RAJASTHAN HIGH COURT
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HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Writ Petition (PIL) No. 15497/2026
CNR: RJHC020762702026 | URN: CW / 32943U / 2026

Rajasthan High Court
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Gyanesh Kumar Sharma S/o Sh. Prabhu Dayal Sharma, Aged About 48 Years, Resident Of S-1, C-43, Fortune Comfort Residency, T.c. Nagar, Gokulpura, Khirni Phatak, Jhotwara, Jaipur-302012 (Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through The Principal Secretary, Urban Development And Housing Department, Government Of Rajasthan, Secretariat, Jaipur.
2. Jaipur Development Authority (Jda), Through Its Commissioner, Jda Complex, Jawahar Lal Nehru Marg, Jaipur.
3. The Director (Engineering-I), Jaipur Development Authority, Jda Complex, Jawahar Lal Nehru Marg, Jaipur.
4. The Additional Chief Engineer (Zone-6), Jaipur Development Authority, Jaipur.
5. The Executive Engineer, Zone-7, Jaipur Development Authority, Jaipur (Public Information Officer For The Subject Rti Application).
6. Secretary, Jaipur Development Authority, Jaipur, (First Appellate Authority For The Subject Under Right To Information Act, 2005)
7. Chief Executive Officer, M/s Thoughts Consultants Jaipur Pvt. Ltd., D-13, Shanti Path, Patrakar Colony, Sector 5, Jawahar Nagar, Jaipur, Rajasthan-302004
8. Managing Director, M/s Rajputana Electric Trading Corp. And Rkb (Jv), 77, Usha Vihar, Sanskrit College Road, Near Triveni Nagar, Gopalpura Bypass, Jaipur

----Respondents

For Petitioner(s)	:	Mr. RB Mathur, Sr. Advocate assisted by Ms. Sara Parveen
For Respondent(s)	:	Mr. Amit Kuri with Ms. Pinky P. Paliwal, Mr. Ayush Sharma

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Ms. Shikha Sharma on behalf of
Mr. GS Gill, AAG

HON'BLE THE CHIEF JUSTICE MR. SANJAY K. AGRAWAL
HON'BLE MR. JUSTICE SAMEER JAIN

Order

27/10/2026

1. Petitioner-Gyanesh Kumar Sharma has filed this Public Interest Litigation seeking writ/appropriate direction quashing and setting aside the impugned tender notice dated 06.03.2026, issued by the respondent No.2-Jaipur Development Authority (for short 'the JDA') for construction of the one-way underpass at the Purani Chungi Junction, Ajmer Road, Jaipur and for restraining the respondents from proceeding with the same. The petitioner further seeks writ directing the respondents to conduct a fresh, comprehensive Techno-Economic Feasibility Study and Flood Risk Assessment in respect of any proposed underpass/road improvement work at Purani Chungi Junction, Ajmer Road, Jaipur in a transparent manner and also to quash the further tender process for that work.

2. It is the case of the PIL petitioner that though the proposed construction of one-way underpass at Purani Chungi, Ajmer Road, Jaipur involves expenditure of around Rs.19.18 crores, yet the project is being proceeded with despite serious technical, drainage, safety and financial concerns emerging from the feasibility report of respondent No.2 itself and the direction in which the underpass has ultimately been tendered, is contrary to the traffic data and the recommendations contained in the said

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feasibility report, as according to the said feasibility report itself, the proposed underpass is 'technically unsuitable' on account of it being located in a flood-prone area, its serious clash with existing infrastructure and a negative cost-benefit outcome and, therefore, the comprehensive Techno-Economic Feasibility Study and Flood Risk Assessment be carried out before proceeding further.

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3. It is the further case of the petitioner that the Hon'ble Chief Minister has specifically directed reassessment of the traffic load and preparation of a fresh feasibility report, yet the tender process has been floated without disclosure of any fresh assessment. Though various complaints have been made but NIT has not been done and the tender process is being proceeded further.

4. A return has been filed on behalf of respondent Nos.2 to 6 stating, *inter alia,* that the proposed construction has been finalized after rigorous data-backed engineering evaluations and the petitioner's reliance on selective extracts from an early un-finalized draft report completely ignores the comprehensive 3 day-24 hours traffic survey and Passenger Car Unit peak-hour volume analysis conducted by M/s Thought Consultants Jaipur Pvt. Ltd., which established the absolute necessity for the unidirectional alignment from *Sarathi Marg* towards *Susheelpura* to resolve grade-level cross-weaving congestion at the Purani Chungi Triangle.

