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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 19452/2025, CM APPL. 81133/2025 & CM APPL. 81134/2025**

J.P. INDUSTRIESPetitioner
Through: **Mr. Mohit Kumar Gupta, AOR.**

versus

**DIRECTORATE GENERAL OF HEALTH SERVICES, CENTRAL
PROCUREMENT AGENCY, GNCTD, AND ANR**Respondents
Through: **Mr. Tushar Sannu, Standing Counsel
for GNCTD.**

Date of Decision: 22nd December, 2025

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGEMENT

TUSHAR RAO GEDELA, J : (ORAL)

1. Present petition has been filed under Article 226 of the Constitution of India, 1950, seeking quashing of the Technical Bid rejection order/decision dated 21.11.2025 passed by the respondent no.1, thereby disqualifying the petitioner and resulting in non-opening of the financial/price bid of the petitioner. The petitioner further seeks a direction to respondent no.1 to allow the petitioner's financial bid to be opened and to further allow the petitioner to participate in the tender process and, if bid of the petitioner's bid is the lowest, the petitioner may be awarded the work.

2. The petitioner is a proprietorship firm holding a valid Registration Certificate issued by the Government of India, engaged in the business of manufacturing and supplying the standard quality drugs/ medical equipment throughout India to various Semi-Government/Centre and State government



hospitals, institutions and drugs procurement agencies. The Uttar Pradesh Medical Supplies Corporation Limited (hereinafter referred to as “UPMSCL”). passed an office order dated 06.10.2023, blacklisting the petitioner *qua* the drug namely, “*Vitamin A Palmitate Arachis Oil based liquid*” for a period of three years.

3. The respondent no.1/the tendering authority floated an E-tender dated 12.06.2025 for procurement of 399 Drugs for usage in hospitals/dispensaries under the control of respondent no.2. The petitioner participated in the said tender and submitted its Technical Bid. However, *vide* impugned order dated 21.11.2025; the respondent no.1 rejected the Technical Bid of the petitioner stating that “*Others – Blacklisted*”. The Officer Order dated 06.10.2023 by the UPMSCL is extracted hereunder:-

“Ref. No.: UPMSCL/MD/QC/2023/941

Date : 06 Oct-2023

Office Order

J.P Industries has rate contract with UPMSCL for the supply of drug “Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml, 100ml bottle with feeding spoon (to be packed in mono carton)”. J.P Industries has supplied drug “Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml, 100ml bottle with feeding spoon (to be packed in mono carton)” to various District Drug warehouse of Uttar Pradesh Medical Supplies Corporation Ltd. against Purchase order no. UP/UP/HQ/22/577/2(10282205249), dated 17-09-2022.

A notice (UPMSCL/MD/QC/2023/32 dated 15.04.2023) was sent to firm on dated 15.04.2023 for supplying “Not Of Standard quality” drug “Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml, 100ml bottle with feeding spoon batch no VPS-009. Responses (Ref. No- Nil! dated- 25.04.2023) from Firm J.P Industries obtained via mail on dated 26.04.2023 response provided by firm was given due consideration but not found satisfactory.

Another notice (UPMSCL/MD/QC/2023/273 dated-06.06.2023) was sent to firm dated 06.06.2023 regarding supply of “Not Of Standard quality” drug “Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml , 100ml bottle with feeding spoon batch no VPS-011 and VPS-013. No representation received from firm till date. Again on dated 05.09.2023 notice (UPMSCL/MD/QC/2023/733 dated- 05.09.2023) was sent to firm for final



reply. Till date firm has not provided any representation regarding UPMSCL notice dated 05.09.2023 and notice dated 06.06.2023 .

With reference to above it is clear that J.P Industries. has supplied three "Not Of Standard Quality" drug batches i.e. batches no. VPS-009, VPS-011 and VPS- 013 against purchase order no. UP/UP/HQ/22/577/2(10282205249), dated 17-09-2022. Reports declared "Not Of Standard Quality" by Government Analyst and UPMSCL empanelled laboratories has neither been cancelled nor annulled by any higher authority and therefore the analysis report remains conclusive report till date.

Thus J.P Industries has violated the conditions of contract clause No. J 3 (Debarring & Blacklisting) (i) of tender no. UPMSCL/Drugs-122/480 dated 31.07.2021 i.e. "if two batches of any drug supplied by the firm is found not of standard quality, then the firm shall be blacklisted for that particular drug for the period of 3 (Three) Years" by supplying three "Not of Standard Quality" drug batches i.e. batch no. VPS-009, VPS-0 11 and VPS-0 13 of drug "Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml, 100 ml bottle with feeding spoon" to different district drug Warehouses of Uttar Pradesh Medical Supplies Corporation Limited.

