



Infra Insights

A newsletter encompassing legal
updates in infrastructure

August-September, 2022



LUMIERE
Law Partners
Advocates & Solicitors

Introduction

“Welcome to the Infrastructure and Energy monthly newsletter. This newsletter will cover infrastructure and energy space updates for the August-September 2022 period. This edition of the newsletter will cover key updates at the central, state, regulatory, and judicial levels on sectors like highways, airports, and energy.

Lumiere Law Partners provide integrated legal solutions covering all issues from the bidding process, from the inception of a project to financial close continuing through design, construction, equipment supply, operations, and management. Through our commercial understanding, ability to assist clients in managing risk, strong understanding of regulatory issues and by bringing to the table our expertise in undertaking due diligence exercises, drafting, and negotiating concessions, design consultancy, construction, civil engineering, equipment supplies and O&M contracts, we help sponsors and lenders allocate and minimize risks of delivery and performance.

Besides helping our clients manage risks through our strong understanding of regulatory issues, we also have a dedicated team available to advise on all aspects of projects, pooling their know-how and resources to meet the project goals of clients.”

Warm regards



Atulya Sharma
Partner
Lumiere Law Partners



A

Roads and highways

1. Supreme Court upholds the decision of National Highways Authority of India on terminating its tendering process.¹

- > Delhi high court vide its order date 12 May 2022 had rejected the petition of the Malaysian company IJM Corporation Berhad (“IJM”) against the National Highway Authority of India Limited’s (“NHAI”) on termination the tendering process for ‘six laning of the Kaga-Satara section of NH-48 in Maharashtra’.
- > IJM being the sole bidder for this tender stated that the NHAI decision to annul the tender process was arbitrary and against its policy guidelines. Further, IJM had satisfied all the requirements under the request for proposal (“RFP”) floated by NHAI.
- > However, while upholding Hon’ble Delhi High Court’s decision, the Hon’ble Supreme Court held that NHAI is free to determine what it considers being a reasonable bid and can also, at any time, decide to withdraw the tender.

2. Government of India likely to raise funds from the capital market for road projects.²

The Ministry of Road Transport and Highway (“MoRTH”) will raise funds from capital markets for

the development of road projects. As per MoRTH, the capital market will overcome the problems of financial resources for road projects and will minimize the risk of projects being stalled.

3. National Investment and Infrastructure Fund Limited to invest in Navayuga Quazigund Expressway Private Limited.³

- > The National Investment and Infrastructure Fund Limited (“NIIFL”) will be acquiring an equity stake in Navayuga Quazigund Expressway Private Ltd (“NQEPL”) by investing INR 3,036 Crore.
- > NQEPL was set up by Navayuga Engineering Private Limited and its holding company Navayuga Road Projects Private Limited. NQEPL was awarded one of the largest annuity projects by the NHAI Quazigund-Banihal Expressway on Build-Operate-Transfer (“BOT”) basis.

4. Government of Uttar Pradesh initiated the development work for the Ganga Expressway Project.⁴

- > The Government of Uttar Pradesh will fund INR 36,200 crore for the development of the Ganga Expressway to connect the eastern and western ends of the state.

1. [SC upholds NHAI decision to annul bidding process for project | The Financial Express](#)
2. [Government to approach capital market next month to raise funds for four road projects \(moneycontrol.com\)](#)
3. [NIIF Invests Rs 3,036 crore In Navayuga Quazigund-Banihal Expressway Tunnel Road In Jammu And Kashmir \(swarajyamag.com\)](#)
4. [Now, Uttar Pradesh set to launch 594-km Ganga Expressway - Ganga Expressway](#)

- > Uttar Pradesh Expressways Industrial Development Authority (“UPEIDA”) has set a target to complete K.M 594 long expressway by 2025 financial year. In this ambitious project, the UPEIDA have awarded this development project to IRB Infrastructure and Adani Enterprise Limited.