5. It is the further case of the respondents that the administrative and technical approval granted by the Public Works Committee on 13.11.2025 constitutes valid binding statutory

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sanction under Section 16 of the Jaipur Development Authority Act, 1982 (hereinafter referred to as 'the Act of 1982'), which cannot be overridden by non-statutory advisory bodies, like Traffic Control Board. Furthermore, technical safeguards including Ground Penetrating Radar utility mapping for 133 KV underground power lines and automated heavy duty pumping infrastructure linked to the Dravyavati drainage system for monsoon discharge, have been fully integrated into the project execution plan.

6. It is the further case of the respondents that the choice of engineering design, traffic flow management and urban infrastructure execution fall exclusively within the executive policy domain of statutory bodies and as consistently affirmed by the Hon'ble Supreme Court in various cases, the Courts must refrain from substituting their judgment for that of technical experts or staying vital public utility project under Article 226 of the Constitution of India in the absence of manifest *mala fides* or statutory illegality and as such, the writ petition deserves to be dismissed.

7. Mr. RB Mathur, learned Senior Counsel appearing for the petitioner would submit that the decision of the respondent No.2 to construct the impugned underpass in a direction directly contrary to its own commissioned feasibility report and traffic-count data is arbitrary, unreasoned and violative of Article 14 of the Constitution of India. Furthermore, the impugned project entails expenditure of Rs.19.18 crores of public money on a structure that the respondents' own feasibility reports expressly finds 'technically unsuitable', flood-prone, in conflict with the

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existing/underground infrastructure and cost-ineffective, which amounts to colourable exercise of power and breach of the public trust doctrine. Therefore, it is contrary to the specific directions given by the Hon'ble Chief Minister on 09.04.2026 for reassessment of the traffic load and preparation of a fresh feasibility report and as such, the tender process is liable to be quashed.

8. *Per contra,* learned counsel appearing for the respondents would submit that it is well considered policy decision of the JDA as the choice of engineering design, traffic flow management and urban infrastructure execution fall exclusively within the executive policy domain of respondent No.2 and as such, in light of the decision the Supreme Court in the matter of **N.G. Projects Limited Vs. Vinod Kumar Jain & Others**[1]**,** the writ petition deserves to be dismissed.

9. We have heard learned counsel for the parties, considered the rival submissions made herein-above and also went through the record with utmost circumspection.

10. Admittedly, the petitioner herein has not participated in the tender process and has filed this Public Interest Litigation, questioning the tender notice dated 06.03.2026, by which the respondent-JDA has invited tender for construction of the impugned underpass.

11. The question whether a stranger may, by way of a PIL, challenge a purely commercial contract is no longer *res integra.* In

1 (2022) 6 SCC 127

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Villianur Iyarkkai Padukappu Maiyam v. Union of India[2]**,** the Hon'ble Supreme Court held as under:

> **"113.** As far as second preliminary objection regarding *locus standi* of the appellant to challenge the award of the contract for the development of the Pondicherry Port to Respondent 11 is concerned, this Court finds that the contract assailed in the writ petitions is purely commercial in nature. Neither the parties, which had participated in the process of selection of the consultant/developer nor one of those, which had expressed desire to develop the Pondicherry Port but was not selected, has come forward to challenge the selection procedure adopted by the Government of Pondicherry or the selection of Respondent 11 as developer of the Pondicherry Port.
>
> **114.** The question of locus standi in the matter of awarding the contract has been considered by this Court in *BALCO Employees' Union* v. *Union of India* [(2002) 2 SCC 333]. This Court, after review of law on the point, has made following observations in para 88 of the judgment: (SCC p. 381)
>
> > "*88*. It will be seen that whenever the Court has interfered and given directions while entertaining PIL it has mainly been where there has been an element of violation of Article 21 or of human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who are unable to come to court due to some disadvantage. In those cases also it is the legal rights which are secured by the courts. We may, however, add that public interest litigation was not meant to be a weapon to challenge the financial or economic decisions which are taken by the Government in exercise of their administrative power. No doubt a person personally aggrieved by any such decision, which he regards as illegal, can impugn the same in a court of law, but, a public interest litigation at the behest of a stranger ought not to be entertained. Such a litigation cannot per se be on behalf of the poor and the downtrodden, unless the court is satisfied that there has been violation of Article 21 and the persons adversely affected are unable to approach the court."
>
> From the passage quoted above it is clear that the only ground on which a person can maintain a PIL is where there has been an element of violation of Article 21 or human rights or where the litigation has been initiated for the benefit of the poor and the underprivileged who

2 (2009) 7 SCC 561

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are unable to come to the court due to some disadvantage."

