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W.A No. 1979 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-11-2025

CORAM

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

AND

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

W.A No. 1979 of 2025

AND

CMP.No.14963 of 2025

Ram Taranga Solutions Private Limited
Rep by its Managing Director,
Ravishankar Somashekhar,
No.20, Ground Floor, 3rd Main Road,
11 Block, 2nd Stage, BDA Layout,
Naagarabhavi, Bengaluru,
Karnataka-560072.

..Appellant

Vs

NLC India Limited
Represented by its Secretary,
No.135, EVR Periyar High Road,
Kilpauk, Chennai-600010

..Respondent

Writ Appeal is filed under Clause 15 of Letter Patent to set aside the order dated 25.02.2025 passed in W.P.No. 38829 of 2024.



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For Appellant: Mr.P.S.Raman, Senior Counsel
For M/s. Chandini, Pradeep kumar
Assisted by Mhanasha Devi. K.R.

For Respondent : Mr. Kishore Balasubramanian

JUDGMENT

(Made by ***HEMANT CHANDANGOUDAR, J.***)

This intra-Court appeal is directed against the order dated 25.02.2025 passed by the learned Single Judge in W.P. No. 38829 of 2024. By the said order, the learned Single Judge dismissed the writ petition filed by the appellant herein, challenging the order passed by the respondent, whereby the appellant/writ petitioner was blacklisted from participating in future tenders floated by the respondent and its subsidiaries for a period of two years.

2. The respondent issued a tender notification inviting bids from eligible persons for setting up Wind Power Projects on a Pan-India basis with operation and maintenance for ten years. The appellant/petitioner submitted its bid along



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with the documents prescribed under the tender notification. The appellant also furnished a bank guarantee for a sum of Rs.1,91,84,000/- (Rupees One Crore Ninety One Lakhs and Eighty Four Thousand Only), which was mandatory as per the conditions of the tender notification.

3. The respondent, having noticed certain discrepancies in the bank guarantee, addressed a communication to the Federal Bank Limited seeking clarification. In response, the Federal Bank stated that both M/s. Ampolt India Enterprises Pvt. Ltd., Bengaluru, and the subject bank guarantee did not belong to their bank, and that the bank was not responsible for the said guarantee. Further, the beneficiary's bank, State Bank of India, also informed that they had not received any bank guarantee confirmation through SFMS.

4. Consequently, a show cause notice was issued to M/s. Ampolt Electronics India Pvt. Ltd. on 25.11.2023. The appellant replied on 01.12.2023, stating that one Ashok, known to the management of Ampolt, represented that one Varadharajan from Joy Enterprises could arrange a bid guarantee. To secure the said guarantee, Ampolt arranged for payment of 10% towards margin money,



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1% towards bank charges, and 1% commission for Joy Enterprises to arrange the bid guarantee. After receipt of these funds, a bid guarantee dated 07.06.2023 for the said amount, valid up to 06.06.2024, was furnished in favour of the respondent. The management of Ampolt claimed it had no reason to believe that the bid guarantee furnished by Varadharajan was not genuine, as it was issued in line with industry practice.

5. Subsequently, Ampolt learnt that the Federal Bank denied issuing the bank guarantee, and it came to light that Varadharajan and Ashok had defrauded Ampolt by furnishing a fake bank guarantee. Immediately thereafter, a complaint was lodged with the Karnataka Police regarding the said fraud.

6. The appellant further contended that Clause 3.9.1(vii) of the tender document could not have been invoked, as it applied only to cases involving the furnishing of false or bogus certificates, and the said clause did not envisage a two-year ban. Hence, any action by the respondent under the said clause would be unsustainable. The appellant asserted that it was itself the victim of fraud, and therefore, any punitive action would be arbitrary and violative of Article 14 of the



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Constitution of India. Accordingly, it requested the respondent not to take any coercive action. However, after considering the appellant's response, the respondent passed an order blacklisting the appellant for two years. The writ petition challenging the said order was dismissed by the learned Single Judge, giving rise to the present appeal.

