

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11244 of 2025

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M/s Vivid Offset through its partner Mr. Shailesh Kumar Singh, aged about 49 years (Male), S/o- Late Ram Naresh Singh, R/o- Dharara Kothi Naya Tola, P.S. Kadamkuan, Patna- 800004.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhawan, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Additional Chief Secretary-cum-Chairman of Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001.
5. Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001 through its Managing Director.
6. The Managing Director, Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001.
7. Officer on Special Duty (OSD), Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001.
8. State Education Research and Training Council through its Director, Mahendru, Patna- 800006.
9. The Director State Education Research and Training Council, Mahendru, Patna- 800006.
10. Bihar Education Project Council through its Project Director, Rashtra Bhasa Parishad, Shiksha Bhawan, Saidpur, Patna-800004.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11378 of 2025

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M/s Mani Printers through its proprietor Mr. Chanchal Kumar Banerjee, aged about 62 Years (Male), S/o Balram Banerjee, R/o- Pani Tanki, Babua Ganj, Gulzarbagh, Patna - 800007.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.



3. The Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhawan, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Additional Chief Secretary-cum-Chairman of Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
5. Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001 through its Managing Director.
6. The Managing Director, Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001.
7. Officer on Special Duty (OSD), Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001.
8. State Council of Educational Research and Training (SCERT) through its Director, Mahendru, Patna (Bihar), PIN - 800006.
9. The Director State Council of Educational Research and Training (SCERT), Mahendru, Patna (Bihar), PIN - 800006.
10. Bihar Education Project Council through its Project Director, Bihar Education Project Council, Shiksha Bhawan, Rashtrabhasha Parishad Campus, Saidpur, Rajendra Nagar, Patna- 800004.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11386 of 2025

M/S Patna Offset , through its Partner Mr. Amit Kumar Singh, aged about 47 Years (Male), S/o-Ram Naresh Singh, R/o-Near Dharahara Kothi, Naya Tola, P.S.-Kadamkuan, Patna-800004.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Additional Chief Secretary, Education Department, Government of Bihar, Vikas Bhawan, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Additional Chief Secretary-Cum-Chairman of Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
5. Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001. through its Managing Director.
6. The Managing Director, Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
7. Officer on Special Duty (ODS), Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.



8. State Council of Educational Research and Training (SCERT) through its Director, Mahendru, Patna (Bihar), PIN 800006.
9. The Director State Council of Educational Research and Training (SCERT), Mahendra, Patna (Bihar), PIN 800006.
10. Bihar Education Project Council through its Project Director, Bihar Education Project Council, Shiksha Bhawan, Rashtra Bhasha Parishad Campus, Saidpur, Rajendra Nagar, Patna- 800004.

... ... Respondent/s

with

Civil Writ Jurisdiction Case No. 11437 of 2025

M/S The Gandhi Enterprises through its proprietor, Amit Kumar Rai, Male, aged about 48 years, son of Sri Nawal Kishore Rai, resident of Kazipur Naya Tola, P.O Bankipore, P.S. Kadamkuan, District Patna, Bihar-800004.

... ... Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary-Cum- Chairman, Bihar State Text Book Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
3. The Bihar State Text Book Publishing Corporation Limited, Pathya Pusthak Bhawan, Budh Marg, Patna through its Managing Director.
4. The Managing Director, the Bihar State Text Book Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
5. The Officer-on-Special Duty, the Bihar State Text Book Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
6. The State Council of Educational Research and Training through its Director, Mahendru, Patna -06.
7. The Director, State Council of Education Research and Training, Mahendru, Patna-06.
8. The Procurement Expert State Council of Educational Research and Training Mahendru, Patna-6.
9. The Bihar Education Project Council, through State Project Director, Shiksha Bhawan, Rashtra Bhasha Parishad Campus, Saidpur, Rajendra Nagar, Patna, Bihar- 800004.

... ... Respondent/s

with

Civil Writ Jurisdiction Case No. 11786 of 2025



M/s Capital Offset through its proprietor Mr. Sandeep Kumar, aged about 45 Years (Male), S/o- Sidhnath Rai, R/o- 79/B, Saketpuri Bazarsamiti Bahadurpur, Rajendra Nagar, P.O. Rajendra Nagar, Patna-800007.

... .. Petitioner/s

Versus

1. The State of Bihar through Chief Secretary, Government of Bihar, Old Secretariat, Patna.
2. The Chief Secretary, Government of Bihar, Old Secretariat, Patna.
3. The Additional Chief Secretary, Education Department. Government of Bihar, Vikas Bhawan, Jawaharlal Nehru Marg (Bailey Road), Patna.
4. The Additional Chief Secretary-cum- Chairman of Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
5. Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna- 800001 through its Managing Director.
6. The Managing Director, Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
7. Officer on Special Duty (OSD), Bihar State Text Book Publishing Corporation Ltd. Pathya Pustak Bhawan, Budh Marg, Patna-800001.
8. State Council of Educational Research and Training (SCERT) through its Director, Mahendru, Patna Bihar, Pin- 800006
9. The Director, State Council of Educational Research and Training (SCERT), Mahendru, Patna(Bihar), Pin- 800006
10. Bihar Education Project Council, through its Project Director, Shiksha Bhawan, Rastrabhasha Parishad Campus, Saidpur, Rajendra Nagar, Patna-800004

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12503 of 2025

M/S Alankar Printers through its proprietor Md. Monazir Sohail, Male aged about 55 years son of Md. Ashique Hussain, resident of Mohli Road, Karmali Chak, P.S. Didarganj, District Patna, at present resident of Birla Mandir Road, Aakash Ganga Press, Subzibag, P.S. Pirbahore, District Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Department of Education, Government of Bihar, Patna.
2. The Additional Chief Secretary-Cum- Chairman, Bihar State Text Book



- Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
3. The Bihar State Text Book Publishing Corporation Limited, Pathya Pusthak Bhawan, Budh Marg, Patna through its Managing Director.
4. The Managing Director, the Bihar State Text Book Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
5. The Officer-on-Special Duty, the Bihar State Text Book Publishing Corporation Limited, Pathya Pustak Bhawan, Budh Marg, Patna.
6. The Bihar Education Project Council, through State Project Director, Shiksha Bhawan, Rastra Bhasha Parishad Campus, Saidpur, Rajendra Nagar, Patna, Bihar.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 11244 of 2025)

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Vikas Kumar, Advocate
Ms. Aradhana Kumari, Advocate

For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Ajay, GA-5
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

(In Civil Writ Jurisdiction Case No. 11378 of 2025)

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Vikas Kumar, Advocate
Ms. Aradhana Kumari, Advocate

For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Ajay, GA-5
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

(In Civil Writ Jurisdiction Case No. 11386 of 2025)

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Vikas Kumar, Advocate
Ms. Aradhana Kumari, Advocate

For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Ajay, GA-5
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

(In Civil Writ Jurisdiction Case No. 11437 of 2025)

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Mithilesh Kumar, Advocate



For the Respondent/s : Mr. Rajesh Prasad Choudhary, Advocate
Mr. Bimal Kishore Singh, Advocate
Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Standing Counsel (28)
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

(In Civil Writ Jurisdiction Case No. 11786 of 2025)

For the Petitioner/s : Mr. Jitendra Singh, Sr. Advocate
Mr. Vikas Kumar, Advocate
Ms. Aradhana Kumari, Advocate
For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Ajay, GA-5
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

(In Civil Writ Jurisdiction Case No. 12503 of 2025)

For the Petitioner/s : Mr. Y.V. Giri, Sr. Advocate
Mr. Mithilesh Kumar, Advocate
Mr. Rajesh Prasad Choudhary, Advocate
Mr. Bimal Kishore Singh, Advocate
For the Respondent/s : Mr. P.K. Shahi, Sr. Advocate
Ms. Anukriti Jaipuriyar, Advocate
Mr. Rajnikant Kumar, Advocate
Ms. Priti Mahato, Advocate
Mr. Vikash Kumar, SC-11
Mr. Amish Kumar, Advocate
Mr. Girijish Kumar, Advocate
Mr. Akash Anand, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 13-08-2025

The present batch of writ petitions is filed by the petitioners challenging the order of blacklisting passed by the respondent against respective petitioners for a period of one year. The issue involved in these petitions is similar and, therefore, learned advocates appearing for the parties jointly



requested that all these petitions be heard together and the same be disposed of by a common judgment. Thus, at the joint request of learned advocates, we have taken up the petitions for final disposal, as requested.

2. For the sake of convenience, the facts narrated in C.W.J.C. No. 11437 of 2025 are stated as under:

FACTUAL MATRIX

3. The Bihar State Text Book Publishing Corporation Limited (hereinafter referred to as 'Corporation') issued E notice inviting tender (in short 'NIT') from eligible printers for printing and supply of Samagra Shiksha Abhiyan (in short 'SSA') text books for Class-I to Class-VIII Class/ Standardwise, Districtwise and Language-wise under SSA for the academic year 2025-2026 which will be delivered to 548 Block Resources Centres in 38 districts within the State of Bihar.

3.1. The petitioner participated in the said NIT and was declared successful. The work order dated 14.11.2024 for printing, binding, set making and supply of text book of Hindi, Urdu and mixed medium under Package-52 for Class-VI in the districts of Araria, Banka and West Champaran was issued. Similarly, another work order for Package-58 for Class-VII in the districts of Begusarai, Samastipur and Sheohar was also



issued in favour of the petitioner.

3.2. It is the case of the petitioner that the respondents finally approved the dummy/proof of books and intimated the final date of approval of books on 03.12.2024. Similarly, on 06.12.2024, respondent No. 6 had approved the books of other printers. Now, it is the case of the petitioner that the concerned respondent, from time to time, changed the cover page, design and size of books and, therefore, various correspondences took place between the parties. It is further stated that final date of approval of books was 27.12.2024 and as per Clause-8.1 of the tender document, printers shall have to deliver the books to concerned Blocks within 105 days from the date of final approval of dummy/proof and as per Clause-12(A) (i) of the tender document, no penalty would be levied till 15 days from completion of 105 days. Thus, the printers shall have to deliver the books at the destination within 120 days of approval by respondent No. 6.

3.3. Respondent No. 5 issued a show cause notice on 17.02.2025 to the concerned printers in light of Clause-8 Part-II Note (iii). It has been mentioned therein that Corporation reserves its right to withdraw upto 50% of the contract/work order, if the printer does not complete 50% of quantum of total



contract on 75th day from the date of approval of final proof reading without issuing any prior notice. It is also the case of the petitioner that on 05.03.2025 respondent No. 5 had directed the petitioner to print and supply 5 extra books of Urdu/mixed medium along with diary Hindi medium. Thereafter, respondent No. 5 issued show cause notice dated 05.03.2025 and asked to show cause for not delivering 50% books of total contract. Immediately thereafter, on 18.03.2025 respondent No. 5 published a chart along with percentage of delivery of books and convened a meeting of printers with direction to appear with up-to-date progress report. Thereafter, once again on 25.03.2025 respondent No. 5 issued show cause notice to the petitioner about non-supplying the books on time.

3.4. Petitioner has further stated that on 21.04.2025, respondent No. 5 asked show cause from the petitioner for initiation of process for blacklisting the petitioner, to which the petitioner submitted reply on 24.04.2025. Thereafter, on 30.04.2025 respondent No. 5 issued 2nd show cause notice to the petitioner for blacklisting, to which the petitioner gave reply.

3.5. The grievance of the petitioner is that respondent No. 5 has blacklisted the petitioner vide order dated



18.06.2025 for a period of one year. Petitioner has, therefore, filed the present petition under Article-226 of the Constitution of India in which the petitioner has prayed for quashing of the order dated 18.06.2025, passed by respondent No. 5 by which the petitioner has been blacklisted for a period of one year. Petitioner has also prayed that the respondents be directed to permit the petitioner to take part in the new tender published online vide tender Notice No. 620 dated 05.06.2025 during pendency of the writ petition.