5. Rajasthan High Court dismissed the Public Interest Litigation (“PIL”) against NHAI.⁵

- > The PIL filed by the Gram Panchayat of Dujana village before the Hon’ble Rajasthan High Court, which sought directions from this Court for suspending the construction work of the by-pass on NH-325 and instruct NHAI for constructing the highway through a populated area of the village so that the development of the village can take place.
- > The division bench dismissed the said PIL and stated that there cannot be any justification for entertaining such prayer which is mala fide, and the court cannot direct NHAI to suspend the construction of a by-pass on the highways without any substantial ground.

6. NHAI is the best judge to decide which land is suitable for construction of highways – Allahabad High Court.

- > In Shyam Singh & Anr vs. the State of UP and Ors. ⁶the Petitioner in its writ petition had prayed before the Hon’ble Court to refrain NHAI from acquisition of land for widening of the National Highway as the land identified by NHAI is the residential land.
- > The court rejected this petition and observed that NHAI is the best judge to decide which land would be suitable for the construction of highways. No project can be stalled at the request of one person who thinks that his / her land is not important for the widening of the national highway, and the development of highways is for the interest of public at large.

7. NHAI gets a nod from Kerala High Court to acquire land for development of the N. H 66.⁷

- > The Travancore Devaswom Board approached this Court with a writ petition against the land acquisition and had secured a stay order against the acquisition of 44% of land near Thiruvattakavu temple and demolition of the temple’s compound wall.

- > However, the Hon’ble Court dismissed the petition asked NHAI to resume the construction of Attingal bypass from Kazhakootam to Parippally.
- > Additionally, the court also directed that the petitioner’s grievances should be heard by NHAI and NHAI must take appropriate decisions after conducting a site visit.
- > Court observed that the country needs national highways with sufficient width and straight roads so that citizens, businessmen, industrialists, and people from all walks of life could use them and is the means for development of the state as well as the country.

8. Supreme Court not to interfere with Delhi HC order on Dwarka Expressway flyover construction.⁸

- > Petition filed by resident and housing society before the Hon’ble Delhi high court in relation to construction of the flyover by NHAI in Dwarka expressway. The Petitioners alleged that NHAI is implementing this project without obtaining required environment clearances and without holding public consultations as required under the law.
- > Consequently, Delhi high court in its order dated 30 July 2021, rejected the plea of Petitioners and directed NHAI to go ahead with the construction activity, as well as place all mandatory permissions/ approvals obtained by NHAI for carrying out construction on a residential road.
- > Aggrieved by the order of the Court Petitioners approached the Hon’ble Supreme Court. The Apex court refused to entertain this Special Leave Petition filed by appellants and said in its order that it will not interfere in Delhi High Court order dated 30 July 2021, which had dismissed the pleas seeking a stay of construction activity of Dwarka Expressway. Supreme Court further observed that it must see the public interest before staying on any public project and it would be inappropriate to interfere with the project where so much investment has been already done as this new flyover will serve as a vital link for the people of national capital region.

5. PIL No. 7130/2021

6. Writ - C No. - 17591 of 2022

7. [Attingal bypass: NHAI gets the go-ahead from HC- The New Indian Express](#)

8. [Dwarka Expressway flyover construction: SC refuses to interfere with Delhi HC order, Infra News, ET Infra \(indiatimes.com\)](#)

B

Airports

1. Jamshedpur, Warangal and Karimnagar will soon have air connectivity under UDAN Scheme⁹

- > Under the central government's Ude Desh ka Aam Nagrik ("UDAN") scheme, Jamshedpur will soon have air connectivity on 30 October 2022. Similarly, Warangal and Karimnagar cities of Telangana state will also have air connectivity under the UDAN Scheme.
- > Telangana state government has submitted a techno economic feasibility report in this regard as required by the Airports Authority of India.
- > Central government had introduced the UDAN scheme in the year 2016 to make air travel affordable for masses and provide regional air connectivity between developing cities, state capitals and the national capital.

