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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 2859/2025

M/S KENGE CONSTRUCTION CO

.....Petitioner

Through: Mr. Shashank Garg, Sr. Adv., Ms. Kanika Singh, Ms. Aradhya Chaturvedi, Mr. Nikhi Saini and Mr. Ananyay, Advs.

versus

UOI AND ORS

.....Respondents

Through: Mr. Vikram Jetly, CGSC, Ms. Shreya Jetly, Advs. and Mr. Chetan Jadon, GP for R-1, 2 and 3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **10.03.2025**

CM APPL.13580/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 2859/2025 and CM APPL.13581/2025 (Stay)

3. By way of the present petition, the petitioner assails the respondent no.1's communications bearing No.66546/SS/R-2/QE SEP 2024/37/E8 dated 16.12.2024 and bearing No. 66546/SS/R-2/QEDEC2024/19/E8 dated 19.02.2025, to the extent that the petitioner has been given adverse remarks ["No, slow progress"], in the "work load return" issued by the respondent no.1.
4. Broadly, three submissions have been made by learned senior counsel for the petitioner.



5. Firstly, it is contended that the impugned communications are in the nature of a blacklisting / debarring order inasmuch they render the petitioner ineligible from participating in all other tenders / work of the respondents. This is on account of the fact that all tenders of respondents prescribe, as an eligibility condition, that the intending tenderer (seller / bidder) should not have adverse remarks in a “work load return” issued by the concerned employer. As such, it is contended that the impugned communication will result in civil and commercial death of the petitioner. He contends that if at all such adverse remarks were sought to be made against the petitioner, the same should have been preceded by an opportunity of hearing and compliance with the principles of natural justice, which has not been done in the present case.

6. Secondly, it is contended that the allegation of ‘slow progress’ against the petitioner are factually unwarranted. It is submitted that the circumstances which occasioned slow progress in respect of the work in question, have been set out by the petitioner in communication dated 29.11.2024 in response to the Show Cause Notices (SCNs), issued by the concerned contractual authorities.

7. It is pointed out that the SCNs are premised on the basis that the site in question was handed over to the petitioner on 24.05.2023 whereas it is borne out from the record that the actual date of handing over the site is 08.11.2023. This is evident from an extract of the site order book, which is filed as Annexure-P5 to the present petition.

8. Thirdly, it is contended that the SCNs which form the basis of the adverse remarks, are yet to be adjudicated by the respondents.

9. It is submitted that no communication has been received by the



petitioner pursuant to the elaborate responses sent by the petitioner in response to the SCNs issued to it. As such, it is completely unwarranted to make any adverse observation/s against the petitioner, when the response of the petitioner to the SCNs is pending consideration.

10. Issue notice.

11. Learned counsel, as aforesaid, accepts notice on behalf of the respondents.

12. Let reply be filed within a period of four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

13. In view of the aforesaid circumstances, there shall be a stay of the respondent no.1's communication bearing No.66546/SS/R-2/QE SEP 2024/37/E8 dated 16.12.2024 and 66546/SS/R-2/QEDEC2024/19/E8 dated 19.02.2025 to the extent that the petitioner has been given the remarks "No, slow progress" in the "work load return list" issued by the respondents against the petitioner in Entry No.7 in Appendix-B of impugned order dated 19.02.2025, and Entry No.8 in Appendix-B of impugned order dated 16.12.2024 .

14. Needless to say, this order shall not be construed as interdicting either of the parties from availing appropriate contractual remedies, in accordance with law.

15. List on 21.08.2025.

SACHIN DATTA, J

MARCH 10, 2025/cl