Submissions on behalf of the petitioners

5. Heard Mr. Y.V. Giri, learned Senior Counsel, assisted by Mr. Mithilesh Kumar, Mr. Rajesh Prasad Choudhary and Mr. Bimal Kishore Singh, learned advocates appearing for the petitioners in C.W.J.C. Nos. 11437 of 2025 and 12503 of 2025 and Mr. Jitendra Singh, learned Senior Counsel, assisted by Mr. Vikas Kumar and Ms. Aradhana Kumari, learned advocates appearing for the petitioners in C.W.J.C. Nos. 11244 of 2025, 11378 of 2025, 11386 of 2025 and 11786 of 2025 and Mr. P.K. Shahi, learned Senior Advocate, assisted by Ms. Anukriti Jaipuriyar, Mr. Rajnikant Kumar, Ms. Priti Mahato, Mr. Ajay, Mr. Girijish Kumar and Mr. Akash Anand, learned advocates appearing for the respondents in all the writ petitions.



6. Learned senior counsel Mr. Y.V. Giri, appearing for the petitioner would mainly contend that show cause notice dated 25.03.2025 came to be issued by the respondent asking the petitioner to show cause why strict action be not initiated against the petitioner for not supplying the books within the stipulated time. It is further submitted that petitioner submitted reply to the said notice, copy of which is placed at page No. 222 of the compilation. It is further submitted that thereafter the respondent issued show cause notice dated 21.04.2025, copy of which is placed at page No. 225 of the compilation and asked the petitioner to show cause why the penal action of blacklisting be not initiated against it, to which the petitioner gave reply on 24.04.2025. However, it is submitted that the respondent failed to issue show cause notice for blacklisting the petitioner and straightaway the impugned order for blacklisting of the petitioner for a period of one year came to be passed. Thus, learned senior counsel would mainly submit that the respondents have violated the principles of natural justice and without issuing show cause notice for the purpose of blacklisting, the impugned decision has been taken and, therefore, only on this ground, the impugned order be set aside.

7. Learned senior advocate Mr. Giri further submits



that cyclostyle orders have been passed in the case of six petitioners and, in fact, while passing the impugned orders, the respondent has not considered the reply submitted by the petitioner. There is no reference in the impugned order with regard to the explanation tendered by the petitioner. It is also contended that the impugned order is a non-speaking order and the same is without jurisdiction and, therefore, the impugned order be set aside. It is further submitted that a delay in delivering the books was caused because of the fault of the respondent. The said aspect has been explained by the petitioner in the reply. However, no reason is assigned by the respondent while discarding the reply of the petitioner. Hence, the impugned order is arbitrary which is violative of Article-14 of the Constitution of India. Learned senior counsel, therefore, urged that this Court can exercise powers under Article-226 of the Constitution of India and, thereby, set aside the impugned order. Learned senior advocate has placed reliance upon the following decisions rendered by Hon'ble Supreme Court:-

1. Gorkha Security Services Vs. Government (NCT of Delhi) & Ors. reported in (2014) 9 SCC 105;

2. Oryx Fisheries Private Limited Vs. Union of India & Ors. reported in (2010) 13 SCC 427,



7. Learned senior advocate Mr. Jitendra Singh, appearing for the petitioner in C.W.J.C. No. 11244 of 2025 and allied matters, would mainly refer various documents which are annexed with C.W.J.C. No. 11244 of 2025. Thereafter, learned senior advocate would mainly submit that Part-II of Clause-8 of Section-III, i.e. General Conditions of Contract of E-tender, provides for tentative timeline for supply of books. As per the said Clause, tentative timeline for supply of 100% of contract value was 105th day from the date of final approval and 15 days grace period for 100% delivery was also provided. Thus, within 120 days from the date of final proof approval, 100% delivery is to be made. It is further submitted that, if the maximum penalty reaches to 10% of the remaining default contract value, then the contract may be terminated apart from forfeiture of performance guarantee and other penal action like debar/blacklisting may also be initiated as per Clause-12 Part-A of the aforesaid General Conditions. It is further submitted that, as per the terms and conditions of tender notice, all the printers have to get approval of final proof of books for printing by State Council of Educational Research and Training (in short SCERT). It is further contended by learned senior advocate that after fixing the date of approval of final proof of books, the SCERT vide



letter dated 11.12.2024 directed the Corporation to make change in design of National Flag and print the same on all books and school diary of Class-I to Class-VIII. The said letter was communicated to all. Similarly, by another communication dated 17.12.2024, Director of SCERT communicated to add five books in the curriculum of Class-VIII. There were extra pages in the same. Again on 24.12.2024, SCERT issued another letter to the Corporation annexing the brief list of books from Class-I to Class-VIII of all subjects, classwise and languagewise.

8. Learned senior advocate, therefore, submitted that the last date of approval of proof of books falls on 22.12.2024 and, as per terms and conditions of tender document, 105 days falls on 08.04.2025. Thereafter, there is 15 days grace period for 100% delivery, i.e. 25.04.2025 without penalty.

9. Learned senior advocate Mr. Singh thereafter contended that the respondent issued various letters/ show cause notices in March, 2025, to which the petitioner submitted reply and thereafter on 21.04.2025 show cause notice regarding blacklisting for non-supply of 100% books was issued by the Corporation. Petitioner gave reply on 24.04.2025 and stated that it had supplied 89.87% books and due to non-payment it is



unable to make payment to the transporters and get delivery challan from them. Thereafter, 2nd show cause notice regarding blacklisting came to be issued on 29.04.2025. Petitioner supplied reply on 02.05.2025 in which the petitioner has explained in detail about the reasons for not supplying 100% books within the stipulated time.

10. Learned senior advocate submits that, now, the impugned order of blacklisting came to be passed by the respondent by which the petitioner has been blacklisted for a period of one year. The said order has been passed while exercising powers under Clause-12(A) of the tender notice. However, it is submitted that the respondent, without ascertaining the quantum of penalty imposed on the petitioner, passed the order of blacklisting and no penalty has been deducted from the bill of the petitioner and final bill has not been submitted. In fact, the petitioner has completed the entire work.

