2026:AHC-LKO:44422-DB

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW

WRIT - C No. - 7099 of 2026

M/S Konkan Railway Corporation Ltd. Thru. Authorised Representative Mr. Om Prakash Verma .....Petitioner(s)

Versus

Union of India, Thru. General Manager, North Eastern Railway U.P. And 5 other. …..Respondents(s)

Counsel for Petitioner(s) : Alok Kumar Singh

Counsel for Respondent(s) : A.S. G. I.

Court No. - 3

HON'BLE SHEKHAR B. SARAF, J.
HON'BLE ABDHESH KUMAR CHAUDHARY, J.

1. Heard Sri Sudeep Seth, learned Senior Advocate assisted by Sri Alok Kumar Singh and Sri Kazim Ibrahim, learned counsel for the petitioner and learned counsel appearing on behalf of the Respondent No.1 to3 (North Eastern Railways, Gorakhpur) and Ms. Aishwarya Shukla, learned counsel for the respondent no. 5 (M/s. Rail Vikas NigamLtd.).

2. This is a writ petition under Article 226 of the Constitution of India, wherein the writ petitioner has sought for the following substantial reliefs:-

> *"i. Issue a writ, order or direction in the nature of Certiorari quashing the impugned letter dated 08.06.2026, styled as "Rejection and non-opening of financial bid due to technical/legal consideration"(see Annexure No. 1-as communicated to the Petitioner via WhatsApp on 08/06/2026);*
>
> *ii. Issue a writ, order or direction in the nature of mandamus directing the Respondent No. 2 to evaluate the Financial Bid of the Petitioner (Annexure No. 18; Page 211), in compliance of the order dated 29.05.2026 of this Hon'ble Court, passed in Writ C No. 5810 of 2026;*
>
> *iii. Issue, in view of the law as clarified by order dated 29.05.2026 of this Hon'ble Court, passed in Writ CNo. 5810 of 2026, a writ, order or direction in the nature of mandamus directing the Respondent No. 2 to accept the amended Bank Guarantee, dated 18.06.2026, submitted by the Petitioner after removal of the curable defect as pointed out in impugned letter dated 08.06.2026;*
>
> *iv. Issue a writ, order or direction in the nature of mandamus directing the Respondent No. 2 to proceed further tender process including declaration, execution and issuance of work order, or taking of any other consequential action in the tender process."*

3. Learned Senior counsel for the petitioner has submitted that in spite of orders of this Court, which were passed on various occasions and finally on May 29, 2026 in the earlier round of litigation relating to the present tender in question, the authorities have acted malafidely and has now sought to reject the bid of the petitioner on a rather uncanny manner and on an absolutely new ground that the name of the beneficiary in the bank guarantee is incorrect.

4. It is to be noted that the petitioner, which is a Government enterprise, had been off and on being forced to knock the doors of this court complaining procedural unfairness against the respondent railway authorities in the tendering process of providing “Design, Supply, Erection, Testing & Commissioning of Traction Sub Stations with associated Switching Posts for 2x25 KV AT traction feeding system in Gorakhpur Cant.-Chapra Gramin section of Varanasi Division of North Eastern Railway for capacity upgradation work of electric traction power

supply installations", on EPC Mode at an estimated cost of INR 262.12 Crores.

5. Apparently, the petitioner filed a writ petition on earlier occasion challenging that their bid had been rejected without any reason. However, subsequently, when this Court intervened, the contesting Respondents No.1 to3, sprung with a reason for rejection of the bid of the petitioner on the ground that the bank guarantee provided by the petitioner did not have appropriate amount of stamp duty. The said matter was argued at length and it is surprising at that point, learned counsel for the contesting respondents did not point out that the name of the beneficiary in the said bank guarantee was incorrect. If the same had been pointed out at that relevant time, similar directions would have been given to the petitioner to issue the bank guarantee in the name of a correct beneficiary.

