and again in catena of judgments including in **Kulja Industries Limited vs. Chief General Manager, Western Telecom Project Bharat Sanchar Nigam Limited and Others**, (2014) 14 SCC 731 which reads as under:-

"20. It is also well settled that even though the right of the writ petitioner is in the nature of a contractual right, the manner, the method and the motive behind the decision of the authority whether or not to enter into a contract is subject to judicial review on the

touchstone of fairness, relevance, natural justice, non-discrimination, equality and proportionality. All these considerations that go to determine whether the action is sustainable in law have been sanctified by judicial pronouncements of this Court and are of seminal importance in a system that is committed to the rule of law. We do not consider it necessary to burden this judgment by a copious reference to the decisions on the subject. A reference to the following passage from the decision of this Court in M/s Mahabir Auto Stores & Ors. v. Indian Oil Corporation Ltd., (1990) 3 SCC 752 should, in our view, suffice:

"12. It is well settled that every action of the State or an instrumentality of the State in exercise of its executive power, must be informed by reason. In appropriate cases, actions uninformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution. Reliance in this connection may be placed on the observations of this Court in Miss Radha Krishna Agarwal and Ors. v. State of Bihar and Ors., [1977] 3 SCR 249 ... In case any right conferred on the citizens which is sought to be interfered, such action is subject to Article 14 of the Constitution, and must be reasonable and can be taken only upon lawful and relevant grounds of public interest. Where there is arbitrariness in State action of this type of entering or not entering into contracts, Article 14 springs up and judicial review strikes such an action down.

Every action of the State executive authority must be subject to rule of law and must be informed by reason. So, whatever be the activity of the public authority, in such monopoly or semi-monopoly dealings, it should meet the test of Article 14 of the Constitution. If a Governmental action even in matters of entering or not entering into contracts, fails to satisfy the test of reasonableness, the same would be unreasonable. It appears to us that rule of reason and rule against arbitrariness and discrimination, rules of fair play and natural justice are part of the rule of law applicable in situation or action by State instrumentality in dealing with citizens in a situation like the present one. Even though the rights of the citizens are in the nature of contractual rights, the manner, the method and motive of a decision of entering or not entering into a contract, are subject to judicial review on the touchstone of relevance and reasonableness, fair play, natural justice, equality and non-discrimination in the type of the transactions and nature of the dealing as in the present case."

22. Similarly, in **Diwan Chand Goyal vs. National Capital Region Transport Corporation**, 2020 SCC OnLine Del 2916, a coordinate Bench of this Court, after taking note of various judgments rendered by the Supreme Court as regards debarment/blacklisting, summarized the general principles governing legality of such action. The relevant portion of the said judgment reads as under:

"45. Upon a reading of the aforesaid judgments cited on behalf of both the parties, the general principles, which emerge, with respect to blacklisting are:

- (a) Principles of natural justice have to be complied with before the order of blacklisting is passed;*
- (b) Natural justice or audi alteram partem does not always require a hearing to be granted. Serving of show cause notice and affording an opportunity to reply to the same, is considered as being adequate opportunity and is sufficient adherence to the principles of natural justice*
- (c) Blacklisting constitutes civil death and has extremely grave consequences. Thus, the same is amenable the judicial review if the same is by governmental authorities;*
- (d) Any order of blacklisting ought to contain proper reasons. The reasons need not be*

detailed or elaborate. It is sufficient to be brief, pithy and concise

(e) *Reasons should be supplied to the affected party;*

(f) *Decision taken ought not to be arbitrary or discriminatory.*

(g) *Blacklisting orders being amenable to judicial review can be judged on the standard of proportionality. Thus, the period of blacklisting as also terms and conditions thereof have to be proportionate to the irregularities or conduct of the bidder."*

(emphasis supplied)

23. Reference is also apposite to the judgment of the Supreme Court in ***Erusian Equipment & Chemicals Ltd. vs State of West Bengal & Anr.***(1975) 1 SCC 70 wherein it was observed that considering the extreme nature and consequences of debarment/blacklisting, the concerned authority must arrive at an "objective satisfaction" before resorting to such measures. The relevant portion of the said judgment reads as under: -

"15. The blacklisting order does not pertain to any particular contract. The blacklisting order involves civil consequences. It casts a slur. It creates a barrier between the persons blacklisted and the Government in the matter of transactions. The blacklists are "instruments of coercion".

*20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the **relevant authority is to have an objective satisfaction**. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.*

24. Similarly, in ***A.K.G Constructions and Developers Pvt. Ltd vs State of Jharkhand and Ors.*** 2026 SCC OnLine SC 520 the Supreme Court held that considering the adverse consequences of debarment/blacklisting, the same must be based on sufficient evidence, clear application of mind and adherence to the principles of natural justice. The relevant portion of the said judgment reads as under: -

"2. While exercising judicial review over administrative actions of the State and its instrumentalities in relation to contracts provisioning clauses and rules relating to termination and/or blacklisting, Courts must apply distinct standards of legality, rationality and proportionality. Such an approach is compelling as conditions for imposing such measures, as also the consequences of such actions, have differing gravity.