11. Learned senior advocate assailed the impugned order of blacklisting by mainly contending that before passing the impugned order the respondent did not issue show cause notice to the petitioner and, in fact, the petitioner submitted various replies, pursuant to which various letters were issued by



the respondent, however, while passing the impugned order of blacklisting, respondent has not considered the same. Thus, there is non-application of mind on the part of the respondent authority and the impugned order is a non-speaking order. Learned senior advocate further submits that even if it is presumed that there was some delay in supplying the books, the said delay has occurred because of the fault of the respondent for which the petitioner is not responsible and, therefore, the respondent cannot take advantage of its own wrong. Learned senior advocate, therefore, urged that the impugned order be quashed.

12. In support of his submissions, learned senior advocate has placed reliance upon the following decisions rendered by Hon'ble Supreme Court:-

1. All India Groundnut Syndicate Ltd. Vs. Commissioner of Income Tax, Bombay City, reported in 1953 SCC OnLine Bom 90;

2. Isolators And Isolators through its proprietor Sandhya Mishra Vs. Madhya Pradesh Madhya Kshetra Vidyut Vitran Company Limited And Another reported in (2023) 8 SCC 607;

3. Subodh Kumar Singh Rathour Vs. Chief



Executive Officer & Ors. reported in 2024 SCC OnLine SC 1682.

Submissions on behalf of the respondents

13. On the other hand, learned Senior Advocate Mr. P.K. Shahi has vehemently opposed all these petitions. Learned Senior Advocate would mainly submit that as per Clause-17 of the tender notice, in case of dispute or difference between the Corporation and the bidder relating to any matter arising out of or connected with the contract, the said issue shall be first resolved through mutual consent. However, if the dispute still persists/remains, then it will be entertained and finalized as per the provisions of Arbitration and Conciliation Act, 1996. Learned Senior Advocate, therefore, urged that as the petitioners have alternative remedy as per the agreement, the present petitions may not be entertained.

14. Learned Senior Advocate thereafter referred Clause-8 of the General Conditions of Contract. It is submitted that delivery at the destination points should be strictly made within 105 days from the date of final approval of dummy/proof and the time is the essence of this contract. The time period has to be strictly followed by the bidder at any cost. It is further submitted that, as per Clause-8.2 Section-III, the supplier should



strictly adhere to the time schedule specified in Part-II of the said contract and in the event of delay/non-supply as per the requirement, the Corporation has the right to terminate the contract at any time without assigning reasons thereof. Even further penal action can be taken. Learned Senior Advocate has also referred Clause-12(A) of the Conditions.

15. Learned Senior Advocate submits that in the case of petitioner in C.W.J.C. No. 11437 of 2025 the maximum penalty had reached 12% of the remaining default contract value because of delayed delivery of text books, as such, the petitioner was blacklisted for a period of one year after issuing several show cause notices. It is also contended that the Corporation has explicitly outlined in its letter dated 06.12.2024 that the final date for proof reading of Class-I to Class-V is 02.12.2024 and for Class-VI to Class-VIII it is 03.12.2024. Consequently, the deadline for 100% delivery of books without penalty is determined to be 01.04.2025 or 02.04.2025 respectively. It is also contended that, so far as the said petitioner is concerned, the petitioner was running much behind the schedule and had supplied only 54.76% of text books till 02.04.2025 and thereafter the petitioner had supplied 69.91% of books till 26.04.2025. The impugned decision has been taken by the



respondent after issuing the show cause notice to the petitioner. Learned Senior Advocate has referred various important show cause notices issued by the respondent to the petitioner, copy of which is placed on record with the counter affidavit filed by the respondent. Learned Senior Advocate has also referred the chart annexed with the counter affidavit in support of his submission that the petitioner did not deliver 100% of books within the stipulated time.

16. Learned Senior Advocate, at this stage, referred the counter affidavit filed by the respondent in C.W.J.C. No. 11244 of 2025 and, more particularly para-40 thereof. It is submitted that the petitioner had already crossed the timeline of 01.04.2025 and 02.04.2025 and it is evident from the progress report dated 02.04.2025 that petitioner had delivered only 44.37% of books allotted to it. Even as on 26.04.2025, petitioner had supplied only 52.73% of books. Thus, the petitioner had committed a default of 17% of the remaining default contract value. Learned Senior Advocate has also referred the chart produced at Annexures-R/1 to R/3 of the counter affidavit filed in the said matter in support of his submission. Learned Senior Advocate, at the same time, referred various show cause notices issued by the respondent to the petitioner, including the show



cause notice for taking action of blacklisting issued by the respondent to the petitioner.

17. Learned Senior Advocate further submits that the decisions upon which reliance has been placed by the learned senior advocates for the petitioners would not render any assistance to them. Learned Senior Advocate would submit that, in contract matters, the scope of judicial review is very limited. In the present case, the respondent has issued show cause notice and thereafter, looking to the urgency of the supply of text books pursuant to the relevant Clause of the tender condition because of the non-supply of the books within the stipulated time, when the action has been taken by the respondent authority, this Court may not sit in appeal over the said decision and there is no arbitrariness on the part of the respondent while passing the impugned orders of blacklisting of all the petitioners. Learned Senior Advocate, therefore, urged that all these petitions be dismissed.