6. Albeit, since there was not even a whisper or an iota of mention relating to the name of the beneficiary as mentioned in the bank guarantee to be incorrect, this Court finding that the ground of non-payment of adequate stamp duty on the said Bank Guarantee, as being agitated by the Respondent railways authorities to be a curable defect, permitted the petitioner to make good the said deficiency within a stipulated time vide an order dated 29.05.2026 passed in ***WRIT - C No. - 5810 of 2026 (M/S Konkan Railway Corporation Ltd. Thru. Auth. Mr. Om Prakash Verma Vs.Union Of India Thru. General Manager (N.E.R.) Gorakhpur U.P. And 5 Others);*** which also held as follows:

> ***"10****. In any case, the above reason, namely that adequate stamp duty had not been paid in accordance with the U.P. Stamp Act, in our view, is at the most a lacuna and a curable defect which could have been sought to be cured by the authority concerned. It is further to be noted, as pointed out by Sri Sudeep Seth, learned Senior Advocate appearing on behalf of the petitioner, that in the past, for another tender, a similar bank guarantee of Rs.500/- had been accepted and the financial bid of the petitioner had been opened, wherein the petitioner had been declared L-3. These documents are*

annexed at Page Nos.159 and 163 of the supplementary affidavit.

***11**. In light of the above, it appears that the action of the authorities is mala fide and is merely an attempt to eliminate the petitioner, who has submitted the lowest financial bid.*

***12**. As regards the contention of the learned counsel for the respondents that financial bid had been opened, it has to be understood that it is well settled that a bidder, even if declared the highest bidder, does not for that reason alone obtain an indefeasible right to insist upon award of the contract. Until the process matures into a concluded contractual relationship in accordance with the governing tender conditions, the bidder's position remains provisional. The Supreme Court in Meerut Development Authority v. Assn. of Management Studies reported in (2009) 6 SCC 171 has held that State or authority under Article 12 of the Constitution of India is not bound to accept bid of L1 bidder, but is only bound to act without arbitrariness and favouristism. The relevant paragraphs of the aforesaid judgment are delineated below:-*

> ***"27.** The bidders participating in the tender process have no other right except the right to equality and fair treatment in the matter of evaluation of competitive bids offered by interested persons in response to notice inviting tenders in a transparent manner and free from hidden agenda. One cannot challenge the terms and conditions of the tender except on the abovestated ground, the reason being the terms of the invitation to tender are in the realm of the contract. No bidder is entitled as a matter of right to insist the authority inviting tenders to enter into further negotiations unless the terms and conditions of notice so provided for such negotiations.*
>
> *******
>
> ***29**. The Authority has the right not to accept the highest bid and even to prefer a tender other than the highest bidder, if there exist good and sufficient reasons, such as, the highest bid not representing the market price but there cannot be any doubt that the Authority's action in accepting or refusing the bid must be free from arbitrariness or favouritism."**"***

