



2026 INSC 1037

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO.12968 OF 2026

(@ SLP (C) NO.2036 OF 2025)

O.P. MEHTA

...APPELLANT

VERSUS

MOHINDER KALTA & ORS.

...RESPONDENTS

**WITH
CIVIL APPEAL NO.12969 OF 2026**

J U D G M E N T

SHEEL NAGU, J.

1. These appeals assail the Division Bench decision of the High Court of Himachal Pradesh, Shimla, rendered in a PIL bearing CWPIL No.30 of 2024 on 24.12.2024, whereby the PIL was allowed by quashing the award of work in favour of respondent No.5 therein (appellant herein) and directing the official respondents to re-tender the remaining work of

upgradation of Matiana, Mahori to Chhaila road, Km. 0/00 to 25/650 under PMGSY package No. HP-09-694 within one month from the date of the judgment.

2. The aspect which glares in the face in present case is as to whether the issue of validity of a tender, where comparative claims of competing tenderers are to be adjudged, can be raised as subject matter of challenge in a PIL?

2.1. We have our reservations since the grounds raised in the PIL before the High Court of Himachal Pradesh, Shimla pre-dominantly dealt with, inter-se comparative assessment between the two bidders whose bids had been received including respondent No.5 therein (appellant herein).

2.2. Moreso even the cost of work (Rs. 23 crores) was not of such magnitude, which may allow the petitioner in PIL to raise the plea of wastage of public resources.

3. Certain factors which weighed in the mind of the High Court, for rendering the impugned judgment, were as follows:

i. The contradictory stand taken by the official respondents as to whether the complaint made by M/s PK Construction Pvt. Ltd. (the other bidder) was actually received by the official respondents or not and if received then whether it was withdrawn or not.

ii. Whether the experience gained by the appellant was as a sub-contractor or as a prime contractor.

iii. Whether the appellant could have been allowed to operate under two different names in violation of certain clauses of the tender documents.

iv. Though it was admitted in the impugned order that sub-contracts were allowed under the terms and conditions of the tender document but subject to fulfilment of certain conditions which were found missing in the instant case.

v. The nature of work experience gained by appellant, as reflected from his work experience certificate was at variance to the nature of work actually executed in the past.

4. It cannot be overlooked that the petitioner before the High Court, as the alter ego of the unsuccessful bidder, filed the PIL questioning the tender process. The said unsuccessful bidder had complained against the successful bidder and has since withdrawn the complaint.

5. During the course of argument, we were informed vide affidavit of appellant dated 03.09.2026 that three (03) Kms. of road construction is complete along with retaining and breast walls of Matiana to Mohri Road in Distt-Shimla (H.P.) and that appellant is ready and willing to complete the work at the same rates on which the work was awarded to appellant on 15.03.2024. Appellant has assured that quality of work shall not be compromised.

5.1 In view of the aforesaid assurance made by the appellant, we extend a period of three months for the appellant to complete the entire work allotted to him on 15.03.2024 at the rates prevailing as on 15.03.2024. If the work so assigned to the appellant is not completed within the given time of three months subject to the official respondents verifying the quality of the work executed, the official respondents are directed to re-tender the same work at the prevailing market rate.

6. The instant case stands deferred to be listed in the first week of December, for the appellant to submit compliance report of this order.

7. This order shall also govern Civil Appeal No.12969 of 2026 preferred by the State of Himachal Pradesh.

8. That by order dated 07.03.2025, this Court had till the pendency of this appeal restrained the official respondents from creating third party rights, which interim order continues to subsist till date.

Therefore, to the extent indicated above in this order,
the said interim order dated 07.03.2025 stands
modified.

9. List in the 1st week of December, 2026, for
appellant to file compliance report.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

NEW DELHI;
SEPTEMBER 23, 2026