Discussions:

18. Having heard learned advocates appearing for the parties and having gone through the materials placed on record, it would emerge that the respondent Corporation issued NIT for printing and supply of SSA text books for Class-I to



Class-VIII Class/standardwise, Districtwise, Languagewise for the academic year 2025-2026. It would further emerge that all the petitioners participated pursuant to the said NIT and were declared successful. The other printers, whose details are mentioned in the chart annexed with the counter affidavit of the respondents, were also declared successful in the said process for different districts and for different classes. From the submissions canvassed by learned advocates appearing for the parties, mainly it would emerge that it is the case of the petitioners that because of the change in design/ various reasons and because of the modifications and various instructions issued by the respondent, from time to time, there was some delay caused in supplying the books. It is also the case of the petitioners that the books were supplied within the grace period, i.e. upto 120 days. The main contention of the petitioners is that the impugned orders of blacklisting were passed by the respondents in cases of the respective petitioner without issuing the show cause notice. In fact, show cause notice has been issued by the respondent to the petitioners in which the petitioners were asked to show cause why proceedings with regard to blacklisting be not initiated. However, thereafter no proceeding has been initiated against the petitioners and



straightaway the impugned orders have been passed. It is also the case of the petitioners that the impugned orders are non-speaking orders and while passing the same there is non-application of mind on the part of the respondent authority and, thus, there is arbitrariness on the part of the respondents. Thus, the respondent has violated Article-14 of the Constitution of India and, therefore, this Court is having power to entertain the present petitions.

19. With a view to appreciate the aforesaid contentions and factual aspects, we have gone through the entire record. From the record, it transpires that as per Section- II.B 1.4 of NIT dated 28.08.2024, the contract was to be awarded from the date of issuance of the work order and the text books were required to reach the destination points concerned (H.Qs./ B.R.Cs. in the State) within 01.02.2025 or 105 days from the date of final approval of dummy/proof, whichever comes first. Further, Section-II, Clause-11 of NIT states that the Corporation has the right to vary quantities at the time of award of contract of SSA. Further, Clause-8 of Section-III of General Condition of Contract contained in NIT provides that delivery at the destination points should be strictly made within 01.02.2025 or 105 days from the date of final approval of dummy/proof,



whichever comes first and 15 days additional grace period for 100% delivery was provided in the scheduled timeline. At this stage, it is important to note that Clause-8.2 specifically provides that time is the essence of this contract and that the time period has to be strictly followed by the bidder at any cost. Further, no negligence should be shown on the ground of delay at any cost.

20. Clause-12 of Section-III of General Condition of Contract further provides for penalty for delay in delivery of text books. It is specifically provided that if the maximum penalty reaches to 10% of the remaining default contract value, then the contract may be terminated apart from forfeiture of performance guarantee and other penal actions like debar/blacklisting may be initiated.

21. Now, it is the specific case of the respondents in the counter affidavit that deadline for 100% delivery of books is determined to be 01.04.2025 and 02.04.2025 for Class-I to Class-V and for Class-VI to Class-VIII respectively. It is the specific case of the respondents that, so far the petitioner of C.W.J.C. No. 11437 of 2025 is concerned, it had supplied only 54.76% of text books till 02.04.2025 and thereafter the petitioner had supplied 69.91% of books till 26.04.2025. Thus,



the said petitioner had committed default of the 12% of the default contract value. Similarly, so far the petitioner of C.W.J.C. No. 11244 of 2025 is concerned, it is the specific case of the respondents in the counter affidavit that the said petitioner had delivered only 44.37% of books as on 02.04.2025 and 52.73% of books till 26.04.2025. We have also perused the different charts placed on record by the respondents along with the counter affidavit. Thus, the said petitioner had committed default of 17% of default contract value.

22. Keeping in view the aforesaid factual aspects, we have also once again referred various show cause notices issued by the respondents to the respective petitioners and the reply submitted by the respective petitioners. It has been mainly contended by learned advocates that without issuing show cause notice for taking action of blacklisting straightaway order of blacklisting has been passed.

23. We are of the view that the aforesaid contention is misconceived. The petitioner of C.W.J.C. No. 11437 of 2025 has placed on record the show cause notice dated 30th of April, 2025 as Annexure-P/18. If the said notice is carefully examined, it is revealed that the respondent has specifically asked the petitioner to show cause why the said petitioner be not



blacklisted. Similarly, in the case of petitioner in C.W.J.C. No. 11244 of 2025, similar type of notice dated 30th of April, 2025 came to be issued to the said petitioner, copy of which is placed at page Nos. 276 and 277 of the compilation. Thus, we are of the view that the aforesaid contention of the petitioners that no show cause notice with regard to blacklisting was issued by the respondents cannot be accepted.

24. We have also gone through the impugned orders passed by the respondents. If the impugned orders are carefully examined, it is revealed that the respondent concerned has specifically mentioned that repeated correspondences took place between the parties and despite repeated requests made to the concerned petitioners, they have failed to supply the books within the stipulated time and, therefore, while exercising powers under Clause-12A of the General Conditions of Tender, the action of blacklisting has been taken against the respective petitioners for a period of one year.

24.1. We are of the view that, as observed hereinabove, in the present case, the NIT was issued for supply of text books for Class-I to Class-VIII before the academic term starts and, therefore, Clause-8 specifically provides that time is the essence of the contract and delivery at the destination points



should be strictly made within the stipulated time. Otherwise, strict penal action can be taken against the concerned bidder. Thus, looking to the facts and circumstances of the present cases, when the respondent authority has taken the decision to blacklist the petitioners herein for a period of one year, we are of the view that the said decision cannot be termed as 'arbitrary' merely because the respondent has not stated in detail the reasons for passing such orders. It is relevant to note that from the chart annexed by the respondents with the counter affidavit, it transpires that similar type of work was awarded to 57 printers out of which the action has been taken only against 6 petitioners as they did not supply the books within the stipulated time. It further transpires from the said chart that all the other printers have supplied 100% or more than 86% books within the stipulated time and, therefore also, it is not open for the respective petitioners to contend that because of certain default on the part of the respondents the petitioners could not supply the books within the stipulated time.

25. At this stage, we would like to refer the decisions upon which reliance has been placed by the learned advocates appearing for the parties.

26. In the case of **Gorkha Security Services**



(supra), the Hon'ble Supreme Court has observed in para Nos.

27, 31 and 32 as under:-

27. We are, therefore, of the opinion that it was incumbent on the part of the Department to state in the show-cause notice that the competent authority intended to impose such a penalty of blacklisting, so as to provide adequate and meaningful opportunity to the appellant to show cause against the same. However, we may also add that even if it is not mentioned specifically but from the reading of the show-cause notice, it can be clearly inferred that such an action was proposed, that would fulfil this requirement. In the present case, however, reading of the show-cause notice does not suggest that noticee could find out that such an action could also be taken. We say so for the reasons that are recorded hereinafter.