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*23. The contractual relationship between the parties is governed by two legal regimes. While GCC governs termination, the 2012 Rules govern blacklisting. Proceedings for termination should not be conflated with proceedings for blacklisting. In the latter action, what is at stake is the future of the contractor. A blacklisting order assumes that the contractor is an incorrigible entity, at least for some time to come, in this case such an assumption was intended to operate for five years. **For giving effect to such a premise, there has to be sufficient evidence, clear application of mind and stronger adherence to principles of natural justice.** The blacklisting order dated 23.08.2004 falls short of this requirement and is liable to be set aside."*

25. Furthermore, in **Blue Dreamz Advertising (P) Ltd. v. Kolkata Municipal Corpn.**, (2024) 15 SCC 264 the Supreme Court observed that an order of blacklisting/debarment, is not justified simply because it contains some reasoning. The real question is whether the rationale provided is such as to justify blacklisting and whether the penalty is proportionate. The relevant portion of the said judgment reads as under: -

"34. The Division Bench has, in our opinion, not appreciated the case in its proper perspective. Merely saying that the blacklisting order carried reasons is not good enough. Do the reasons justify the invocation of the penalty of blacklisting and is the penalty proportionate, was the real question."

26. Thus, while adjudging the legality of a debarment/blacklisting action, the jurisdiction of this Court extends both to examining the decision, and also the decision-making process, on the touchstone of settled principles. A blacklisting/debarring order must be based on 'objective satisfaction' (as opposed to any "subjective satisfaction") arrived at on application of mind to the relevant material as also the defences pleaded by the debarred entity, and after adherence to the principles of natural justice.

27. In light of the aforesaid principles laid down by the Supreme Court, I have considered the rival submissions advanced by learned counsel for the parties and perused the material placed on record. Upon such consideration, I find that the debarring orders *qua* the petitioners are unsustainable for the following reasons:-

Petitioners not arraigned as accused in FIR No.0017/2025

28. A perusal of the impugned communications/letters reveal that the impugned actions initiated against the petitioners are primarily premised upon a press note issued by the UP STF, prepared on the basis of confessional statement of an accused (in the concerned FIR), naming certain toll plazas, including that of the petitioners for alleged involvement in usage of alternate/illegal software for fee collection and an inexplicable post-raid surge noticed in cash collection data of the concerned toll plazas.

29. Admittedly, the petitioners and/or their employees are neither arraigned as accused in FIR No. 0017/25 dated 22.01.2025 registered by the UP STF nor any charges have been framed against them in either the chargesheet/final report dated 19.04.2025 or the supplementary chargesheet dated 07.06.2025 submitted by the Investigating Officer before the concerned trial court. It is paradoxical that even though none of the petitioners have been accused of any wrongdoing in the ongoing criminal proceedings, yet the same has been made the basis for debarring the petitioners.

30. Further, besides the confession statement of one accused person arrested by the UP STF during raid on 22.01.2025 at Shivgulam Toll Plaza, which forms the basis for the press note relied upon by the respondent, the respondent and/or any other investigating agency has neither recovered parallel/counterfeit software during any raid/surprise checks/inspections nor any incriminating

evidence for the alleged period (pre-raid period) from the toll plaza of the petitioners to corroborate the rationale for debarring the petitioner entities. As such, the impugned order, on the face of it, is predicated on an untenable factual premise.

31. In the context of W.P(C) 14768/2025, it is relevant that even in the 'confessional statement', the petitioner therein is not named as an alleged defaulting agency in relation to the Amdi Toll Plaza (currently operated by the petitioner); on the contrary, installation of alleged POS machine at the said Plaza has been attributed to the predecessor contractor.

No evidence of wrong doing revealed despite the contractually inbuilt robust mechanism/safeguards for detection of unauthorized activities at the toll plazas

32. It is also noticed that the contractual stipulation in the respective contracts mandates NHAI to significantly monitor, control and supervise the day-to-day functioning of the concerned toll plazas in the following terms: -

"21. OPERATIONAL TRANSPARENCY:

The Contractor shall be solely responsible for efficient and transparent working and management of User Fee collection at all points of time. The Contractor shall ensure the following:

(i) All transactions including cash, violations, and exemptions/concessions will be processed through ETC System available at fee plaza. Usage of electronic ticketing machine or any such devices like handheld Point-of-Sale (POS) terminal, POS Billing machine etc. is strictly prohibited for user fee collection at NH fee plazas. Furthermore, the deployment or usage of any alternate software/system for user fee collection at NH fee plaza, except for the TMS through which FASTag transactions are processed, is also strictly prohibited. Any instance of usage of such handheld devices or unauthorized software/system shall be treated as Fraudulent Activity and any User Fee Collection agency (ies), including the Director(s) of such entities or owner, found practicing such fraudulent activities at NH fee plazas will attract penal action as per clause 20 of the contact agreement including debarment from NHAI for a period up to (1) year.

(ii) Lane IDs will be correctly mapped in transaction files and no fraudulent transaction will be hosted to Acquirer host.

(iii) Valid users are to be added into discount category through User fee Collection portal as provided by Acquirer Bank and ensure that such transactions shall process using FASTag only.

(iv) Chargeback raised by Acquirer bank is to be validated timely as per timeline defined in latest PG/ICD document.

(v) No fraudulent/parallel system in lanes to process cash/exempt transaction.

