



2026:UHC:3580-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA
AND

HON'BLE SHRI JUSTICE SUBHASH UPADHYAY

11TH MAY, 2026

WRIT PETITION (M/ B) No. 338 OF 2026

M/s Geron Engineering Pvt. Ltd.

...Petitioner

Versus

State of Uttarakhand and others.

..Respondents

Counsel for the petitioner. : Mr. Himanshu Pal, learned counsel.

Counsel for the respondent no. 1. : Mr. B.S. Parihar, learned Additional Chief
Standing Counsel with Mr. Y.C. Tiwari,
learned Standing Counsel for the State of
Uttarakhand.

Counsel for respondent nos. 2 & 3. : Mr. Yogesh Pacholia, learned counsel

JUDGMENT : (per Shri Manoj Kumar Gupta, C.J.)

1. The present writ petition has been filed assailing the order dated 08.04.2026 passed by respondent no. 2-Nagar Nigam, whereby the contract executed between the petitioner-Company and Nagar Nigam, Almora, for biomining of legacy waste from a dump site in Almora, has been terminated; the Security Deposit of the petitioner-Company has also been forfeited; and the petitioner-Company has further been debarred from participating in future tenders, in respect of contracts of Nagar Nigam, Almora.

2. The facts, in brief, are that respondent no. 2, i.e. Municipal Corporation, Almora, floated a tender for bio-mining



of legacy waste at the dump site in Almora. The petitioner was the successful bidder, and, accordingly, an Agreement was executed between the parties on 02.02.2026, whereunder the date of commencement of the work was fixed as 02.02.2026, and date of completion as 01.02.2027.

3. The case of the petitioner is that, after execution of the Agreement, it conducted a site survey, and found that the actual waste available at the site was 97097 metric tonnes, i.e. more than three times the quantity specified in the BOQ. The further case of the petitioner-Company is that, after carrying out the site survey, it sent an e-mail, on 11.03.2026, to the respondent-Nagar Nigam, highlighting the said fact. The petitioner also alleged that even after execution of the Agreement, the respondent-Nagar Nigam continued dumping waste at the site, thereby rendering the scope of work vague and indefinite. On the same date, it is alleged that respondent-Nagar Nigam issued a warning notice to the petitioner-Company, requiring it to forthwith commence the work of removal of legacy waste, failing which the Agreement would be terminated, and the petitioner-Company would be blacklisted.

4. The case of the petitioner-Company is that the said notice was issued to it without considering its e-mail. The respondent-Nagar Nigam, thereafter, issued another notice on



23.03.2026 threatening to terminate the Agreement and forfeit the Security Deposit. It was followed by passing of the impugned order dated 08.04.2026, terminating the Agreement; forfeiting the Security Deposit; and debarring the petitioner-Company from participating in future tenders.

5. The submission of learned counsel for the petitioner-Company is that the petitioner-Company was not given any show-cause in respect of blacklisting, and, therefore, the impugned order is in breach of principles of natural justice. It is further contended that the action of the respondent-Nagar Nigam, in not mentioning the correct quantity of legacy waste available at the site while inviting the tenders, amounts to misrepresentation by a State instrumentality, and the blame cannot now be shifted upon the petitioner-Company for not commencing the work in time. The petitioner-Company raised the said issue by its e-mail so that the respondent-Nagar Nigam could identify and clarify the actual quantity of waste required to be removed, but no action was taken thereon by the respondent-Nagar Nigam, and, on the other hand, it has proceeded to terminate the agreement in a wholly arbitrary manner. It is further submitted that the order, debarring the petitioner-Company from applying for any future contracts with Nagar Nigam, has serious civil consequences, and without a



proper show-cause notice in that regard, no such order could have been passed. In support of the said submission, learned counsel for the petitioner-Company has relied upon the judgment of the Allahabad High Court in WRIT-C No. - 15363 of 2022, “*M/s Bcits Pvt. Ltd. v. Purvanchal Vidhyut Vitran Nigam Ltd. And Another.*”