31. When it comes to the action of blacklisting which is termed as “civil death” it would be difficult to accept the proposition that without even putting the noticee to such a contemplated action and giving him a chance to show cause as to why such an action be not taken, final order can be passed blacklisting such a person only on the premise that this is one of the actions so stated in the provisions of NIT.

The “prejudice” argument

32. It was sought to be argued by Mr Maninder



Singh, learned Additional Solicitor General appearing for the respondent, that even if it is accepted that the show-cause notice should have contained the proposed action of blacklisting, no prejudice was caused to the appellant inasmuch as all necessary details mentioning defaults/prejudices committed by the appellant were given in the show-cause notice and the appellant had even given its reply thereto. According to him, even if the action of blacklisting was not proposed in the show-cause notice, the reply of the appellant would have remained the same. On this premise, the learned Additional Solicitor General has argued that there is no prejudice caused to the appellant by non-mentioning of the proposed action of blacklisting. He argued that unless the appellant was able to show that non-mentioning of blacklisting as the proposed penalty has caused prejudice and has resulted in miscarriage of justice, the impugned action cannot be nullified. For this proposition he referred to the judgment of this Court in *Haryana Financial Corpn. v. Kailash Chandra Ahuja* [(2008) 9 SCC 31 : (2008) 2 SCC (L&S) 789] : (SCC pp. 38, 40-41 & 44, paras 21, 31, 36 & 44)

“21. From the ratio laid down in *B. Karunakar* [*ECIL v. B. Karunakar*, (1993) 4 SCC 727 : 1993 SCC (L&S) 1184 : (1993) 25 ATC 704] it is explicitly clear that the doctrine of natural justice requires supply of a copy of the inquiry



officer's report to the delinquent if such inquiry officer is other than the disciplinary authority. It is also clear that non-supply of report of the inquiry officer is in the breach of natural justice. But it is equally clear that failure to supply a report of the inquiry officer to the delinquent employee would not ipso facto result in the proceedings being declared null and void and the order of punishment non est and ineffective. It is for the delinquent employee to plead and prove that non-supply of such report had caused prejudice and resulted in miscarriage of justice. If he is unable to satisfy the court on that point, the order of punishment cannot *automatically* be set aside.

31. At the same time, however, effect of violation of the rule of audi alteram partem has to be considered. Even if hearing is not afforded to the person who is sought to be affected or penalised, can it not be argued that 'notice would have served no purpose' or 'hearing could not have made difference' or 'the person could not have offered any defence whatsoever'. In this connection, it is interesting to note that under the English law, it was held few years before that non-compliance with principles of natural justice would make the order null and void and no further inquiry was necessary.

36. The recent trend, however, is of 'prejudice'.



Even in those cases where procedural requirements have not been complied with, the action has not been held ipso facto illegal, unlawful or void unless it is shown that non-observance had prejudicially affected the applicant.

44. From the aforesaid decisions, it is clear that though supply of report of the inquiry officer is part and parcel of natural justice and must be furnished to the delinquent employee, failure to do so would not automatically result in quashing or setting aside of the order or the order being declared null and void. For that, the delinquent employee has to show 'prejudice'. Unless he is able to show that non-supply of report of the inquiry officer has resulted in prejudice or miscarriage of justice, an order of punishment cannot be held to be vitiated. And whether prejudice had been caused to the delinquent employee depends upon the facts and circumstances of each case and no rule of universal application can be laid down."

27. In the case of **Oryx Fisheries Pvt. Ltd.** (supra) the Hon'ble Supreme Court has observed in para Nos. 25 to 28 and 40 as under:-

25. Expressions like "a reasonable opportunity of making objection" or "a reasonable opportunity of defence" have come up for consideration before



this Court in the context of several statutes. A Constitution Bench of this Court in *Khem Chand v. Union of India* [AIR 1958 SC 300] , of course in the context of service jurisprudence, reiterated certain principles which are applicable in the present case also.

26. S.R. Das, C.J. speaking for the unanimous Constitution Bench in *Khem Chand* [AIR 1958 SC 300] held that the concept of “reasonable opportunity” includes various safeguards and one of them, in the words of the learned Chief Justice, is : (AIR p. 307, para 19)

“(a) An opportunity to deny his guilt and establish his innocence, which he can only do if he is told what the charges levelled against him are and the allegations on which such charges are based;”

27. It is no doubt true that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence. It is obvious that at that stage the authority issuing the charge-sheet, cannot, instead of telling him the charges, confront him with definite conclusions of his alleged guilt. If that is done, as has been done in this instant case, the entire proceeding initiated by the show-cause notice gets vitiated by unfairness and bias and the subsequent proceedings become an idle ceremony.



28. Justice is rooted in confidence and justice is the goal of a quasi-judicial proceeding also. If the functioning of a quasi-judicial authority has to inspire confidence in the minds of those subjected to its jurisdiction, such authority must act with utmost fairness. Its fairness is obviously to be manifested by the language in which charges are couched and conveyed to the person proceeded against.

40. In *Kranti Associates* [(2010) 9 SCC 496 : (2010) 3 SCC (Civ) 852] this Court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set out below : (SCC pp. 510-12)

“(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative



power.

(e) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making



process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor*(1987) 100 Harv. L. Rev. 731-37.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of *Strasbourg Jurisprudence*. See *Ruiz Torija v. Spain* [(1994) 19 EHRR 553] , EHRR at p. 562, para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 : 2001 ICR 847 (CA)] , wherein the Court referred to Article 6 of the European Convention of Human Rights which requires, 'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is



of the essence and is virtually a part of ‘due process’.”

