

S/L 14
21.01.2026
Court. No. 25
suwayan

WPA 254 of 2026

Berry Alloys Limited & Anr.
Vs.
Union of India & Ors.

Mr. Jishnu Chowdhury, Sr. Adv.
Mr. Sushovit Dutt Majuder
Mr. Abhidipto Tarafdar
Mr. Shreyankar Nandy
Ms. Sirin Firdous

...for the petitioners.

Mr. Sauvik Nandy, Sr. Adv.
Mr. Dyutimoy Paul

...for the respondent no. 2.

1. The petitioners have filed the present writ application challenging the orders dated December 15, 2025, December 17, 2025 and December 30, 2025 wherein the respondents have suspended the petitioners for participating in any future tenders of Durgapur Steel Plant for a period of six months or until further notice due to the violation of the terms and conditions of the tender. The Steel Authority of India has issued a tender notice for supplying of silicomanganese. The petitioners have participated in the said tender. Along with the petitioners another firm namely, M/s. Gajanan Ferro Private Limited has also participated in the said tender. On verification of the tender documents, the Steel Authority of India issued a notice on November 25, 2025 requesting the petitioners for urgent clarifications regarding the tender in response to RFQ. The Steel Authority of India requested the petitioners to explain within November 27, 2025 along with the contentions of

the petitioners why the tender shall not be rejected and appropriate action shall not be taken against the petitioners for gross violation of the tender terms. In the said notice, it was informed to the petitioners that the petitioners have violated the provisions of Clauses 24, 37, 37(b)(i), Section 2.0(b) and Section 3 of the Integrity Impact.

2. On receipt of the said notice, the petitioners have submitted a reply on November 27, 2025 stating that on receipt of the information from the respondents, the petitioners came to know that inadvertently the petitioners missed the Clause 24.0 of the Code of Integrity in the General Terms and Conditions of contract. In the said letter the petitioners have also requested the Steel Authority of India not to take any coercive steps against the petitioners and allowed the petitioners to continue participating in the tender process. As the respondents find that the petitioners have violated the terms and conditions of the tender document and accordingly the respondents disqualified the petitioners for participating in the said tender and subsequently, issued the impugned order of suspension.
3. The petitioners have filed supplementary affidavit disclosing further suspension orders issued by other branches of Steel Authority of India.
4. Learned counsel for the petitioners submits that the order of suspension has been issued to the petitioners without giving any opportunity of hearing. Petitioners submit that no show cause notice have been issued and it

was also not informed to the petitioners whether there is any investigation is pending or not.

5. Mr. Jishnu Chowdhury, learned Senior Advocate appearing for the petitioners draws attention of this Court to Clause 5 of the guidelines on banning of business dealings and submits that as per Clause 5.1 the suspension order can be issued only if any investigation has been started by the department and if the competent authority considered that after the recommendation of the investigating department, the order of suspension of business dealing with agency can be issued. He submitted that in the present case no show cause notice has been issued and it was not informed to the petitioners that any investigation is pending.
6. Learned counsel for the petitioners further draws the attention of this Court to Clauses 5.6 and 5.7 of the guidelines and submits that as per the Clause 5.7 of the guidelines it is mentioned that it is not necessary to give any show cause notice of personal hearing to the agency before issuance of the order of suspension. He submits that Clause 5.1 stipulates certain tests as preconditions for issuance of suspension order. Firstly, there has to be a pending investigation on allegations of a serious nature, secondly, there has to be a recommendation of the investigation department which can be a vigilance officer and thirdly, the order of suspension may indicate a brief of the charges under investigation. Learned counsel for the petitioners has relied upon the judgment in the case of *Amit Mines Private Limited vs. Steel*

Authority of India Limited & Ors. reported in (2024) 1 *High Court Cases (Cal)* 418 and submits that the co-ordinate Bench of this Court while dealing with Clause 5 of the guidelines held that the process of suspension leads to ultimate banning thus the grounds of banning have to be looked into to ascertain whether the sufficient case has been made out for suspension. He submits that in the present case in the impugned orders of suspension it is mentioned that the petitioners' firm has been suspended from participating in any future tender for six months and not assign any reasons.

7. Learned counsel for the petitioners further submits that the subsidiary partner namely, M/s. Gajanan Ferro Private Limited has already surrendered and has not participated in the said tender process further when it was brought to the notice of the petitioners but the Steel Authority of India has not considered the reply submitted by M/s. Gajanan Ferro Private Limited wherein it is categorically mentioned that due to oversight and inadvertently missed out the Clause 24.0 of the Code of Integrity in General Terms and Conditions of the contract. Learned counsel for the petitioners submits that if the reply submitted by the Gajanan Ferro Private Limited is taken into consideration there is no case against the petitioners for violation of any terms and conditions by the contract.
8. Learned counsel for the petitioners further submits that after the issuance of the impugned order of suspension, the Steel Authority of India has issued show cause notice

on January 7, 2026 making several allegations and tomorrow is the last date for filing the reply to the show cause notice. Learned counsel for the petitioners submits that in the show cause notice also the respondents have not informed with regard to any investigation is pending. He further submits that in the show cause notice only the Steel Authority of India stated that if no reply is being filed by the petitioners, the competent authority will finalize the recommendation of the decision taken by the competent authority by banning the petitioners' firm.