6. On the other hand, Mr. Yogesh Pacholia, learned counsel appearing on behalf of the respondent-Nagar Nigam submits that it was one of the terms of the Notice Inviting Tender (NIT), that the intending tenderer would visit the site, satisfy itself about the factual position, and also upload photographs of the site along with the bid documents, so that no dispute, of the nature now sought to be raised by the petitioner-Company, may arise subsequently. It is further submitted that, under the Agreement, the respondent-Nagar Nigam had the right to terminate the agreement on account of negligence and non-performance of the contractual obligations by the contractor. It is further submitted that in the instant case, the petitioner-Company had submitted a detailed approach and methodology of work, wherein it gave definite timelines for completion of different stages for successful completion of the work. However, the petitioner failed to adhere to the said timelines. The petitioner was given first



notice on 20.02.2026, wherein it was specifically pointed out that the petitioner had not started any work at the site, and it was required to start the work forthwith. It was further cautioned that, in case it fails to start the work, action, as per the terms of the Agreement, would be taken against it. However, the petitioner-Company still did not start the work and, therefore, another notice was given to it on 11.03.2026, requiring it to commence the work within a week, failing which the Agreement would be cancelled, and fresh bids invited. Yet again, a further notice was given on 23.03.2026, requiring it to forthwith start the work, failing which the Agreement would be cancelled, and security amount forfeited. Even thereafter, as the petitioner-Company failed to commence any work, respondent-Nagar Nigam was left with no other option, but to terminate the agreement by impugned order dated 08.04.2026.

7. It is thus submitted that the respondent-Nagar Nigam had given repeated notices to the petitioner-Company, but still the petitioner did not start the work. The work in question was of significant public importance, and the timelines prescribed were to be strictly adhered to in order to ensure completion of work within specified time. The work was being supervised by the National Green Tribunal, as it related to the preservation of environment. Since the petitioner failed to commence the



work, the respondent-Nagar Nigam was well within its right to terminate the contract. The further submission is that, under the contract, there is remedy of arbitration and therefore it is open to the petitioner-Company to avail the said remedy. The issue sought to be raised by the petitioner-Company, regarding the quantity of legacy waste at the site is a disputed question of fact, which would require evidence to be led, and this Court, in exercise of its writ jurisdiction, may not undertake the said exercise.

8. We have considered the rival submissions, and perused the material on record.

9. The Agreement for removal of legacy waste was entered into between the parties on 02.02.2026. The work thereunder was to be commence on 02.02.2026 and conclude on 01.02.2027. In order to complete the work in time, the petitioner had filed a detailed document specifying the approach and methodology it would follow in performing the contract. Thereunder, the petitioner-Company, in paragraph no. 7, has specified the timelines, which it would follow to ensure timely execution of the work under the contract.

10. Clause 5 of the Request for Proposal stipulated that it would be the responsibility of the bidder, at its own risk, to visit the site and obtain all necessary information. One of the



conditions of the bidding process was that the bidder should conduct a site visit of the dump site, submit a declaration along with geo-tagged photographs of the dump site, and furnish a work plan with the technical bid based on the details gathered during such visit. The petitioner-Company, admittedly, visited the site and also submitted a declaration affirming that it had complied with the aforesaid condition.

11. The petitioner-Company raised the issue of having found a larger quantity of legacy waste at the site, much after entering into the contract, although one of the conditions of the bidding document required the petitioner-Company to visit the site and satisfy itself regarding the site condition before submitting its bid.

12. The issue in question, apart from the facts noted above, also requires appreciation of evidence. Admittedly, the remedy of arbitration is available under the agreement. In fact, the petitioner, itself, in paragraph no. 21 of the writ petition has stated as follows :-

“21. That disputes have thus arisen between the parties in relation to illegal termination, forfeiture of performance security and blacklisting, which are required to be adjudicated through arbitration in terms of the arbitration clause 8.2.4 contained in the RFP.”

13. In paragraph no. 23, it is stated as follows :-

“23. That the Petitioner is taking steps to invoke arbitration proceedings.”