28. In the case of **Isolators & Isolators** (supra) the Hon’ble Supreme Court has observed in para Nos. 34, 35 and 40 as under:-

34. Having given thoughtful consideration to the rival submissions and having examined the record, we are clearly of the view that the impugned order [*Isolators & Isolators v. M.P. Madhya Kshetra Vidyut Vitran Co. Ltd.*, 2021 SCC OnLine MP 6054] as passed by the High Court in practically denying the principal relief claimed by the appellant cannot be approved and the writ petition filed by the appellant deserves to be allowed to the extent of annulling the effect of debarment and quashing the imposition of penalty.

35. As regards the principles of law applicable to the case, we need not elaborate on various decisions cited at the Bar. Suffice it would be to take note of the decision in *UMC Technologies [UMC Technologies (P) Ltd. v. Food Corpn. of India]*, (2021) 2 SCC 551] wherein, the substance of the other relevant decisions has also been duly noticed by this Court while explaining the principles governing such actions of debarment/blacklisting. Therein, this Court, inter alia, underscored the requirement of specific show-cause notice and referred to the settled principles in



the following terms : (SCC pp. 558-61, paras 13-14 & 16-19)

“13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he can defend himself. Such notice should be adequate and the grounds necessitating action and the penalty/action proposed should be mentioned specifically and unambiguously. An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in *Nasir Ahmad v. Custodian (Evacuee Property)* [*Nasir Ahmad v. Custodian (Evacuee Property)*, (1980) 3 SCC 1] has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.

14. Specifically, in the context of blacklisting of a person or an entity by the State or a State Corporation, the requirement of a valid, particularised and unambiguous show-cause notice is particularly crucial due to the severe



consequences of blacklisting and the stigmatisation that accrues to the person/entity being blacklisted. Here, it may be gainful to describe the concept of blacklisting and the graveness of the consequences occasioned by it. Blacklisting has the effect of denying a person or an entity the privileged opportunity of entering into government contracts. This privilege arises because it is the State who is the counterparty in government contracts and as such, every eligible person is to be afforded an equal opportunity to participate in such contracts, without arbitrariness and discrimination. Not only does blacklisting take away this privilege, it also tarnishes the blacklisted person's reputation and brings the person's character into question. Blacklisting also has long-lasting civil consequences for the future business prospects of the blacklisted person.

16. The severity of the effects of blacklisting and the resultant need for strict observance of the principles of natural justice before passing an order of blacklisting were highlighted by this Court in *Erusian Equipment & Chemicals Ltd. v. State of W.B.* [*Erusian Equipment & Chemicals Ltd. v. State of W.B.*, (1975) 1 SCC 70] in the following terms : (SCC pp. 74-75, paras 12, 15 & 20)

‘12. ... The order of blacklisting has the effect



of depriving a person of equality of opportunity in the matter of public contract. A person who is on the approved list is unable to enter into advantageous relations with the Government because of the order of blacklisting. A person who has been dealing with the Government in the matter of sale and purchase of materials has a legitimate interest or expectation. When the State acts to the prejudice of a person it has to be supported by legality.

15. ... The blacklisting order involves civil consequences. It casts a slur. It creates a barrier between the persons blacklisted and the Government in the matter of transactions. The blacklists are “instruments of coercion”.

20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.’

17. Similarly, this Court in *Raghunath Thakur v. State of Bihar* [*Raghunath Thakur v. State of Bihar*, (1989) 1 SCC 229] struck down an order of blacklisting for future contracts on the ground



of non-observance of the principles of natural justice. The relevant extract of the judgment in that case is as follows : (SCC p. 230, para 4)

‘4. ... [I]t is an implied principle of the rule of law that any order having civil consequences should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order.’

18. This Court in *Gorkha Security Services v. State (NCT of Delhi)* [*Gorkha Security Services v. State (NCT of Delhi)*, (2014) 9 SCC 105] has described blacklisting as being equivalent to the civil death of a person because blacklisting is stigmatic in nature and debars a person from participating in government tenders thereby precluding him from the award of government contracts. It has been held thus : (SCC p. 115, para 16)

‘16. It is a common case of the parties that the blacklisting has to be preceded by a show-cause notice. Law in this regard is firmly grounded and does not even demand much amplification. The necessity of compliance with the principles of natural justice by giving the opportunity to



the person against whom action of blacklisting is sought to be taken has a valid and solid rationale behind it. With blacklisting, many civil and/or evil consequences follow. It is described as “civil death” of a person who is foisted with the order of blacklisting. Such an order is stigmatic in nature and debars such a person from participating in government tenders which means precluding him from the award of government contracts.’

19. In light of the above decisions, it is clear that a prior show-cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted. In these cases, furnishing of a valid show-cause notice is critical and a failure to do so would be fatal to any order of blacklisting pursuant thereto.”

40. Even the order debarring the appellant for a period of 3 years for default in making the requisite supplies carries its own shortcomings. As noticed, the appellant had indeed made substantial supplies against the purchase orders in question. Fact of the matter further remains that on 18-9-2019, Respondent 2 dealing with the procurement specifically informed the appellant that the supply under the purchase order in question is to be deferred. It has rightly been argued on behalf of the appellant that after such an order of deferment,



there had not been any other communication or even indication from the respondents which would have informed the appellant to resume supplies. We have reproduced hereinabove all the relevant passages in the additional written submissions on behalf of the respondents, made in an effort to meet with the arguments concerning the effect and impact of the said communication dated 18-9-2019. It is at once apparent that the respondents have not been able to rebut the contention urged in this regard on behalf of the appellant. The written submissions on behalf of the respondents do not answer the root question in the matter as to how the appellant could have been made solely responsible for delay or default in supply after the communication dated 18-9-2019 when the respondents themselves informed the appellant that taking of balance delivery was being deferred (until further instructions). In the length and breadth of the arguments on behalf of the respondents, it has nowhere been pointed out if such “further instructions” were ever issued to the appellant before issuance of the cancellation orders dated 19-11-2019 and 21-11-2019 as also before issuance of show-cause notice dated 26-11-2019. That being the position, we are clearly of the view that the debarment order had been issued against the appellant without due regard to the undeniable factual situation where the entire blame could not have been foisted upon or shifted towards the



appellant. Hence, the impugned order dated 30-7-2020 debaring the appellant is also required to be set aside.

