

ORDER

This petition came to be dismissed for non-prosecution on 18.03.2026 with an observation that no sincere effort is made by the petitioner to cure the defects in the petition that had crept in during filing of the petition (more elaborately mentioned in the Order dated 05.03.2026 of this court).

However, on 28.04.2026 this court **restored the petition** by allowing the application filed by the petitioner U/Or.IX Rule 4 and 9 r/w 151 of CPC as the said application was accompanied with a **Memo dated 24.04.2026 duly signed by the Project Director – NHAI, Mangaluru** wherein the Project Director at para 2 of the Memo had admitted that there were major mistakes in the 3G award itself passed by the SLAO and the said mistake came to their notice only after it was pointed out by the court. Therefore, the Project Director-NHAI had assured this Court in their Affidavit and Memo that all the defects in the instant petition would be rectified by *interalia* getting it rectified by the SLAO and the Arbitrator.

Without prejudice to the Affidavit and Memo filed by the petitioner/project Director, the court had consistently pointed out to the petitioner counsel that the defects as pointed out by this court (crept in the

original award itself of SLAO) cannot be now rectified and amended in the instant petition as this court is not the court of original jurisdiction. However, the Petitioner counsel had assured that if one opportunity is granted, they would come up with a legal solution and rectify the defects, in consultation with the Central Govt and NHAI. Therefore, based on the submissions of the petitioner counsel and on the strength of the affidavit filed by the Project Director-NHAI & their Memo, the application filed by them for setting aside the order of dismissal was allowed, and the case was restored to its original file & number.

Nevertheless, till date no changes is effectively carried out by the petitioner. There are as many as 235 respondents and these respondents cannot be put to hardship any longer, as the petition is of the year 2023. As a result, the defects pointed out by this court in the order dated 05.03.2026 continues to exist to a substantial extent, leaving no other alternative for this court but to dismiss the petition for non-prosecution. In view of the above discussion, the following:

ORDER

The petition filed by the petitioner U/s. 34 of the A & C Act stands dismissed for non-prosecution.

I Addl. District & Sessions Judge,
(Commercial Court) D.K., Mangaluru.