

IN THE HIGH COURT AT CALCUTTA
[CIRCUIT BENCH AT PORT BLAIR]

WPA/64/2026

M/s. Neha Builders and Roadways

Vs.

The Andaman and Nicobar Administration and Others

Mr. Deep Chaim Kabir, Sr. Adv.

Mr. S. Ajith Prasad for the petitioner

Mr. Rakesh Kumar ... for the respondents

February 10, 2026

[SR]

Item No.54

A Notice Inviting Tender (NIT) was published by the Executive Engineer, PRI, N&MAD, Mayabunder, for construction of a public road. The petitioner participated in the tender process and emerged successful. By a letter dated August 16, 2024, the Executive Engineer informed the petitioner that the petitioner's offer has been accepted. A formal agreement dated August 20, 2024, was executed by and between the petitioner and the Administration represented by the same Executive Engineer. Under the agreement, the petitioner was to commence the work on September 09, 2024 and complete the work by May 08, 2025.

The petitioner says that the estimate prepared by the same Executive Engineer as regards the quantity of the earth/soil that would be required for the purpose of executing the project, was wholly incorrect. The petitioner started the work on the basis of the Executive Engineer's estimate. It later transpired that much more earth/soil was required for implementing the project resulting in excess cost. In this regard, there was exchange of correspondence between the petitioner and the Executive Engineer.

By a letter dated January 07, 2025, the Executive Engineer complained of slow progress of work and called upon the petitioner to speed things up. The petitioner replied to that letter by a letter dated January 24, 2025, explaining why there has been some delay and that the same was not attributable to the petitioner. A show cause notice dated July 30, 2025, was issued by the Executive Engineer, the incumbent in that office having changed in the meantime, to the petitioner calling upon the petitioner to show cause as to why action for termination of contract will not be taken. The

petitioner replied to such show cause notice by a letter dated August 04, 2025. By a letter dated November 06, 2025, the petitioner requested the Executive Engineer to allow it resume the work. This was followed by a letter dated January 19, 2026, wherein the petitioner stated that it was ready to complete the work within 15 days, if the authorities completed the requisite formalities at their end.

Two days thereafter, a notice of termination of the contract dated January 21, 2026, was served on the petitioner. The notice was issued by the Executive Engineer. The penalty imposed on the petitioner was to the following effect:

“(1) Determine the contract as aforesaid upon which determination your earnest money deposit, security deposit already recovered and Performance Guarantee Stand absolutely forfeited to the Government and shall be absolutely at the disposal of Government, and

(2) Take out such part of the work out of your hand, as remains unexecuted, for giving it to another contractor to complete the work, and you shall have no claim to compensation for any loss sustained by you by reasons of your having purchased or procured any materials or entered into any engagements or made any advances on account of or with a view to the execution of the work or the

performance of the contract you are also served with notice to the effect that the work executed by you will be measured up on 02.01.2026 for which you are ask to attend for joint measurement failing which the work will be measured by the department unilaterally in your absence and result of measurement will be final and will be binding on you.

(3) You shall not be allowed to participate in the re-tendering process for the balance work.”

Being aggrieved, the petitioner is before this Court.

Learned senior counsel representing the petitioner argued that this a classic case of breach of the principle of *nemo judex in causa sua* which means no one should be a judge in his own cause. In this case that the Executive Engineer, acted all throughout on behalf of the Administration. There was defect in the estimate of soil/earth consumption which was also prepared by the Executive Engineer. Since the petitioner raised an issue regarding such deficiency in the estimate, he has been penalized by the same officer. The petitioner has obviously been victimized. It is prepared to complete the work within fifteen days. The termination of contract is tainted by colourable exercise of power, motivated and malafide.

Learned advocate for the Administration seeks time to file affidavit-in-opposition. Let affidavit-in-opposition be filed within two weeks from date. Reply thereto, if any, be filed within a week thereafter.

List the matter after three weeks before the then available Circuit Bench, subject to its convenience.

From the facts of the case recorded above and upon hearing Mr.D.C.Kabir, learned senior counsel representing the petitioner, I am of the opinion that a *prima facie* case has been made out by the petitioner for granting limited interim protection to it.

Accordingly, I direct that *status quo* be maintained as regards, the Earnest Money Deposit, Security Deposit and Performance Guarantee furnished by the petitioner. If any re-tendering process is resorted to by the Administration, the petitioner would be entitled to participate in that process.

This interim order shall continue till the end of March, 2026, or until further order whichever is earlier. Since a public project is involved, I clarify that this order will not prevent the Administration from permitting the petitioner to complete the balance work.

Parties to act on the server copy of this order
downloaded from the official website of this Court.

(Arijit Banerjee, J.)