*(vi) Video recording system of toll plaza will be provided to Command Centre on 24*7 basis and is not be mishandled.*

22. AUTHORISED REPRESENTATIVE OF THE AUTHORITY:

(a) The Authority has designated (to be authorised), NHAI Project Implementation Unit / Corridor Management Unit (PIU Korba) as "the Authority" to carry out all functions on its

behalf under this Contract and may change the authorised representative from time to time.

(b) The said Representative of the Authority shall have the overall authority to control and supervise the work of collection of User Fee carried on by the Contractor with a view to ensure that collection of User Fee is carried out smoothly, efficiently and without any hindrance or harassment to the users of National Highway.

(c) The Authority or any other officer of the Authority or any agency as authorized by the Authority or by the Authority, shall have right and authority to inspect and check the receipt books (used/unused/ counterfoils), registers and books of accounts maintained by the Contractor at any time without giving any notice.

(d) The instructions given from time to time by the Authority or his authorised representative in this regard shall be complied with promptly by the Contractor.

(e) The Contractor shall keep records of all the complaints received and replied directly or otherwise by it and forward a copy on fortnightly basis to the Authority.

23. OBLIGATIONS OF THE CONTRACTOR:

(a) The Contractor undertakes the responsibility of the complete job of User Fee collection, upkeep/maintenance of adjacent Toilet blocks including recouping the consumable items maintenance of all records, maintenance of User Fee collection account, maintenance of vehicle type wise Traffic Data on shift to shift basis, maintaining the cleanliness of User Fee plazas/User Fee collection booths and surrounding area etc. and any other duty as may be assigned by the Authority from time to time.

The upkeep/maintenance of Toilet blocks including recouping the consumable items shall be as per SLA attached at Schedule-II.

(b) The Contractor shall make appropriate arrangement for management of the traffic at its own cost and shall ensure that the processing time for a vehicle at the User Fee counter should not be more than 30 seconds for the purpose of issuing USER Fee. All the lanes shall be kept open at all times irrespective of peak or off peak hours.

(c) The Contractor specifically undertakes to abide by all the instructions issued by the Authority from time to time on operational matters and further agrees not to raise any dispute against the same including any additional cost that the Contractor may be required to bear to comply with such instructions.

(d) During the contract Period, the contractor shall furnish to the Authority, within 7 (seven) days of completion of each month, a statement of User Fee substantially in the form set forth in Schedule- V (the

"Monthly User Fee Statement"). Proper record is to be maintained at the plaza for the purpose of providing such information. The Contractor shall also submit such information sought by the Authority in such format, as may be prescribed by the Authority from time to time.

(e) The Contractor shall, prior to the close of each day, send to the Authority, by facsimile or e-mail, a report stating accidents and unusual occurrences on the Road Section within 500 meters on either side of the plaza relating to the safety and security of the Users and Road Section. A weekly and monthly summary of such reports shall also be sent within three days of the enclosing of each week and month, as the case may be. For the purposes of this Clause 23 (e) accidents and unusual occurrences on the Road Section shall include:

(i) death or injury to any person;

- (ii) *damaged or dislodged fixed equipment;*
 - (iii) *any obstruction on the Road Section, which results in slow down of the services being provided by the Contractor;*
 - (iv) *disablement of any equipment during operation;*
 - (v) *communication failure affecting the operation of Road Section smoke or fire;*
 - (vi) *flooding of Road Section; and*
 - (vii) *such other relevant information as may be required by the Authority.*
- (f) *The contractor also agrees to abide by the requirement of clause 21 in order to maintain operational transparency at the fee plaza.*
- (g) *The contractor also agree to abide by the requirement of clause 12 & clause 13 specifically on deployment of the personnel for the purpose of this Contract.*
- (h) *The Contractor agrees that maintaining adequate change/ coins and giving correct change to the road users, while paying / receiving user fee is his sole responsibility and undertakes not to indulge in wrong practices like giving namkeen/ coffee/wafer packets, etc. instead of giving change for the balance amount to the road users. A placard shall be placed at all Fee Booths in the format enclosed at Schedule-IX for information of the road users. In case it is found during the surprise checks that the Contractor is giving namkeen/ coffee/ wafer packets in lieu of change, the Contractor at his cost shall issue an advertisement in the local newspapers asking the road users to approach the Fee Plaza Office for getting back the change by returning namkeen/coffee/ wafer packets by showing the user fee payment receipt.*
- (i) *The contractor also agree to abide by the requirement of Standing Operating Procedure (Policy circular No 17.5.86/2023 dated 05.10.2023) during violence/ Anticipated Violence at Toll Plazas attached under Schedule XI of the Agreement."*

33. A perusal of the aforesaid reveals that contractual provisions expressly prescribe NHAI access to the video recording system of the concerned toll plaza on 24x7 basis. Further, in terms of clause 22 (b) and 22(c) of the contracts, an authority or its authorized representative designated by the NHAI have the overall authorization to control and supervise collection of User Fee carried out by the contractor and; inspect and check the receipt books, cash registers and books of account maintained by the contractor, without any prior intimation. Furthermore, clause 23(d) of the contract obligates the contractor to furnish to the NHAI/concerned authority, a monthly user fee statement, within seven days of completion of each month.