2. New airport in Goa will be in operation soon.¹⁰

- > The airport has been developed by GMR Airports Limited's subsidiary GMR Goa International Airport Limited ("GGIAL"). It is based on public private partnership ("PPP") model, with design, build, finance, operate and transfer (DBFOT).¹¹

- > The airport will offer allied facilities like integrated passenger terminal building, cargo terminal, emergency services, flight catering, vehicle parking, reserved services and aircraft fueling infrastructure, among others.

3. The Navi Mumbai International Airport will be operational by 2024

- > This airport was proposed in 1997 and received the government approval in 2007. The project got delayed due to reasons attributable to the state government and delay in acquisition of land, environment clearance
- > The Navi Mumbai Airport project is being developed by Navi Mumbai International Airport Limited ("NMIAL") and this will be executed as per PPP model and the project implementation authority City and Industrial and Development Corporation (Cidco), will incur pre-development work costs.

9. [Jamshedpur to soon get air connectivity under UDAN scheme | Mint \(livemint.com\); New airports for Telangana in Warangal, Peddapalli districts \(deccanchronicle.com\)](#)

10. [Goa to get new airport! First flight test conducted at Mopa International Airport – BusinessToday](#)

11. [Goa to get new airport! First flight test conducted at Mopa International Airport - BusinessToday](#)



E-Mobility



1. Chandigarh rolls out its Electric Vehicle Policy¹²

- > Chandigarh UT Administration has rolled out its Electric Vehicle (“EV”) Policy, 2022. Apart from providing incentives to EV buyers, it will also stop the registration of two-wheelers and three-wheelers running on the internal combustion engine (“ICE”) from 2024 to 2025.
- > Policy aims to be a “Model EV City” by achieving zero emission vehicles among all Indian cities by the end of the policy period of five years.
- > Further, the registration of two-wheelers and three-wheelers running on ICE would be stopped when the registration of ICE vehicles reach 65 percent in the year 2022 to 2023.
- > To accelerate the promotion of EVs in Chandigarh, the policy has given an additional benefit for EV owners apart from a complete waiver on registration fee and road tax, it will also offer incentives in the range from INR 3,000 to INR 2 lakhs for a limited number of vehicles of various categories during the policy period.

- > Additionally, it will help in creating charging infrastructure in every sector of Chandigarh. In the first two years of the policy period, 100 public charging stations will be installed in the city. Nine fast-charging stations have already been set up at different locations in the city, while 44 more will be installed in the next few month.

2. Kerala HC Directs the state government to draft rules for EV Charging Points in housing complexes

- > The Hon’ble Kerala High Court directed the state government to take steps to formulate regulations and guidelines pertaining to installation of charging points for electric vehicles (“EVs”) in apartment complexes.
- > The order was issued, while hearing a petition filed by two residents of Kochi who faced objection from their apartment owner’s association when they proposed making provision for installing an EV charging point on their own.

12. [Chandigarh-EV-policy-2022.pdf \(transportpolicy.net\)](#)

- > After the release of Kerala EV policy, the state has witnessed a substantial growth in the number of EVs in the state. The court observed that adequate provision ought to be made to provide charging points in the apartment complexes where the EV owners are residing.
- > The court directed the state government to take necessary steps and submit the progress made on the same by the next date of hearing.
- > The Kerala government's EV Policy, which was released in 2019, said that in order to ensure sustainability, the state government would promote electric mobility and ensure a robust infrastructure for EVs, including adequate power availability, a network of charging stations, and favorable power tariff.



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About Lumiere Law Partners

About Lumiere Law Partners

Lumiere Law Partners is a full-service law firm with offices in Delhi NCR, Mumbai, Bangalore and Pune. Led by 8 Partners and over 70 lawyers, we service clients pan-India. We provide our clients with pragmatic advice on matters relating to corporate and commercial laws, mergers and acquisitions, private equity, real estate, infrastructure and projects, financing, competition, tax (direct and indirect) and dispute resolution.

For more information about the firm, please visit www.lumierelp.com

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