

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2614 OF 2025

M/s. Unique Enterprises

... Petitioner

V/s.

Administration of Dadra and Nagar Haveli
and Daman and Diu and Anr.

... Respondents

Mr. Zal Andhyarujina, Senior Advocate with Ms. Ishani Khanwilkar, Mr. Saurin Mehta, Mr. Krishal Patel i/b. Ms. Prakruti Joshi for the Petitioner

Mr. H.S. Venegaonkar for the Respondents

**CORAM : ALOK ARADHE, CJ. AND
M.S. KARNIK, J.**

DATE : 1st APRIL 2025

ORDER (Per Chief Justice) :

1. Issue Rule. Rule is made returnable forthwith. With consent of the learned Counsel for the parties, heard finally.

2. In this Petition, the Petitioner has assailed the validity of the orders dated 12th August 2024 and 13th August 2024, by which the Petitioner has been blacklisted for a period of one year. To appreciate the grievance of the Petitioner, relevant facts in nut shell are that the Petitioner is a

registered Partnership Firm engaged in the supply of all kinds of pharmaceutical products, injections, surgical instruments, medical equipments and hospital furniture to Government Corporations.

3. The Respondent No.1 viz. the Administration of Dadra and Nagar Haveli and Daman and Diu issued a bid document on 1st September 2023 on the Government E-Marketplace Portal for purchase of various injections. Last date of submission of bid was 22nd September 2023. The Petitioner, on 21st September 2023, submitted its technical and commercial bid in respect of certain products. The bid of the Petitioner was found to be lowest and accordingly, on 9th November 2023, the contract was issued in favour of the Petitioner.

4. The Petitioner, upon receipt of the aforesaid contract on 9th November 2023 itself, supplied some products. However, the Petitioner was unable to procure injection Amoxycillin 1000 mg. Plus Clavulanic Acid 200 mg. (hereinafter referred to as “**injections**”) as there was an acute shortage of raw material. The Respondent No.1, on 23rd July 2024 issued a Show Cause Notice to the Petitioner on account of non supply of the aforesaid injections. The Petitioner submitted a reply on 24th July 2024 stating that the manufacturer of the injections is facing problems of raw material and prayed for an extension of time to supply the aforesaid injections. The Petitioner also made a prayer that he be permitted to supply the aforesaid injections

from another manufacturer. The aforesaid prayer of the Petitioner was accepted on 26th July 2024 by Respondent No.1 and on 29th July 2024 a contract amendment was issued. Thereupon, the Petitioner supplied the aforesaid injections from another manufacturer which was accepted by Respondent No.1 on 29th July 2024.

5. Thereafter, by orders dated 12th August 2024 and 13th August 2024, the Petitioner was blacklisted for a period of one year on the ground that the Petitioner has violated the terms and conditions of the tender. In the aforesaid factual background, the Petition has been filed seeking the relief *supra*.

6. The learned Senior Advocate for the Petitioner submitted that the impugned order has been passed only on account of breach of terms and conditions of the contract which is not permissible in law. It is further submitted that impugned orders are a clear instance of non application of mind as much as the stand of the Petitioner has not been adverted to in the impugned order. It is also contended that the Respondent No.1 ought to have appreciated that, the terms and conditions to supply the medicines under the contract were amended subsequent to issuance of the show cause notice. It is also pointed out that even though assurance is given to the Petitioner to withdraw the order of blacklisting yet, the same was not done.

7. On the other hand, the learned Counsel for the Respondents has supported the impugned orders dated 12th August 2024 and 13th August 2024 and has submitted that the Petitioner has failed to supply the injections, therefore, the order of blacklisting has rightly been passed and the same does not suffer from any infirmity warranting interference of this Court in exercise of powers of judicial review.

8. We have considered the submissions made on behalf of both sides and have perused the record. An order of blacklisting is stigmatic in nature and prevents a person from entering into a contract with the Government. It is equally well settled proposition that an order of blacklisting has adverse civil consequences and therefore, should be passed after compliance with the principles of natural justice and the power to blacklist a contractor cannot be resorted to when the grounds for the same are only breach or violation of a term or condition of a particular contract when legal redress is available to both the parties. (See *M/s. Techno Prints vs. Chhattisgarh Textbook Corporation and Anr.*¹).

9. In the backdrop of aforesaid well settled legal principles, we may advert to the facts of the instant case. From the perusal of the impugned orders dated 12th August 2024 and 13th August 2024, it is evident that the same have only been passed on account of breach of terms and conditions of

1 SLP(C) No. 10042/2023 dated 12.02.2025

the contract. It is pertinent to note that subsequent to issuance of the show cause notice seeking the reply from the Petitioner, the terms and conditions of the contract were altered and the Petitioner was permitted to supply the injections from another manufacturer. The supply made by the Petitioner was duly accepted by Respondent No.1. Therefore, it was not permissible for the Respondent No.1 to pass the orders of blacklisting dated 12th August 2024 and 13th August 2024 on the ground that the Petitioner had failed to comply with the terms and conditions of the contract as the terms and conditions of the contract were already altered. The impugned orders have been passed in casual and cursory manner and suffer from vice of non-application of mind.

10. For the aforesaid reasons, the orders dated 12th August 2024 and 13th August 2024 cannot be sustained in the eye of law. It is accordingly quashed and set aside. In the result, the Petition is allowed.

(M.S. KARNIK, J.)

(CHIEF JUSTICE)

JYOTI
PRAKASH
PAWAR

Digitally signed by
JYOTI PRAKASH
PAWAR
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