34. Additionally, in terms of clause 24 of the contract, the NHAI reserves the right to conduct checks including surprise checks upon the activities undertaken by the contractor at the toll plaza/s to ensure that the user fee collection at plaza/s is being carried out properly by the personnel deployed by the contractor. The said clause reads as under: -

"24. RIGHT OF INSPECTION:

- (a) *The Authority reserves the right to conduct checks including surprise checks at any time, to check/observe/witness the activities of the Contractor including the User Fee collection Plaza(s) and to monitor or to ensure that any or all the activities including User Fee collection enunciated by this Contract are being carried out properly by the personnel*

deployed by the Contractor.

(b) The Authority may exercise any check/control to ensure discharge of various obligations by the Contractor under the Contract including but not limited to following:

*i) Correctness of the User Fee charges recovered from users, as prescribed **ii)** Issue of proper Receipts to all Vehicles;*

***iii)** Maintenance of proper registers including those relating to collection of User Fee from different type of vehicles;*

***iv)** **Weekly** remittance of amount due from the Contractor by the prescribed **day**;*

v) Checking of data in electronic/soft form;

***vi)** Maintain User Fee Plaza(s) and its appurtenances by the Contractor at his cost and ensure that they are in good running condition;*

***vii)** Arrangement for lighting and water are in order;*

***viii)** There is no delay to the traffic due to procedure of collection of User Fee and also there is no traffic jam at the User Fee Plaza(s); and **ix)** Any other check or control as considered appropriate by the Authority including through its authorised representative.*

(c) The above rights of inspection by the Authority also extends to the Toilet blocks handed over to the Contractor."

35. Significantly, NHAH Policy Circular no. 17.5.87/2024 dated 25.01.2024 states that the concerned Project Director and Authority Engineer shall continuously monitor revenue cash collection at the cash lane and ensure that no parallel software is being used by the contractor. The relevant portion is extracted as under: -

[An exhibit is reproduced here in the original judgment.]

36. It is also noticed that *vide* communications dated 18.03.2025 [in W.P(C) 10788/2025]; 17.03.2025 [in W.P(C) 12780/2025]; 12.02.2025 and 10.03.2025 [in W.P(C) 14768/2025]; and 16.03.205 [in W.P(C) 11684/2025] the toll plazas of the petitioners were given clearance as regards usage of any alternate software, pursuant to inspections conducted by the official/s of the NHAH itself.

37. In communication dated 18.03.2025 [in W.P(C) 10788/2025] issued by the Project Director, Korba, NHAH to CGM (Tech) R/O Chhattisgarh, NHAH it has been categorically recorded that pursuant to an inspection on 17.03.2025, no parallel software was found installed at the concerned toll plaza. The same reads as under: -

[An exhibit is reproduced here in the original judgment.]

38. Similarly, the communication dated 17.03.2025 [in W.P(C) 12780/2025] addressed to the Regional Officer, NHAH Shimla (H.P) by the Project Director NHAH PIU Shimla records that no parallel software was discovered by the Assistant Engineer (AE) upon conducting an inspection at the petitioner's toll plaza. The said communication is as under:-

[An exhibit is reproduced here in the original judgment.]

[An exhibit is reproduced here in the original judgment.]

39. Likewise, pursuant a joint inspection carried out by NHA Site Engineer Representative and the Independent Engineer, vide a communication dated 16.03.2025 [in W.P.(C) 11684/2021] it was intimated to the Project Director, NHA that no illegal software was found at the petitioner's toll plaza. The said letter reads as under: -

Ref-KJPPL/JOB480/SO/IE/O&M/PO-DW/2024-2025/807 Date: 16.03.2025 To, The Project Director, National Highways Authority of India, PIU-Rajkot Banglow No.1 & 2, Manharpur-1, Jamnagar Highway Road, Behind Muthoot Finance, Post-Madharpur, Dist-Rajkot-360006 (Gujarat) Email Id: - rajkot@nhai.org Project: Independent Engineer (IE) Services for Operation and Maintenance Stage under HAM mode of Four laning with Paved Shoulder of Porbander-Dwarka Section of NH-51 from Km. 356.766 (Design Chainage Km. 379.100) to 473.000 (Design Chainage Km. 496.848) in the State of Gujarat. Subject:- Show Cause Notice for Debarment for 1 year for Fraudulent practices observed by STF of UP at Toll Plaza (without prejudice).

Reference:-

1. MORTH&Highways Governemnt of India letter no. NHA/13013/CO/2024/E-272743 dated 25.01.2025.
2. RO letter no. NHA/2014/01/2023/RO-GNR/Tech./D-309 dated 27.01.2025.
3. Authority letter no. NHA/2025/PIU-RAJKOT/POR-DWK/Toll/Vol.04/D-280 date 29.01.2025.
4. SPC Agency letter dated 03.02.2025.

Dear Sir, With reference to the subject cited above, the Independent Engineer acknowledges receipt of your communication vide reference (1) and (2) regarding the Show Cause Notice for Debarment for one year due to alleged fraudulent practices observed by the STF of Uttar Pradesh at the Toll Plaza (Without Prejudice).