9. Learned counsel appearing for the Steel Authority of India submits that before issuance of the order of suspension a notice was issued to the petitioners on November 11, 2025 intimating the violation of the terms and conditions of the contract and requested the petitioners to explain by November 27, 2025 why the tender of the petitioners shall not be rejected and appropriate action shall not be taken for violation of the terms and conditions. He further submitted that on receipt of the said notice, the petitioners have submitted their reply on November 27, 2025 wherein the petitioners have apologies by stating that inadvertently the petitioners missed the Clause 24 of the Code of Integrity. He further submitted in the said reply the petitioner has categorically requested the authority not to take any coercive steps against the company and to allow the petitioners to continue to participate in the said tender process.

10. Learned counsel for the Steel Authority of India submits that the firm had the knowledge that the Steel Authority of India is going to take coercive steps against the petitioners for suspension that's why in the prayer portion it is requested not to take any coercive steps against the petitioners. Learned counsel for the Steel Authority of India has further brought to the notice of this Court to the false declaration submitted by the petitioners which is appearing at page no. 114 wherein the petitioners have given a declaration "We hereby declare that we are not representing any other firm participating against the tender". Subsequently, the petitioners have submitted a supplementary undertaking wherein the petitioners have erased the Clauses 5 and 6. He further submits that the petitioners had the knowledge that they have given a false undertaking while submitting the tender document and when it was brought to the notice of the petitioners, the petitioners have submitted a supplementary undertaking by erasing the Clauses 5 and 6 of the format of undertaking. He further submits that after issuance of notice, the subsidiary of the petitioners has withdrawn its tender.
11. He further submits that now the Steel Authority of India has already issued the show cause notice on January 7, 2026 categorically informing the violation committed by the petitioners and directed the petitioners to submit the show cause reply by January 22, 2026 but till date the petitioners have not submitted the show cause reply. He further submitted that if the petitioners will submit the

show cause reply by January 22, 2026, the respondents/authorities will consider the representation and after giving an opportunity of hearing to the petitioners the proceeding will be completed by February 15, 2026. He further submits that though the authority had issued the suspension order for six months but the tender circular is only for four months and within the four months the proceedings will be completed by the Steel Authority of India if the petitioners will participate in the said proceedings.

12. Heard the learned counsel for the respective parties perused the materials on record. The petitioners along with M/s. Gajanan Ferro Private Limited have participated in the said tender. At the time of verification of the tender documents, the Steel Authority of India came to know that the M/s. Gajanan Ferro Private Limited is subsidiary of the petitioners accordingly, the respondents/authorities have requested the petitioners to clarify regarding the tender in response to RFQ. The petitioners have realized that they have violated the provisions of Clause 24 of the tender document. Accordingly, the Gajanan Ferro Private Limited has withdrawn his tender and the petitioners in their reply has asked for the apology and requested the respondents/authorities not to take any coercive action. The Steel Authority of India has found that the petitioners have accepted that the subsidiary has also participated in the said tender along with the petitioners and only when the respondents have noticed that the

subsidiary has participated in the said tender along with the petitioners, the subsidiary has withdrawn his tender. In the communication dated November 25, 2025 the SAIL has categorically stated that why action stipulated in the tender term may not be taken against the petitioners, thus before issuance of suspension order proper opportunity was given to the petitioners.

13. Consequent to the suspension order, the respondents/authorities have already issued the show cause notice along with the charges leveled against the petitioners. The petitioners had given an opportunity to file reply by January 22, 2026. The petitioners have not filed any reply till date. The judgment relied by the petitioners in the case of *Amit Mines Private Limited (supra)* is distinguishable from the facts and circumstances of this case. In the said case even in the affidavit-in-opposition the respondents have not justified the order of suspension but in the present case an opportunity was given to the petitioners and petitioners have accepted that the subsidiary of the petitioners has also participated in the tender and have filed false declaration and only where the respondents have informed the same, the subsidiary has withdrawn his tender and supplementary undertaking was filed. The petitioners have contended that the suspension order is the nature of black listing of the company but this Court finds that none of the communication made by the Steel Authority of India or in the guidelines it is mentioned as black listing. The respondents have already issued show

cause notice dated January 7, 2026 wherein the charges leveled against the petitioners is explained. The petitioners are having an opportunity to deal with the charges leveled against the petitioners.

14. Considering the above, this Court finds that before issuance of the suspension order a notice has been issued to the petitioners and the petitioners have given reply to the respondents/authorities. In the reply the petitioners have accepted that the subsidiary company of the petitioners has participated in the said tender. Subsequently, when it was noticed by the respondents/authorities, the subsidiary company has withdrawn its tender and thereafter the petitioners have filed a supplementary undertaking. The undertaking submitted by the petitioners along with tender document was not correct and amounts to misrepresentation.
15. Considering the above, this Court finds that before issuance of the suspension order a proper notice was issued to the petitioners and the petitioners have submitted their reply and the subsidiary of the petitioners withdraw its tender document.
16. Accordingly, this Court did not find any merit in the present writ application.
17. Accordingly, the writ application is dismissed.
18. However, the learned counsel for the Steel Authority of India submits that if the petitioners will file the reply by January 22, 2026 they will conclude the proceeding by the month of February, 2026.

19. Learned counsel for the petitioners prays for extension of time to file to the show cause reply. Accordingly, the petitioners are directed to file show cause reply on or before January 27, 2026 and the respondents shall conclude the proceeding by February 27, 2026.
20. However, there shall be no order as to costs.
21. Urgent Xerox certified copy of this order, if applied for, be given to the parties upon compliance of all necessary formalities.

(Krishna Rao, J.)