12. In ***Rajeev Suri v. Delhi Development Authority***[3], the Hon'ble Supreme Court considered the *locus standi* of a third party to challenge a commercial transaction and the scope of judicial review in such matters. The Court observed as under:

> "547. It is relevant to note that the question of locus in considering an argument of this nature cannot be sidelined. For, such arguments call upon the Court to expand the contours of its jurisdiction to venture into strictly private commercial matters. A litigant, not being a party to the transaction, cannot be heard in ordinary circumstances. What needs to be established is substantial and demonstrable public interest on the basis of a concrete factual position. The jurisprudence evolved by this Court in such matters looks for substantial public interest, to be shown on the basis of violation of Part III or arbitrariness in Government action. In the absence thereof, it becomes the duty of the Court to preserve free commercial relations. Law has a substantial interest in preserving the freedom of contract.
>
> 548. As long as there is fair play in Government action, it is no one's concern to assail a commercial transaction by levelling vague and unsubstantiated allegations. The genesis of a public interest litigation lies in public interest; and public interest lies in vindicating the rights of those who lack the wherewithal to reach the Court to remedy injustice against them. The tool of public interest litigation or "social interest litigation", as it is more appropriately called, was devised to open the doors of the constitutional courts for remedying glaring injustices against humans, that is, for securing constitutional rights. It was never meant to transform the constitutional court as a superlative authority over day-to-day governance. Judicial time is not meant for undertaking a roving enquiry or to adjudicate upon unsubstantiated flaws or shortcoming in policy matters of Government of the day and politicise the same to appease the dissenting group of citizens — be it in the guise of civil society or a political outfit."

13. In ***The Travancore Devaswom Board v. Ayyappa Spices & Ors.***[4], the Hon'ble Supreme Court while dealing with a PIL

3 (2022) 11 SCC 1
4 (2024) 7 SCC 543

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arising out of a tender, reiterated that the Courts must exercise restraint where public interest jurisdiction is invoked in contractual and tender matters, and that such a petition ought not to be entertained unless the decision under challenge is shown to be arbitrary, irrational, unreasonable, malafide or illegal.

14. Hon'ble Supreme Court, in **Uflex Ltd. Vs. Government of Tamil Nadu & Ors.**[5], observed that commercial tender matters involve an element of commercial competitiveness, and that constitutional courts are not appellate authorities to scrutinise as to whom the tender should be awarded, hence the tendering authority is the best judge of its requirements. Hon'ble Supreme Court observed as under:-

> "42. We must begin by noticing that we are examining the case, as already stated above, on the parameters discussed at the inception. In commercial tender matters there is obviously an aspect of commercial competitiveness. For every succeeding party who gets a tender there may be a couple or more parties who are not awarded the tender as there can be only one L-1. The question is should the judicial process be resorted to for downplaying the freedom which a tendering party has, merely because it is a State or a public authority, making the said process even more cumbersome. We have already noted that element of transparency is always required in such tenders because of the nature of economic activity carried on by the State, but the contours under which they are to be examined are restricted as set out in Tata Cellular and other cases. The objective is not to make the Court an appellate authority for scrutinizing as to whom the tender should be awarded. Economics must be permitted to play its role for which the tendering authority knows best as to what is suited in terms of technology and price for them."

15. In ***Afcons Infrastructure Ltd. v. Nagpur Metro Rail Corporation Ltd.***[6], the Hon'ble Supreme Court held that the owner or employer of a project, having authored the tender documents, is the best person to understand and appreciate its

5 (2022) 1 SCC 165
6 (2016) 16 SCC 818

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requirements, and that constitutional courts must defer to such understanding unless malafides or perversity is shown. The same principle applies to the formulation of eligibility conditions, as the procuring entity is best placed to determine the qualifications required for the work. Further, in ***Silppi Constructions Contractors v. Union of India***[7]**,** the Hon'ble Supreme Court reiterated that, while arbitrariness, irrationality, malafides or bias warrant judicial interference, the Court must exercise restraint in contractual matters and should not interfere merely because another view is possible.