Based on the information provided in the Authority's letter, the Independent Engineer understands that the NHA Regional Office (RO) letter no. D-309, dated 27.01.2025, reference in (3) and (4), has been forwarded to this office by the PD, PIU Rajkot. The said Show Cause Notice has been issued to the agency for debarment for one year due to fraudulent practices identified by the STF of Uttar Pradesh at the Toll Plaza. The notice pertains to both the Kucchadi and Okhamadhi Toll Plazas, where the toll agency has been collecting revenue. As per the STF report, violations of Clause 21(i) and (v) of the Contract Agreement have been observed. Furthermore, the Authority has already initiated proceedings in accordance with the policy circular dated 24.01.2024 and the Contract Agreement.

In response, the Toll Agency has submitted a letter dated 03.02.2025 (a copy of which is attached under reference (4) stating:

"It is reiterated that our firm is dedicated to maintaining the highest levels of integrity in our operations and is willing to assist NHA in addressing the allegations in FIR No. 0017. You would appreciate that we have been associated with NHA for the past nine years and have never been found indulging in unethical business practices."

In this context, the PIU Rajkot requested the Independent Engineer to review and provided comments on the subject matter. Accordingly, the Independent Engineer's site team conducted an inspection of both toll plazas on dated 25.01.2025, alongwith the NHA site Engineer Representative, Mr. Amit Parasar. The Independent Engineer carried out a thorough joint inspects and scrutiny of all software in accordance with the UP STF's

allegations, however, no illegal software was found at either at Kuchhadi or Okhamadhi Toll Plaza.

This is submitted for your necessary action.

Yours Faithfully For K&J Projects Private Limited Sourabh Kumar Resident cum Highway Engineer Enclosed As above."

40. Notably, the communications dated 12.02.2025 and 10.03.2025 [in W.P(C) 14768/2025] issued by the GM (Tech) cum Project Director, NHA, PIU-Azamgarh to the Regional Office, NHA records that pursuant to surprise inspections conducted on 29.01.2025, 13.02.2025 and 25.02.2025 (post raid) record of all transaction pertaining to the vehicles used in surprise inspection have been found in the Toll Management System (TMS). The same reads as under:-

"11015/NHA/PIU-Azamgarh/NH-28(oldNH-233)/2024-25/10,212

Date: 12.02.2025

To, The Regional Officer, National Highways Authority of India, Regional Office (UP-East) Varanashi S-2/656, A-3B, Varuna Vihar Colony, 2nd & 3rd Floor, Sikraul, Varanasi – 221002 Sub: 4-laning of Ghaghra Bridge to Varanasi section of NH-233 from Km. 121+800 to Km. 180+420 (Package-1) from Ghaghra Bridge Abutment on Basti side to Bhudanpur Urban section in the State of Uttar Pradesh under NHDP Phase-IV on EPC Mode. Standard Operating Procedure for ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection. -reg.

Ref: (i) M/s Bloom Companies LLC. Letter no. 333 dated 11.02.2025

(ii) Regional Office, RO-UP(East), Varanasi letter no. 23683 dated 10.02.2025 (iii) Regional Office, RO-UP(East), Varanasi letter no. 23545 dated 23.01.2025 (iv) NHA HQ Policy Circular no. 17.5.87/2024 dated 25.01.2024

Sir, With reference to above cited subject and referred letters of RO-UP(East), Varanasi, for ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection in order to ensure proper monitoring of Toll Plaza and to avoid illegal and unauthorised usage of parallel software and other fraudulent activities.

In this regard, Supervision Consultant, M/s Bloom Companies LLC letter dated 11.02.2025 vide under ref. (i) has also inspected the toll plaza on 29.01.2025 from 10:00 PM to 11:00 PM (in night time) and conducted surprise check of certain commercial vehicles (annexure attached) as per the directions mentioned in RO-Varanasi letter dated 23.01.2025. It is found that transactions of all inspected vehicles are found in the TMS at Toll Plaza which were recorded manually from a location close to the Toll Plaza.

In order to ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection, it was directed to Supervision Consultant to conduct weekly surprise toll checks regarding strict implement of the above Policy Circular No. 17.5.87/2024 dated 25.01.2024 in compliance with the activities mentioned at sl. No. 3&4 and submit the action taken report in this regard to this office by 7th of each month without fail.

Accordingly, the report submitted by Supervision Consultant in compliance of Regional Office, RO-UP(East), Varanasi letter dated 23.01.2025 and 10.02.2025 is submitted for kind information please.

(-Sd-)

(SP Pathak)

GM(Tech) Cum Project Director

NHAI, PIU-Azamgarh"

"11015/NHAI/PIU-Azamgarh/NH-28(old NH-233)/2024-25/10344

date: 10.03.2025

To, The Regional Officer, National Highways Authority of India, Regional Office (UP-East) Varanasi S-2/656, A-3B, Varuna Vihar Colony, 2nd & 3rd Floor, Sikraul, Varanasi – 221002 Sub: 4-laning of Ghaghra Bridge to Varanasi section of NH-233 from Km. 121+800 to Km. 180+420 (Package-1) from Ghaghra Bridge Abutment on Basti side to Bhudanpur Urban section in the State of Uttar Pradesh under NHDP Phase-IV on EPC Mode. Standard Operating Procedure for ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection. -reg.

