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

+ W.P.(C) 14432/2025

KALPATARU PROJECTS INTERNATIONAL LIMITED

.....Petitioner

Through: Mr. Arvind Nayyar, Sr. Adv., Dr. Sunil Mittal, Mr. Malak Bhatt, Ms. Anu Tripathi, Ms. Neeha Nagpal and Ms. Nitya Prabhakar, Advs.

versus

GAIL INDIA LIMITED

.....Respondent

Through: Mr. Kartik Seth, Ms. Aparna, Mr. Rabhav Sharma, Mr. Manan, Mr. K.M. Abish and Mr. Sriram, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **18.09.2025**

CM APPL.59173/2025 (Exemption)

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

W.P.(C) 14432/2025 and CM APPL.59172/2025

3. The petitioner in the present petition seeks to assails the legality and validity of the suspension order cum show cause notice dated 02.09.2025 bearing letter no. GAIL/NOIDA/PROJ/CVD/KPIL/2025/01/SCN ("the impugned order") issued by the respondent.
4. The present petition has been filed in the backdrop of a contract agreement dated 18.04.2018, entered between the petitioner and respondent for the work of 'laying and construction of Section-I - 30" x 121.5 km Steel Gas Pipeline along with associated facilities for Bokaro- Angul section of



Jagdishpur-Haldia-Bokaro-Dhamra Pipeline Project, Phase II’.

5. By way of the impugned order, the petitioner has been suspended from any “business dealing with GAIL” for a period of six months from the date of issuance of the said notice and has been given an opportunity to file its response thereto, within a period of 15 days. The same, *inter alia*, reads as under:-

“5.0 As 'You' have miserably failed to comply with the contractual obligations under the subject contract and have indulged in 'Fraudulent' practices by concealing / misrepresenting material facts. You are hereby called upon to show cause in writing to GAIL within 15 days of issue of this Suspension cum Show Cause Notice as to why" M/s. Kalpataru Projects International Ltd., Mumbai (formerly M/s Kalpataru Power Transmission Limited) " should not be put on banning list of GAIL for a period of 01 year from the date of decision by GAIL under the above referred work order(s) being for engaging in fraudulent practices.

6.0 Till the banning proceedings are completed, the Noticee shall be under suspension from any business dealing with GAIL for an initial period of six (06) months effective from the date of issue of this notice during which no enquiry/bid/tender shall be entertained from the Noticee as long as the name of Noticee appears in the suspension list. The period of suspension shall be accounted for in the final order if, passed for banning. The suspension period can be extended by one (01) month at a time with a ceiling of six (06) months.

Your reply in writing to this show cause notice must be submitted to this office within 15 days of issue of this notice failing which GAIL shall proceed ex-parte and take appropriate action as per extant tender/procedure/policy of GAIL.”

6. Learned senior counsel on behalf of the petitioner submits that the impugned notice proceeds to suspend the petitioner for a period of 6 months from “any business dealings with GAIL” even before any reply could be submitted by the petitioner and during the pendency of adjudication of the show cause notice. It is contended that the aforementioned action is akin to debarment and has been taken without adhering to the principles of natural



justice.

7. Learned senior counsel for the petitioner has brought to the attention of this Court an order dated 15.07.2025 passed by this Court in W.P.(C.) 9882/2025 titled '**Likhitha Infrastructure Ltd. vs. GAIL India Ltd**'. It is pointed out that the said order has been passed in circumstances viz. suspension of the petitioner prior to adjudication of the show cause notice, without adhering to the principles of natural justice. The said order reads as under:

"3. By way of the present petition, the petitioner assails the legality and validity of the suspension order cum show cause notice dated 07.07.2025 bearing Ref: GAIL / NOIDA / C&P / PROJ / ACVD / 2003 / 2024 / 481 / USC / LIPL / SUSP / 89 ("the impugned order") issued by the respondent.

4. By way of the impugned order, the petitioner has been given an opportunity to file its response thereto, within a period of 15 days. The same, inter alia, reads as under:-

"Your reply in writing to this show cause notice must be submitted to this office within 15 days of issue of this notice failing which GAIL shall proceed ex-parte and take appropriate action as per extant procedure/ policy of GAIL."

5. The grievance canvassed by the learned senior counsel for the petitioner is that even before any reply could be submitted by the petitioner and during the pendency of adjudication of the show cause notice, the impugned order proceeds to suspend the petitioner from any "business dealing with GAIL" for a period of six months from the date of issuance of the said notice. In this regard, it is pointed out that the impugned order provides as follows:-

6.0 Till the banning proceedings are completed, the Noticee shall be under suspension for any business dealing with GAIL for an initial period of six (06) months effective from the date of issue of this notice wherein no enquiry/bid/tender shall be entertained from the Noticee as long as the name of Noticee appears in the suspension list. The period of suspension shall be accounted for in the final order if, passed for banning. The suspension period can be extended by one (01) month at a time with a ceiling of six (06) months.