29. In the case of **Subodh Kumar Singh Rathour** (supra) the Hon'ble Supreme Court has observed in para Nos. 65, 69 and 127 as under:-

65. The meaning and true import of arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned action is arbitrary or not, is ultimately to be answered on the facts and in the circumstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, the performance of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that be you ever so high, the laws are above you.

69. To ascertain whether an act is arbitrary or not,



the court must carefully attend to the facts and the circumstances of the case. It should find out whether the impugned decision is based on any principle. If not, it may unerringly point to arbitrariness. If the act betrays caprice or the mere exhibition of the whim of the authority it would sufficiently bear the insignia of arbitrariness. In this regard supporting an order with a rationale which in the circumstances is found to be reasonable will go a long way to repel a challenge to State action. No doubt the reasons need not in every case be part of the order as such. If there is absence of good faith and the action is actuated with an oblique motive, it could be characterised as being arbitrary. A total non-application of mind without due regard to the rights of the parties and public interest may be a clear indicator of arbitrary action.

127. The sanctity of contracts is a fundamental principle that underpins the stability and predictability of legal and commercial relationships. When public authorities enter into contracts, they create legitimate expectations that the State will honour its obligations. Arbitrary or unreasonable terminations undermine these expectations and erode the trust of private players from the public procurement processes and tenders. Once a contract is entered, there is a legitimate expectation, that the obligations arising from the contract will be honoured and that the rights arising from it will not be arbitrarily divested except for a



breach or non-compliance of the terms agreed thereunder. In this regard we may make a reference to the decision of this Court in *Sivanandan C.T. v. High Court of Kerala* reported in **(2024) 3 SCC 799** wherein it was held that a promise made by a public authority will give rise to a legitimate expectation that it will adhere to its assurances. The relevant portion reads as under:—

“18. The basis of the doctrine of legitimate expectation in public law is founded on the principles of fairness and non-arbitrariness in Government dealings with individuals. It recognises that a public authority's promise or past conduct will give rise to a legitimate expectation. The doctrine is premised on the notion that public authorities, while performing their public duties, ought to honour their promises or past practices. The legitimacy of an expectation can be inferred if it is rooted in law, custom, or established procedure

xxx xxx xxx

45. The underlying basis for the application of the doctrine of legitimate expectation has expanded and evolved to include the principles of good administration. Since citizens repose their trust in the State, the actions and policies of the State give rise to legitimate expectations that the State will adhere to its assurance or past practice by acting in a consistent, transparent, and predictable manner. The principles of good administration require that



the decisions of public authorities must withstand the test of consistency, transparency, and predictability to avoid being regarded as arbitrary and therefore violative of Article 14.”

(Emphasis supplied)

30. In the case of **All India Groundnut Syndicate Limited** (supra) the Hon’ble Supreme Court has observed in para No. 9 as under:-

9. But the most surprising contention is put forward by the Department that because their own officer failed to discharge his statutory duty, the assessee is deprived of his right which the law has given to him under sub-section (2) of S. 24. In other words, the Department wants to benefit from and wants to take advantage of its own default. It is an elementary principle of law that no person—we take it that the Income-tax Department is included in that definition—can put forward his own default in defence to a right asserted by the other party. A person cannot say that the party claiming the right is deprived of that right because “I have committed a default and the right is lost because of that default.”

31. From the aforesaid decisions rendered by the Hon’ble Supreme Court in the aforesaid cases, it can be said that it is the duty of the Department to state in the show cause notice that the competent authority intended to impose penalty of



blacklisting so as to provide adequate opportunity to the person against whom action of blacklisting is sought to be taken to show cause against the same. Further, in administrative decisions also, the reasons are required to be recorded and a *quasi* judicial authority must record reasons in support of its decision. Further, the blacklisting order involves civil consequences. It casts a slur and creates barrier between the person blacklisted and the Government in the matter of transactions. Further, the question whether an impugned action is arbitrary or not is ultimately to be answered in the facts and circumstances of a given case. The Court should find out whether impugned order is based on any principle. If not, it may unerringly point to arbitrariness.

32. Keeping in view the aforesaid decisions and the law laid down by the Hon'ble Supreme Court in the aforesaid cases, if the facts and circumstances of the present cases are carefully examined, it can be said that, in the present cases, the respondent authorities, from time to time, issued various letters and thereafter show cause notices to the respective petitioners and asked them to show cause why appropriate action be not taken against them. In fact, the show cause notice for initiation of proceedings of blacklisting was also issued in the case of each of the petitioners and thereafter the show cause notice



asking the respective petitioner why the petitioner be not blacklisted. Thus, it cannot be said that the respondents have passed the impugned orders without issuing the show cause notice. Further, in the facts and circumstances of the present cases, the petitioners have to supply the books for Class-I to Class-VIII within the stipulated time and before the academic year starts and, therefore, time is the essence of contract. Further, as observed hereinabove, out of 57 printers, except the present petitioners, all the other printers have supplied 100% or more than 86% books within the stipulated time. Thus, looking to the facts and circumstances of the present cases, it can be said that exercise of powers under Clause-12(A) of the General Condition of Tender by the respondent cannot be termed as 'arbitrary'. From the impugned orders, it cannot be said that there is non-application of mind on the part of the respondent authorities while passing the said orders. Further, it is well settled that this Court cannot sit in appeal over the order passed by the respondent authority in contract matters and the scope of judicial review in such type of cases is very limited. We are of the view that the decisions upon which reliance has been placed by the learned advocates for the petitioners would not render any assistance to them in the aforesaid facts and circumstances



of the case.

Conclusion

33. In view of the discussions made above, we are not inclined to interfere with the impugned orders passed by the respondent authorities, while exercising powers under Article-226 of the Constitution of India.

34. Accordingly, all these writ petitions stand dismissed.

35. Interlocutory application(s), if any, shall also stand disposed of.

(Vipul M. Pancholi, CJ)

Partha Sarthy, J : I agree.

(Partha Sarthy, J)

K.C.Jha/-

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