Ref: (i) M/s Bloom Companies LLC. Letter no. 340 dated 05.03.2025 (ii) Regional Office, RO-UP(East), Varanasi letter no. 23683 dated 10.02.2025 (iii) Regional Office, RO-UP(East), Varanasi letter no. 23545 dated 23.01.2025 (iv) NHAI HQ Policy Circular no. 17.5.87/2024 dated 25.01.2024 Sir, With reference to above cited subject and referred letters of RO-UP (East), Varanasi, for ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection in order to ensure proper monitoring of Toll plaza and to avoid illegal and unauthorised usage of parallel software and other fraudulent activities.

In this regard, Supervision Consultant, M/s Bloom Companies LLC letter dated 05.03.2025 vide under ref. (i) has inspected the toll plaza on 13.02.2025 from 08:45 PM to 11:00 PM (in night time) and on dated 25.02.2025 from 08:25 PM to 10:00 PM (in night time) conducted surprise check to certain commercial vehicles (annexure attached) as per the directions mentioned in RO-Varansi letter dated 23.01.2025. It is found that transactions of all inspected vehicles are found in the TMS at Toll plaza which were recorded manually from a location close to the Toll plaza.

In order to ensuring Operational Transparency in Tolling Operation especially with respect to cash and overload fee collection, it was directed to Supervision Consultant to conduct weekly surprise toll checks regarding strict implement of the above Policy Circular No.17.5.87/2024 dated 25.01.2024 in compliance with the activities mentioned at sl. No. 3 & 4 and submit the action taken report in this regard to this office by 7th of each month without fail.

Accordingly, the report submitted by Supervision Consultant in compliance of Regional Office, RO-UP(East), Varanasi letter dated 23.01.2025 and 10.02.2025 is submitted for kind information please.

(SP Pathak)

GM (Tech) cum Project Director

NHAI, PIU-Azamgarh"

41. It is thus evident that at each toll plaza, authority appointed by NHAI supervises and controls the user fee collection particularly cash collection and conducts monthly inspections of all equipments present thereof. Admittedly, NHAI has not been able to uncover any direct or corroborative incriminating evidence to support its hypothesis for justifying debarment. There is simply no objective material to justify the debarring action, and the same is based solely

on the statement of a single accused in a criminal case, where the investigative agency did not deem fit to level any charges against the present petitioners.

Discrepancies in the inferences sought to be derived by the NHAH on the basis of alleged post-raid surge.

42. It is the case of the petitioners that cash collections constitute only a minor portion of the overall toll revenue when compared to FASTag collections and it is only due to the low base value of pre-raid cash collection that even the modest variation in cash flow percentage seems more significant than that of FASTag (which has been considered from a higher base value).

43. A perusal of the data relied upon by the NHAH (to show inexplicable post raid surge in cash collection), for example in W.P. (C.) No. 12363/2025 reveals that the increase in cash collection during the post-raid period ranged only between Rs. 905/- and Rs. 2,500/- (approximately) whereas the corresponding increase in Electronic Toll Collection (ETC) /FASTag ranged between Rs. 5,000/- and Rs. 8,000/-. Despite the same, the impugned order relying upon percentage increase in cash collection records the percentage increase in cash collections as ranging from 617% to 1670%, while the percentage increase in ETC/FASTag collections as only 9.24% to 14.06%.The relevant extract of data relied upon by NHAH in the impugned order reads as under: -

[An exhibit is reproduced here in the original judgment.]

44. Similarly, in the debarment order assailed in W.P. (C.) No. 11106/2025, the NHAH adopting the same methodology observed as under: -

[An exhibit is reproduced here in the original judgment.]

[An exhibit is reproduced here in the original judgment.]

45. A conjoint reading of Tables A and B again demonstrates that the apparent surge in cash collections is largely attributable to the exceptionally low pre-raid base value of cash collections. For instance, at Turup Toll Plaza, cash collections increased from Rs. 1,713/- to Rs. 13,800/- i.e., an increase of Rs. 12,087/-, resulting in a 705% increase. By comparison, the ETC collection (at Turup Toll Plaza) increased from Rs. 9,59,443/- to Rs. 10,95,685/-, i.e., by approximately Rs. 1,36,242/-, and was referred to as only a 14% increase since the base value of pre-raid ETC collection was relatively at a higher level.

46. Likewise, in W.P(C) 11172/2025 the learned counsel for petitioner has brought attention to the fact that at Baleni fee plaza, although the increase in cash collection is between Rs. 1000/- and 1200/-, and the total amount of cash collection is less than 1% of the complete revenue collection, however, in percentage terms, the increase in cash collection appears substantial in comparison to FASTag collection (despite the actual variation being miniscule in absolute terms) due to the low base value of pre-raid cash collection. Further, high cash collection is stated to have been observed at Rohisa Fee Plaza even between 10.01.2025 and 12.01.2025 i.e., pre-raid period (prior to 22.01.2025)

and similar variation of more than Rs. 1,00,000/- was also observed in FASTag collection between 14.01.2025 and 16.01.2025.