14. Further, in paragraph no. 24, it is stated as follows:-

“24. That the present Petition is being filed for urgent protection to safeguard the rights of the Petitioner which are outside the scope of Section 9 of the Arbitration & Conciliation Act, 1996, as the courts exercising powers under Section 9 do not have power to set aside the black-listing of the Petitioner.”

15. In view of the above admission by the petitioner, regarding existence of arbitration clause and its invocation by the petitioner, we leave it open to the petitioner to get the dispute regarding termination of the contract adjudicated through the process of arbitration.

16. As regards violation of principles of natural justice, we also do not feel impressed by the submissions made by learned counsel for the petitioner-Company. Clause 7 of the Agreement confers right in favour of the respondent-Nagar Nigam to terminate the Agreement for negligence and non-performance of the duties by the contractor. It is as follows :-

“7. If it is found that the work of Nagar Nigam Almora is getting affected due to negligence and non-performance of duties by the contractor then Municipal Commissioner, Nagar Nigam Almora reserves the right to terminate the agreement based on behavior and breach of work contract.”

17. In the tender document, Clause 2.6, relating to Termination, is as follows :-

“2.6 Termination

2.6.1 By the The Authority may terminate this Authority Contract, by not less than thirty (30) days written notice of termination to the Service Provider, to be given after the occurrence of any of the events specified



in Bid documents

- (a) if the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Authority may have subsequently approved in writing;*
- (b) if the Service Provider become insolvent or bankrupt; or goes into liquidation other than for a reconstruction or amalgamation;*
- (c) if, as the result of Force Majeure, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or*
- (d) if the Service Provider, in the judgment of the Authority has engaged in Fraud and Corruption during execution and bidding.”*

18. In the instant case, the event of non-performance occurred from the very first date the parties entered into the contract, i.e. 02.02.2026, as admittedly the petitioner-Company did not start any work, though on the ground that at the site it found more quantity of legacy waste dumped. As per the provision in the bidding document, 30 days' written notice was to be given to the petitioner-Company to remedy the failure, failing which the Agreement could be terminated.

19. In the present case, it is not disputed that first notice of default of the obligation of the petitioner-Company under the agreement was given to it on 20.02.2026, followed by notices dated 11.03.2026 & 23.03.2026, and ultimately the contract



was terminated on 08.04.2026. The petitioner-Company was, thus, given much more than 30 days time to remedy the default. The notice specifically required the petitioner-Company to remedy the breach, but which according to the respondent-Nagar Nigam, was not remedied, and consequently, as per the Agreement, the respondent-Nagar Nigam had proceeded to terminate the Agreement.

20. As we have held that the petitioner-Company has remedy of approaching the Arbitrator, therefore, although, *prima facie*, we do not find much force in the contention that principles of natural justice have been violated, but we do not want to express any final opinion on the said issue, as we feel that the said issue should also be left open for being raised before the Arbitral Tribunal.

21. Finally we take up the contention regarding debarment of the petitioner-Company from future contracts. None of the notices referred to above, which have been given to the petitioner, required the petitioner to show cause against the proposed action of debarment or blacklisting. The notices merely indicate that action in accordance with the contract would be taken. The law, in regard to debarment from future contracts, is well settled. A notice in this regard must be specific, disclosing the intention of the authority not only to



terminate the contract but also to blacklist or debar a person from future contracts and requiring it to show cause. The noticee should be given proper opportunity to file his reply, and only after considering the reply, any order for debarment or blacklisting could be passed. As the said procedure has not been followed in the instant case, therefore, the impugned order, to the extent it directs debarment of the petitioner-Company, is, hereby, quashed. In respect of the said action, liberty is reserved in favour of respondent-Nagar Nigam to give proper notice, and then proceed in accordance with law.

22. The writ petition stands disposed of accordingly.

23. All pending applications stand disposed of accordingly.

MANOJ KUMAR GUPTA, C.J.

SUBHASH UPADHYAY, J.

Dt: 11th May, 2026
Rahul

RAHUL
PRAJAPATI

Digitally signed by RAHUL PRAJAPATI
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