*6. It is contended that the suspension of the petitioner even prior to adjudication of the show cause notice is akin to debarring without adhering to the principles of natural justice. It is submitted that the same is not permissible under law. In this regard, reliance is made on several judgments of the Supreme Court, including, **Gorkha Security Services vs. Govt. (NCT of***



Delhi), (2014) 9 SCC 105.

7. It is submitted that the impugned order inasmuch as it seeks to immediately suspend the petitioner is draconian in nature, it has the effect of condemning the petitioner unheard even before the petitioner could present its version.

8. Learned senior counsel appearing for the respondent, who appears on advance notice, submits that the action taken against the petitioner is in consonance with the contractual provisions. In this regard, specific attention is drawn to the following provisions in the Contract between the parties:-

D. Procedure for Suspension of Bidder

D.1 Initiation of Suspension

Action for suspension business dealing with any agency/(ies) shall be initiated by Corporate C&P Department when

- (i) Corporate Vigilance Department based on the fact of the case gathered during investigation by them recommend for specific immediate action against the agency.
- (ii) Corporate Vigilance Department based on the input from Investigating agency, forward for specific immediate action against the agency.
- (iii) Non performance of Vendor/Supplier/Contractor/Consultant leading to termination of Contract/ Order.

D.2 Suspension Procedure:

- D.2.1 The order of suspension would operate initially for a period not more than six months and is to be communicated to the agency and also to Corporate Vigilance Department. Period of suspension can be extended with the approval of the Competent Authority by one month at a time with a ceiling of six months pending a conclusive decision to put the agency on banning list.
- D.2.2 During the period of suspension, no new business dealing may be held with the agency.
- D.2.3 Period of suspension shall be accounted for in the final order passed for banning of business with the agency.
- D.2.4 The decision regarding suspension of business dealings should also be communicated to the agency.
- D.2.5 If a prima-facie, case is made out that the agency is guilty on the grounds which can result in banning of business dealings, proposal for issuance of suspension order and show cause notice shall be put up to the Competent Authority. The suspension order and show cause notice must include that (i) the agency is put on suspension list and (ii) why action should not be taken for banning the agency for future business from GAIL.
The competent authority to approve the suspension will be same as that for according approval for banning.

9. Prima facie, the aforesaid contractual provision/s do not exclude or obviate compliance with the principles of natural justice prior to suspension of the petitioner. Given that the suspension under the aforesaid contractual provisions is contemplated for a period extending upto six months, it was incumbent on the respondent to at least consider the version of the petitioner before deciding whether suspension is warranted or not. In the circumstances, the following directions are issued:-



- i. *The suspension of the petitioner (as sought to be done vide para 6.0 of the impugned order) shall be kept in abeyance;*
- ii. *The petitioner shall file a reply/response to the show cause notice within the time stipulated;*
- iii. *After considering the reply filed on behalf of the petitioner, if it is considered apposite to pass a suspension order qua the petitioner (even prior to the adjudication of the show cause notice), an opportunity of hearing shall be given to the petitioner by the respondent, and a reasoned order qua suspension shall be passed; and*
- iv. *The same shall be subject to final adjudication of the show cause notice.*

10. The petition is disposed of in the above terms. The pending application also stands disposed of.

11. Needless to say, the aforesaid shall be subject to the legal rights and remedies of the parties.

12. Order dasti."

8. In the circumstances, considering the aforesaid aspects and the order dated 15.07.2025 passed by this Court in W.P(C) 9882/2025, it is directed that the suspension of the petitioner (as sought to be done vide para 6.0 of the impugned order) shall be kept in abeyance.

9. In the meantime, the petitioner shall file a reply/response to the impugned show cause notice on or before 23.09.2025. In case the respondent deems it apposite to pass a suspension order qua the petitioner, after considering the reply filed on behalf of the petitioner (even prior to the adjudication of the show cause notice), a reasoned order shall be passed after affording the petitioner an opportunity of hearing. The same shall be subject to final adjudication of the show cause notice.

10. The petition is disposed of in the above terms. The pending application also stands disposed of.



11. Needless to say, the aforesaid shall be subject to the legal rights and remedies of the parties.

SACHIN DATTA, J

SEPTEMBER 18, 2025/cl