47. Further, the learned counsel for the petitioner in W.P(C)14768/2025 has drawn attention to the inherent inconsistency in interpreting the toll collection data by the NHA. It is submitted that if the petitioner was in violation, as per the modus operandi recorded in the FIR in the aftermath of the raid, there would have been a decline in the ratio of "exempt vehicles" and a simultaneous increase in cash collection ratio. However, contrary to the alleged modus operandi, exemption ratio of 8.16% and cash ratio of 0.28% recorded in pre-raid period (i.e., from 10.01.2025 to 13.01.2025) moderately increased to 8.19% (exemption ratio) and 0.93% (cash ratio) respectively in the post raid period. A detailed tabulation illustrating the same has been set-out by the petitioner in W.P(C)14768/2025 as under: -

[An exhibit is reproduced here in the original judgment.]

48. It is thus evident that the manner in which inferences have been sought to be drawn from data/statistics, is fraught with difficulties. Such 'probabilistic' inference/s can hardly be said to meet the requirement of an "objective satisfaction". Where the very foundation of the decision is based on an erroneous methodology or a selective reading of the material on record, there is inherent arbitrariness in the decision making process and the same is unsustainable.

Non-consideration of external factors causing increase in cash collection at toll plaza

49. There is no cogent basis to rule out the possibility that the alleged 'surge' in cash collection being attributable to external factors such as Maha Kumbh Mela 2025, regional tourism to major pilgrimage sites, infrastructural changes, seasonal variations, local regional events etc.

50. It is noticed that the petitioners in their respective replies to the show-cause notices, specifically contended that toll collection is directly proportionate to traffic flow, which is inherently dynamic and influenced by several external factors. The petitioners brought to the notice of the NHA that the toll plazas in question are strategically located on routes leading to major pilgrimage centres and tourist destinations, including routes witnessing exceptionally high traffic during events such as the Mahakumbh 2025, religious and other large-scale public gatherings; and also, seasonal tourism due to snowfall etc. It was thus submitted that any variation in toll collection must necessarily be assessed in light of these fluctuating traffic patterns and cannot be attributed, in isolation, to any alleged irregularity

51. The petitioners in W.P(C) 11106/2025; W.P(C) 11172/2025; W.P(C) 12780/2025 and W.P(C)12363/2025 brought to the notice of this Court that similar trend of increase in cash collection, reported at the toll plazas of the petitioners, have been also reported at other toll plazas namely Balluna Fee Plaza, Kot Karol Fee Plaza, Tamsabad Fee Plaza, Kobadi Toll Plaza and Kishorpura

Fee Plaza, Sherpur Chamraha Fee Plaza and Kothiya Fee Plaza which are not mentioned in the UP STF press release but are located on the same highway as that of the petitioners.

52. However, while passing the impugned orders, the aforesaid aspect/s appear to have been overlooked and summarily discarded. For instance, in the impugned order dated 18.08.2025 [in W.P(C) 12780/2025] is as under: -

"v. Your submission regarding increase in Cash Due to MAHAKUMB and Nepal Traffic not holds ground as only cash collection increases drastically, however, similar variation not observed in ETC collection."

53. It is trite law that a debarment/blacklisting order must contain reasons, reflecting due consideration/application of mind to the material on record including the defences/justification as may have been set-out in the response to show-cause notice by the affected party/entity. Failure to consider a relevant and material explanation, particularly one which offers an alternative basis for the alleged conduct, imparts further arbitrariness to the decision-making process.

Decision of debarment/blacklisting cannot be predicated on surmises and conjectures

54. Debarment/blacklisting is not an ordinary administrative measure, as has been held repeatedly by the Supreme Court; it is akin to civil death. A sanction of such severity demands a foundation of commensurate strength. The Supreme Court has repeatedly emphasized that such action must be based on a strong, independent and cogent material; it cannot be based on surmises or conjectures or speculative inferences. The present case is illustrative of the precise antithesis of that standard inasmuch as the action taken is not based on any semblance of independent evidence. Rather, a chain of assumptions have been made. Essentially, it has been concluded that the rise in toll collection post the raid by UPSTF, can only be explained by inferring prior pilferage. This is clearly an assumption/conjecture. The law does not permit an authority to reason backwards in this matter to convert 'suspicion' into 'guilt' in the absence of a single piece of independent evidence.

55. As such, it is quite clear that the debarring action in the present cases, is based on a 'theory' rather than any 'objective' facts. Given the nature of fraudulent conduct sought to be imputed, the same cannot be countenanced in law. It is well settled that allegations of fraudulent conduct are required to be proved at a much higher threshold. The said position has been enunciated by the Supreme Court time and again, including in **Union of India v. Chaturbhai M. Patel & Co.**, (1976) 1 SCC 747, as under:

"7. The High Court has carefully considered the various circumstances relied upon by the appellant and has held that they are not at all conclusive to prove the case of fraud. It is well settled that fraud like any other charge of a criminal offence whether made in civil or criminal proceedings, must be established beyond reasonable doubt: per Lord Atkin in A.L.N. Narayanan Chettyar v. Official Assignee, High Court, Rangoon [AIR 1941 PC 93 :

196 IC 404]. However suspicious may be the circumstances, however strange the coincidences, and however grave the doubt, suspicion alone can never take the place of proof. In our normal life we are sometimes faced with unexplained phenomenon and strange coincidences, for, as it is said truth is stranger than fiction. In these circumstances, therefore, after going through the judgment of the High Court we are satisfied that the appellant has not been able to make out a case of fraud as found by the High Court. As such the High Court was fully justified in negating the plea of fraud and in decreeing the suit of the plaintiff."