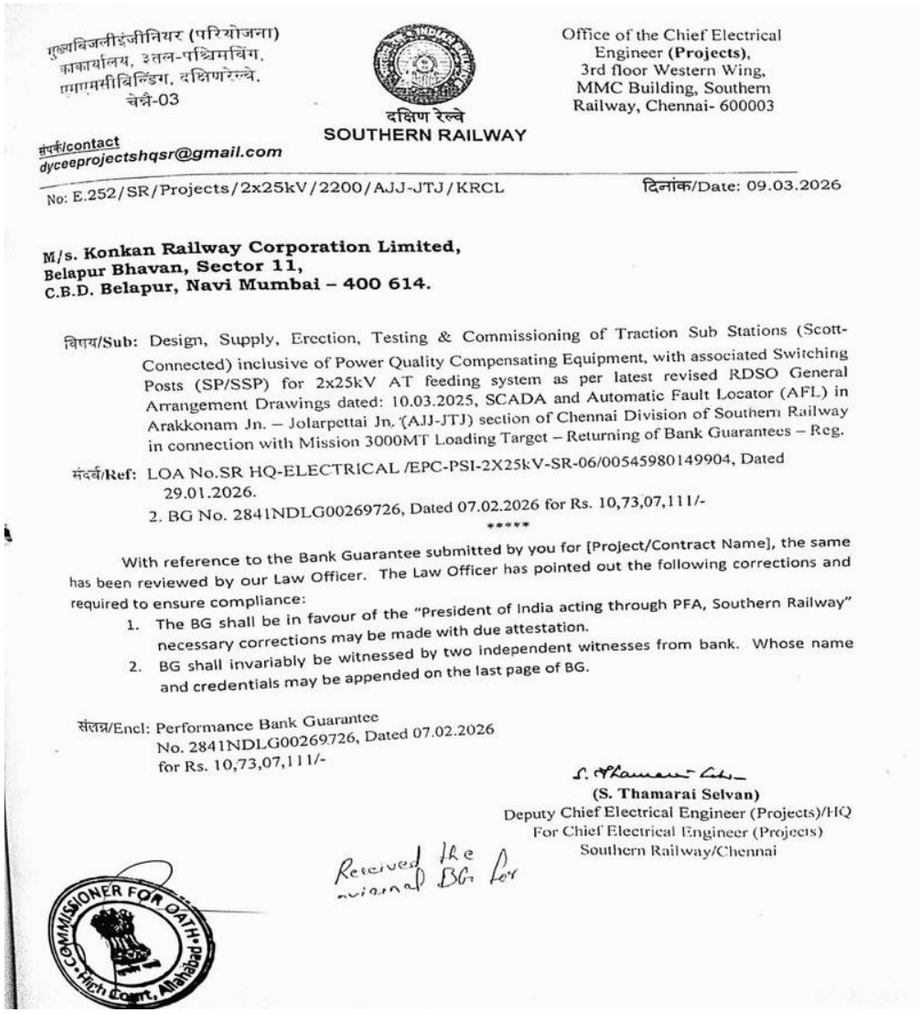
7. Upon perusal of the record, it appears that the adequately stamped bank guarantee was duly provided by the petitioner as directed by this Court vide its order dated 29.05.2026 passed in ***M/S Konkan Railway Corporation Ltd. (Supra).*** However, surprisingly, the said bank guarantee came to be returned to the petitioner on 08.06.2026 stating that

it was in the name of incorrect beneficiary. Admittedly, the petitioner once again submitted the bank guarantee in the name of correct beneficiary on 19.06.2026 but again the same was returned to the petitioner on the ground that the bank guarantee had been submitted belatedly.

8. From the scrutiny of the documents and the manners in which the respondent- authorities are approaching this particular tender, it appears to this Court that they are fixated to not allow the petitioner to participate in the tender on one ground or the other. All the defects, which had been pointed out by the authorities are curable defects and such defects could have been pointed out at much earlier stage. In our view, the ground/certain defects for rejecting the tender of the petitioner are curable and thus, the rejection is clearly in gross violation of principles of natural justice and against the established principles of law.

9. We have already dealt the same issue in our judgment dated May 29, 2026 relying on several judgments of the Hon'ble Supreme Court. On the earlier occasion, we have also observed that the discriminatory acts of the respondent-authorities were malafide and was merely an attempt to eliminate the petitioner, who had submitted a lowest financial bid. The said reasoning of this Court applies with equal force to the issue being raised in the present writ petition. Further, the findings stand vindicated from the fact that own showing of the respondent-authorities, the issuance of a Bank Guarantee in an incorrect name has been found to be a curable defect, which can be remedied even during the currency of the contract, not to talk during the bidding period. We find that the “Southern Railway, Chennai” an arm of the present contesting respondents (North Eastern Railways, Gorakhpur), when faced with an identical situation for a work of similar nature awarded, permitted the present petitioner to carry the necessary correction in the name of the beneficiary in a Bank Guarantee. The said letter dated 09.03.2026 issued

by the Southern Railways to the petitioner would show that after the issuance of LOA dated 29.01.2026 i.e after the bidding culminated and the Bank Guarantee was provided by the petitioner on 07.02.2026, the southern railways returned the said Bank guarantee by the said letter requiring the petitioner to carry necessary correction relating to the name of the beneficiary in that Tender. The said letter has been filed by the petitioner and the same is being referred in the present order for the simple reason to show the admitted position that the railways have themselves acknowledged that said corrections in the name of the beneficiary of Bank Guarantee to be a curable defect. The scanned copy of the said letter is as follows:-



