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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 12606/2025, CM APPL. 51416/2025**

M/S SAI EDUCARE PRIVATE LIMITED

.....Petitioner

Through: Mr. Anup Kumar, Mr. Abhishek Kumar, Ms. Shruti Singh, Ms. Neha Jaiswal, Advs.

versus

NATIONAL TESTING AGENCY & ORS.

.....Respondents

Through: Mr. Shashank Bajpai (CGSC) along with Ms. Aashna Mehra, Mr. Vatsal Tripathi, Advs.
Mr. Sanjay Khanna (SC) for NTA along with Ms. Pragya Bhushan, Mr. Tarandeep Singh Sokhi, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **25.08.2025**

CM APPL. 51417/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present petition assails an order/ letter dated 29.07.2025 issued by the National Testing Agency (NTA), whereby the NTA has sought to disqualify the petitioner from participating in all future tenders of the NTA for a period of two years.
4. Learned counsel for the petitioner submits that the said debarment action has been taken without adhering to the principles of natural justice. It is pointed out that the debarment order was not preceded by any show cause



notice, or an opportunity of hearing.

5. Further, it is submitted that the debarment action has been taken in utter contravention of Rule 151 of the General Financial Rules, 2017, issued by the Government of India, in terms of which the petitioner could be debarred only under the circumstances enumerated therein. Rule 151 of the General Financial Rules reads as under:-

“Rule 151 Debarment from bidding.

(i) A bidder shall be debarred if he has been convicted of an offence-

(a) under the Prevention of Corruption Act, 1988; or

(b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.

(ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Expenditure (DoE) will maintain such list which will also be displayed on the Central Public Procurement Portal.

(iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/Department will maintain such list which will also be displayed on their website.

(iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment”

6. Learned counsel for the respondent (NTA), who appears on advance notice accedes that the debarment action, *vide* communication dated 29.07.2025, has been taken without issuing a show cause notice to the petitioner.

7. In the circumstances, the debarment order being in contravention of the judgment of the (Hon’ble) Supreme Court in ***Gorkha Security Services vs Govt. Of NCT Of Delhi & Ors (2014) 9 SCC 105***, is unsustainable, is,



accordingly, set aside. However, the respondent would be at liberty to give a fresh show cause notice to the petitioner putting the petitioner to the notice, as regards any debarment action sought to be taken against the petitioner. It is agreed that the petitioner would respond to the said show cause notice if and when issued, within the time stipulated by the respondent. Thereafter, the respondent would be liberty to pass a reasoned order, in case, any debarment action is sought to be taken against the petitioner.

8. The aforesaid shall, necessarily, be subject to the legal rights and remedies of the petitioner.

9. The petition is disposed of in the above terms.

10. It is made clear that this order shall not be construed as an expression of opinion of this Court, as regards, the merits of the matter.

SACHIN DATTA, J

AUGUST 25, 2025/uk