Finally J.P Industries has violated conditions of contract of tender clause no. 13(i). Hence, J.P Industries is, hereby, blacklisted for three years for drug "Vitamin A Palmitate Arachis oil based Liquid 100000 IU/ml , 100ml bottle with feeding spoon" from the date of issue of this order."

(emphasis supplied)

4. Learned counsel submits that respondent No. 1/the tendering authority has rejected the Technical Bid of the petitioner on the basis of the afore-extracted debarment order dated 06.10.2023, passed by the UPMSCL.

5. Learned counsel submits that the blacklisting by the UPMSCL is limited only to one drug, namely "Vitamin A Palmitate Arachis Oil-based Liquid". In the present case, learned counsel for the petitioner states that though initially, the petitioner submitted its bid for a list of 38 drugs, however, it quoted rates/prices only for 37 drugs. He contends that this was done as that said particular drug was blacklisted by UPMSCL. He further submits that there was no intent to participate in the Technical Bid qua the said one drug, namely



“*Vitamin A Palmitate Arachis Oil-based Liquid*”. Therefore, there was no occasion for respondent No. 1/the tendering authority to hold that the bid of the petitioner stood disqualified on account of blacklisting by UPMSCL in respect of the said drug.

6. We are unable to agree with learned counsel for the petitioner on this aspect. This is for the reason that though UPMSCL, *vide* order dated 06.10.2023, has blacklisted the petitioner in respect of the drug *namely* “*Vitamin A Palmitate Arachis Oil-based Liquid*”, yet, in an almost similar factual matrix and circumstances, in **W.P.(C) No. 7744/2025**, titled “***M/s Medipol Pharmaceutical India Pvt. Ltd. through Mr. Sanjay Agarwal v. Govt. (NCT of Delhi)***”, rendered on 29.05.2025, we have held that an entity which has been blacklisted in respect of one or more medicines would, *ipso facto*, suffer dilution of its credibility. Further, respondent No. 1/the tendering authority has complete discretion to decide whether a bidder, even in cases similar to that of the petitioner, where only one drug has been blacklisted, is credible enough to be permitted to participate in the tendering process.

Relevant paragraphs of ***Medipol*** (*supra*) is extracted hereunder:-

“11. In our considered opinion, it is immaterial as to whether a bidder/firm has been blacklisted/debarred in respect of individual items or the firm as a whole. The subject tender relates to supply of medicines and in case, any bidder or tenderer has been found to be blacklisted even in respect of individual items, in our considered opinion, he ought to have made the declaration as per the requirement of Clause 16 of the tender conditions. The stand taken by learned counsel for the petitioner that the tender conditions do not specifically prohibit participation in individual items that may have been blacklisted/debarred by other departments, in our considered opinion does not hold any ground.

12. Debarment of the firm as a whole or debarment of the same firm in respect of certain individual items will amount to breach of Clause 16 of the tender.

13. In the aforesaid view of the matter, we are not satisfied with the submissions made by learned counsel for the petitioner; rather the reason



given for holding the petitioner firm technically non-responsive is not liable to be interfered with by the Court in this writ petition.”

7. It is of paramount significance that the tender under which the petitioner was blacklisted by UPMSCCL and the tender floated by respondent No. 1/the tendering authority both relate to public health and safety. It is trite that in matters concerning public health, the tendering authority, while evaluating the credentials of a bidder, may consider even such infraction, which is termed as minor by the petitioner, as a relevant and significant parameter for disqualification of the bid.

8. Learned counsel for the petitioner invites our attention to Clause 22 of the General Instructions to Bidders to submit that the RFP/NIT itself permits minor errors/infractions, which should not entitle disqualification of a bidder. We are unable to accede to this submission. While the said clause may give leverage to the tendering authority to consider such minor infractions, yet, we find from the facts before us that since the tender relates to public health and safety, the infraction in the present case cannot be treated as a minor infraction.

9. In view of the aforesaid, present petition is dismissed alongwith pending applications, with no order as to costs.

**TUSHAR RAO GEDELA
(JUDGE)**

**DEVENDRA KUMAR UPADHYAYA
(CHIEF JUSTICE)**

DECEMBER 22, 2025

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