56. In A.C. **Ananthaswamy v. Boraiah**, (2004) 8 SCC 588, the Supreme Court held as under:

"5. We do not find any merit in this appeal. Firstly, in the present case, Patel Chikkahanumaiah had moved an application under Order 9 Rule 13 CPC for setting aside the ex parte decree on the ground of non-service of summons in which fraud was not alleged. As stated above, Patel Chikkahanumaiah had moved RA No. 54 of 1977 in which there was no such allegation. Secondly, the present suit has been instituted to set aside the ex parte decree on the ground that the decree was obtained by fraud and misrepresentation. Fraud is to be pleaded and proved. To prove fraud, it must be proved that representation made was false to the knowledge of the party making such representation or that the party could have no reasonable belief that it was true. The level of proof required in such cases is extremely higher. An ambiguous statement cannot per se make the representor guilty of fraud. To prove a case of fraud, it must be proved that the representation made was false to the knowledge of the party making such representation. [See Pollock & Mulla: Indian Contract & Specific Relief Acts (2001), 12th Edn., p. 489.]"

57. The Bombay High Court in **Oswal Agro Mills. Ltd. vs. The Custodian & Ors**, (2004) 3 BC 352, held as under:

"32. During the course of arguments, learned counsel for the Custodian pointed out that when the party to whom show-cause notice is issued has received payment and is not in a position to explain as to why the payment is made, a fact which is within the exclusive knowledge of the party, then the Custodian is justified in alleging that it is fraudulent. I am afraid, I cannot accept this argument. The fact that payment is not in normal course of business, the fact that the transactions were not in normal course, does not absolve the Custodian in making out a case of fraud as pointed out earlier and in the absence of such a case being made out in the show-cause notice, the show-cause notice becomes invalid in law and any action based on such vague notice cannot be legally sustained. To accept that since payment was not in normal course, it is fraudulent and would give rise to a presumption of fraud. There can be presumption of illegality and there can be no presumption of fraud. Illegality and fraud are required to be alleged with all the necessary details. Fraud is to be established and proved to the hilt and the burden is always on the party which alleges fraud. It was absolutely necessary for the Custodian to show in the show-cause notice as to how he was satisfied and the facts on the basis of which he has reached the satisfaction must be stated in categorical terms. Mere reference to the report of any Committee or the chartered accountants and quoting opinion of the chartered accountants that the payment does not appear to be in normal course does not lead even to proper allegation of fraud and is not sufficient to make out a case of fraud. What was expected of the Custodian is to have a deep probe into the matter and if possible to make out a case of fraud having been practiced. It was also necessary to allege whether the petitioners have practiced fraud on the notified party or whether the

notified party and the petitioners joined hands in practicing fraud and if so who was the target or victim of the said fraud."

58. The Supreme Court in **Kulja Industries Limited (supra); Erusian Equipment & Chemicals Ltd (supra); A.K.G Constructions and Developers Pvt. Ltd (supra)** and **Blue Dreamz Advertising (P) Ltd (supra)** has held that since the debarment entails long-term adverse effect upon an entity, the rationale/basis thereof must be founded on an 'objective satisfaction', based on sufficient evidence/s. This standard has clearly not been met in the present cases.

59. Even the legal opinion dated 15.04.2025 bearing letter no. J.D ABHI.MIR/152/2025 issued by the Office of Joint Director, Prosecution, District Mirzapur notes deficiencies/shortcomings in the investigation conducted by the respondent/NHAI viz. the concerned toll plazas as under [translated version annexed as Annexure P21 (colly) in W.P(C) 12363/2025]:-

"The investigation conducted in the matter has following shortcomings:

- 1. The goods recovered in the above case for examination have not been sent to the Forensic Science Laboratory.*
- 2. The details of all the toll plazas are not attached as to which and which persons at which and which toll plaza through the said software are making illegal recovery.*
- 3. It is also not clear that how much money has been recovered by which persons from which toll plazas.*
- 4. Certificate of Section 63 of Indian Evidence Act in relation to the software computer has also not been attached."*

CONCLUSION

60. In the circumstances, the impugned debarring action cannot withstand the scrutiny of law in light of the legal position settled by the Supreme Court, *inter-alia*, in **Kulja Industries Limited (supra); Erusian Equipment & Chemicals Ltd (supra); A.K.G Constructions and Developers Pvt. Ltd (supra)** and **Blue Dreamz Advertising (P) Ltd. (supra)**. The impugned debarment actions against the petitioners in this batch of petitions, are, accordingly, set aside.

61. However, it is made clear that this Court is not inclined to interfere with the termination of the contract/s of the petitioners in W.P(C) 11106/2025; W.P(C) 11172/2025; W.P(C) 11684/2025; W.P(C)12044/2025; W.P(C) 12091/2025 and the forfeiture of performance guarantee furnished by the petitioners. The petitioners are at liberty to avail prescribed contractual/civil remedies with regards thereto.

62. Needless to say, this order shall not be construed as an expression of opinion of this Court as regards the merits of any such remedy that may be resorted to by the petitioners.

63. The present petitions are disposed of in the above terms. Pending applications also stand disposed of.