16. Role of constitutional courts in reviewing tender processes again came up for consideration before the Hon'ble Supreme Court in the case of ***VC & MD CIDCO Vs. Shishir Realty Pvt. Ltd.***[8]**,** wherein it was observed as under **:-**

> "27. Being governed under "rule of law" every action of the State or its instrumentality while exercising its executive powers must met the aforesaid requirements. While recognising the existing principle of freedom to enter or not to enter into contracts by the state and its instrumentalities, the manner, method and motive behind the aforesaid decision can be subjected to judicial review on the touchstone of equality, fairness, proportionality and natural justice. The decision of the executive must strike a balance with the alleged violation with that of the penalty imposed.
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> 28. This Court, in many of its orders reviewing tender conditions, has vouched for providing sufficient discretion and independence to administrative authorities so as to enable them to perform their duties in the interest of the public. Further, the observation of judicial restraint while reviewing such contracts is a continuing trend which can be seen in a catena of cases. The power of judicial review accorded to Constitutional Court of India and its jurisdiction is supervisory."
>
> "30. In this context, this court in ***Tata Cellular v. Union of India,*** observed certain principles elucidated as under (SCC pp.687-88, para 94)

7 (2020) 16 SCC 489
8 (2022) 16 SCC 527

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"94. The principles deducible from the above are:

(1) The modern trend points to judicial restraint in administrative action.

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

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(3) *The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.*

(4) The terms of *the invitation to tender* cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract. Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness (including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure."

31. These principles acquire importance as the efficacy of commercial activities in the public sector increases greatly. It appears that public interest litigation has opened a large window to entertain any tender, regardless of scale, which are now sought to be challenged as a matter of routine. Such disruption could hardly have been the objective of expanding the need of Constitutional Review. Close scrutiny of minute details, contrary to the view of the tendering authority, makes execution of contracts in the public sector a cumbersome exercise. Often, it is the case that parties entertain the idea of a long-drawn-out litigation at the very threshold itself. The purpose of imbibing the spirit of competition in a process such as that of the bidding process, is lost in this meandering exercise and delays suffered due to pending litigation. This causes great disadvantage to the government and public sector in general. This Court, in appropriate cases while interpreting the contract, can restrict the review mechanism by not inuring to the interpretation so provided by third parties or parties competing for the tender, unless the impugned interpretation is shown to be gross abuse of law. The object of judicial review cannot be that in every contract

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> where some parties lose out, a second opportunity is provided to such parties to pick holes so as to disqualify successful parties, on grounds which even the party floating the tender find to be without merit. With this brief background on the standard of judicial review, we may analyze the case at hand."

17. The principles emerging from the aforesaid judgments are that judicial review under Article 226 examines the legality and fairness of the decision-making process, and not the merits of the decision. The tendering authority is entitled to frame eligibility conditions according to the nature and requirements of the work, provided they are not arbitrary, discriminatory, malafide or contrary to law. A tender cannot be interfered with merely because its conditions have been modified, or because different conditions could have been prescribed.

18. Furthermore, the Supreme Court in the matter of **N.G. Projects Limited** (supra), while dealing with the construction of road for the exercise of jurisdiction under Article 226 of the Constitution of India, has held that construction of road is an infrastructure project and keeping in view the intent of the legislature that infrastructure projects should not be stayed, observed in para 21 as under:

> "21. Since the construction of road is an infrastructure project and keeping in view the intent of the legislature that infrastructure projects should not be stayed, the High Court would have been well advised to hold its hand to stay the construction of the infrastructure project. Such provision should be kept in view even by the Writ Court while exercising its jurisdiction under Article 226 of the Constitution of India."

19. Coming to the facts of the present case, it is quite vivid that in the instant case the JDA has come out with a specific reply that comprehensive traffic survey and Passenger Car Unit peak-hour volume analysis conducted by M/s Thought Consultants Jaipur Pvt.

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Ltd., established the absolute necessity for the unidirectional alignment from *Sarathi Marg* towards *Susheelpura* to resolve grade-level cross-weaving congestion at the Purani Chungi Triangle. The decision has been taken to construct the underpass, for which the administrative and technical approval was granted by the Public Works Committee on 13.11.2025, which constitutes valid binding statutory sanction under the provisions of Section 16 of the Act of 1982. As such, the decision of the JDA to construct the underpass at the impugned place is well considered executive policy decision of the JDA and in view of the decision of the Supreme Court in the matter of **N.G. Projects Limited** (supra) and in view of Section 41(ha) of the Specific Relief Act, 1963, it would be inappropriate to exercise the jurisdiction under Article 226 of the Constitution of India as no material has been brought on record to show that such a construction is contrary to the public interest.

20. Similarly, in the matter of **Jagdish Mandal Vs. State of Orissa & Ors.**[9], the Supreme Court has held that the Constitutional Courts should not interfere with technical evaluations, if the executive action is *bona fide* and in the public interest.

21. In view of the above, we do not find any merit in this Public Interest Litigation, which deserves to be dismissed and is hereby, dismissed, leaving the parties to bear their own costs.

(SAMEER JAIN),J (SANJAY K. AGRAWAL),CJ

KAMLESH KUMAR/--

9 (2007) 14 SCC 517

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