7. Mr. P. S. Raman, learned Senior Counsel for the appellant, submitted that Clause 3.9.1 (vii) of the tender document provides for forfeiture of the bank guarantee and banning of a bidder for two years in the event of breach of conditions enumerated therein, one such being the furnishing of false or bogus certificates. In the present case, the appellant had not furnished any false or bogus certificate, but was alleged to have submitted a fabricated bank guarantee. Therefore, invocation of the said clause and the consequent order of blacklisting, it was argued, are without authority of law.

8. The learned Senior Counsel further submitted that even assuming Clause 3.30 which provides for blacklisting for two years in cases of furnishing forged documents were to apply, such furnishing must be willful. The appellant



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having been defrauded, the act was not willful, and therefore, the learned Single Judge erred in not interfering with the blacklisting order. On these grounds, it was contended that the writ appeal deserves to be allowed.

9. In reply, Mr. Kishore Balasubramanian, learned counsel for the respondent, submitted that a fabricated bank guarantee was indeed furnished by the appellant along with the bid, and having admitted that fact, the appellant cannot contend that the furnishing of the same was not willful. The appellant, being the principal, is responsible for the acts of its agents. He further contended that the tender documents empower the respondent to blacklist a bidder for two years under Clause 3.30, and when the source of power is traceable to that clause, mere wrong citation of Clause 3.9 would not vitiate the order of blacklisting.

10. The learned counsel for the respondent further submitted that Clause 3.30 can be invoked if fabricated documents are furnished; it is not confined to willful acts alone. Whether the furnishing of such documents was willful cannot be determined by the respondent or this Court it can only be adjudicated before an appropriate forum. The learned Single Judge, having considered all relevant



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aspects in the proper perspective, rightly dismissed the writ petition, and the order warrants no interference.

11. The submissions of the learned counsel on both sides and the materials placed on record have been duly considered.

12. Admittedly, the bank guarantee furnished by the appellant along with its bid was a fabricated document. The appellant's own explanation was that two individuals had defrauded it after collecting a commission, and that it was unaware of the fabrication at the time of submission. Clause 3.9.(ii) of the tender document empowers the respondent to forfeit the bank guarantee and ban the bidder for a period of two years for breach of the conditions enumerated therein, including the furnishing of forged or bogus certificates. Even if this clause were not strictly applicable, Clause 3.30 specifically provides for disqualification and banning of the bidder for two years for acts such as willful suppression of facts, furnishing of wrong information, or use of manipulated/forged documents or other unfair means.



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13. A plain reading of the said clause indicates that it is sufficient to invoke it if forged documents are furnished, and the word “willful” qualifies only the act of suppression of facts. Even assuming otherwise, the appellant, being the principal who engaged those individuals to procure the bank guarantee, is vicariously responsible for their acts. Hence, the furnishing of a fabricated bank guarantee cannot be said to be unintentional or non-willful.

14. A bank guarantee is normally issued against security such as property, cash, or other assets. It represents a promise by a bank to discharge the financial obligation of a customer if the latter fails to fulfil a contract. Without delving into whether the appellant was defrauded by the said two persons, which is under investigation, the respondent was justified in invoking Clause 3.30 of the tender document. The mere wrong mention or omission of the specific clause in the show-cause notice or order does not vitiate the order, provided the source of power for the action is traceable to the governing document.

15. The learned Senior Counsel for the appellant contended that



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blacklisting entails civil consequences, and hence, the respondent ought to have passed a speaking order after affording opportunity of hearing. However, the record shows that such opportunity was indeed provided.

16. A perusal of the impugned order indicates that a show-cause notice was issued, a response was received, and the appellant admitted that the bank guarantee was fabricated. The respondent, after considering the explanation and finding it unsatisfactory, proceeded to blacklist the appellant. Therefore, the contention that the order is non-speaking is untenable. The order clearly reflects consideration of the materials and reasons for the decision, and thus suffers from no illegality or infirmity.

17. In light of the foregoing discussion, this Court is of the considered view that the impugned order of the learned Single Judge does not warrant interference. Accordingly, the appeal is liable to be dismissed.



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18. Accordingly, the Writ Appeal is dismissed. Consequently, the connected Miscellaneous Petition stands closed. There shall be no order as to costs. The respondent shall, however, consider any future bids submitted by the appellant or its subsidiaries in tenders, on their own merits and in accordance with law, and shall not reject such bids merely on the ground of the earlier blacklisting order.

(R.S.K. J.,) (H.C. J.,)

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