मुख्यविजलीइंजीनियर (परियोजना)
कार्यालय, 3तल-पश्चिमविंग,
एमएमबीबिल्डिंग, दक्षिणरेल्वे,
चेन्नै-03

संपर्क/contact
dyceeprojectshqsr@gmail.com

दक्षिण रेल्वे
SOUTHERN RAILWAY

Office of the Chief Electrical Engineer **(Projects)**, 3rd floor Western Wing, MMC Building, Southern Railway, Chennai- 600003

No: E.252/SR/Projects/2x25kV/2200/AJJ-JTJ/KRCL

दिनांक/Date: 09.03.2026

M/s. Konkan Railway Corporation Limited,
Belapur Bhavan, Sector 11,
C.B.D. Belapur, Navi Mumbai – 400 614.

विषय/**Sub:** Design, Supply, Erection, Testing & Commissioning of Traction Sub Stations (Scott-Connected) inclusive of Power Quality Compensating Equipment, with associated Switching Posts (SP/SSP) for 2x25kV AT feeding system as per latest revised RDSO General Arrangement Drawings dated: 10.03.2025, SCADA and Automatic Fault Locator (AFL) in Arakkonam Jn. – Jolarpettai Jn. (AJJ-JTJ) section of Chennai Division of Southern Railway in connection with Mission 3000MT Loading Target – Returning of Bank Guarantees – Reg.

संदर्भ/**Ref:** LOA No.SR HQ-ELECTRICAL /EPC-PSI-2X25kV-SR-06/00545980149904, Dated 29.01.2026.
2. BG No. 2841NDLG00269726, Dated 07.02.2026 for Rs. 10,73,07,111/-

*****

With reference to the Bank Guarantee submitted by you for [Project/Contract Name], the same has been reviewed by our Law Officer. The Law Officer has pointed out the following corrections and required to ensure compliance:

1. The BG shall be in favour of the "President of India acting through PFA, Southern Railway" necessary corrections may be made with due attestation.
2. BG shall invariably be witnessed by two independent witnesses from bank. Whose name and credentials may be appended on the last page of BG.

संलग्न/Encl: Performance Bank Guarantee
No. 2841NDLG00269726, Dated 07.02.2026
for Rs. 10,73,07,111/-

(S. Thamarai Selvan)
Deputy Chief Electrical Engineer (Projects)/HQ
For Chief Electrical Engineer (Projects)
Southern Railway/Chennai

Received the original BG for

COMMISSIONER FOR OATH High Court, Allahabad

10. Having considered the facts and circumstances, we are rather amused as to how there can be a two different yard-stick for two arms of the same organization. We need not burden this judgment with the law on the subject that the railways being a 'state instrumentality' needs to function uniformly and fairly. The acts of the respondent North Eastern Railways Authorities besides being arbitrary smacks of malafide and are whimsical. They ought to have spelt the inaccuracy in the name of the beneficiary of the Bank guarantee in the very first instance. As a model employer they cannot chose to play hide and seek. Apparently, the acts are nothing short of harassment, which is not permissible under any law. It seems the respondent authorities are hell-bent to oust the legitimate participation of the petitioner in the tendering process for obvious reasons, which cannot be permitted in any circumstances.

11. In light of the same, we are once again constrained to hold that the acts and omissions of the Respondent railway authorities in not permitting the petitioner to participate in the financial bid to be illegal and without any force of law. Consequently, the impugned letter dated 08.06.2026 is hereby *quashed* and *set-aside* and the Respondent No.2 is directed to evaluate the Financial bid of the petitioner in compliance of our order dated 29.05.2026 in ***M/S Konkan Railway Corporation Ltd. Thru. Auth. Mr. Om Prakash Verma (Supra),*** after accepting the corrected beneficiary's name in the Bank guarantee within a period of three working days from today and accordingly thereafter proceed further in the tender process.

12. With the above direction, the writ petition is ***disposed of***.

(Abdhesh Kumar Chaudhary, J.) (Shekhar B. Saraf, J.)

July 08, 2026
Anuj Singh

Digitally signed by :-
ANUJ PRATAP SINGH
High Court of Judicature at Allahabad,
Lucknow Bench