

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble **Justice Kausik Chanda**

W.P.A. No.561 of 2026

M/S. RAHAMAN CONSTRUCTION AND ANOTHER
-VERSUS-
THE STATE OF WEST BENGAL AND OTHERS

For the petitioners : Mr. Sunil Kumar Gupta, Adv.

For the State : Mr. Sujoy Mondal, Adv.,
Mr. Subhendu Sengupta, Adv.

For the Zilla Parishad : Mr. Rishav Das Barman, Adv.

Hearing concluded on : 20.02.2026

Judgment on : 24.02.2026

Kausik Chanda, J.:-

The petitioners challenge the order dated January 2, 2026, whereby the work order issued by the Suti-I Panchayat Samiti for the “construction of a CC road from Samtu Sk.’s house to Pintu Sk.’s house at Paraipur Village under Harua Gram Panchayat, Murshidabad” was cancelled. The petitioners further challenge the order dated January 2, 2026, issued by the same authority, by which the petitioners were blacklisted for a period of six months.

2. Learned counsel appearing for the petitioners, however, confined his submissions to challenging the blacklisting order dated January 2, 2026. The challenge to the cancellation of the contract was not pressed.

3. Learned counsel for the petitioners submits that the respondent authorities failed to comply with the provisions of the General Rules and Directions for Guidance of Bidders/Contractors, as contained in West Bengal Form No. 2911 (Standard Bid Document).

4. It is further submitted that the said document prescribes the procedure for debarment during the contract implementation stage, which, according to the petitioners, has not been followed by the respondent authorities. The relevant clause is reproduced below:

“PROCEDURE FOR DEBARMENT DURING THE CONTRACT IMPLEMENTATION STAGE:-

- (A) Upon termination of contract due to default of the Bidder, the Engineer-in-Charge shall recommend for debarment to the Bid Evaluation Committee. The Bid Evaluation Committee shall submit his recommendation of debarment of the alleged Bidder along with a detailed report stating clearly the reasons for debarment to the Debarment Committee within 30 (thirty) days from the

date of termination of contract. The alleged Bidder shall be intimated accordingly either electronically to his registered e-mail id or in writing to his postal address. The Chairperson of Bid Evaluation Committee shall also inform the decision to all concerned.

- (B) The Debarment Committee upon receipt of the recommendation of Bid Evaluation Committee shall scrutinize the documents. The Debarment Committee will hold a hearing about the matter from the Bidder and issue necessary order within 10 (ten) working days from the last date of hearing. The Debarment Committee, if satisfied after hearing, shall forward the case to the Department for the order of debarment. The Department in due course will issue debarment order disqualifying/prohibiting the erring Bidder from participating in the bidding/procurement of all projects under the Administrative Department, Government of West Bengal for a specified period. The alleged Bidder shall be intimated accordingly either electronically to his registered email id or in writing to his postal address. Otherwise the Debarment Committee may reject the recommendation of the Bid Evaluation Committee. The Chairperson of Debarment Committee shall also inform the decision to all concerned.”

5. The State was directed to file a report. From the report, however, it appears that the petitioners were awarded the relevant work order dated February 9, 2024, to be completed within 60 days. The petitioners failed to commence the work within the stipulated period. Thereafter, on March 25, 2024, the petitioners sought an extension, promising to complete the work by July 10, 2024.

6. It further appears that, following an inspection, a revised estimate for the tender was submitted to the Zilla Parishad on December 9, 2024, and the petitioners were requested in March 2025 to commence the work on the basis of the revised estimate.

7. By a letter dated May 19, 2025, the Executive Officer, Suti-I Panchayat Samiti, directed the petitioners to commence and complete the work as expeditiously as possible.

8. As the petitioners failed to commence the work, a show-cause notice dated July 10, 2025 was issued to them proposing cancellation of the work order, forfeiture of the earnest money, and blacklisting.

9. The petitioners, by a letter dated July 25, 2025, sought to explain the delay and promised to commence the work from November 2025.

10. Thereafter, another show-cause notice dated December 24, 2025 was issued proposing cancellation of the work order, forfeiture of the earnest money, and blacklisting, as there had been no progress in the work.

11. The petitioners submitted their reply to the said show-cause notice on December 29, 2025. In their reply, the petitioners contended that, due to flooding, the existing road at the site had collapsed to an extent of approximately 30 metres, and therefore they were unable to commence the work.

12. The Tender Committee, in its meeting dated December 30, 2025, recommended cancellation of the contract, forfeiture of the earnest money, and blacklisting of the petitioners for a period of six months.

13. Thereafter, on January 2, 2026, the Suti-I Panchayat Samiti considered the recommendations of the Tender Committee and the replies submitted by the petitioners to the show-cause notices dated July 10, 2025. However, the reply to the show-cause notice dated

December 24, 2025 was not considered. Upon consideration of the recommendations of the Tender Committee, the Panchayat Samiti accepted the same. Thereafter, the impugned order of blacklisting dated January 2, 2026 was issued by the Executive Officer of the Panchayat Samiti.

14. It is necessary at this stage to analyse the procedure for debarment. The Standard Bid Document (West Bengal Form No. 2911) prescribes a multi-stage structured mechanism for debarment. The procedure is sequential and cannot be bypassed.

Stage 1: Recommendation by Engineer-in-Charge to Bid Evaluation Committee.

Under Clause (A), debarment proceedings can begin only after termination of the contract due to default, upon which the Engineer-in-Charge must recommend debarment to the Bid Evaluation Committee.

Stage 2: Recommendation by Bid Evaluation Committee to Debarment Committee.

The Bid Evaluation Committee must then submit a detailed report with reasons to the Debarment Committee within 30 days.

Stage 3: Hearing by Debarment Committee.

Under Clause (B), the Debarment Committee must scrutinize documents, hold a hearing of the bidder, and

issue an order within 10 working days from the last date of hearing.

Stage 4: Departmental Order of Debarment.

If the Debarment Committee recommends debarment, the matter must be forwarded to the Department, which alone can issue the final debarment order.

15. It is evident that, in blacklisting the petitioners, the respondent authorities did not comply with the provisions of the “Procedure for Debarment during the Contract Implementation Stage.” A show-cause notice ought to have been issued by the Panchayat Samiti only after receipt of the recommendation of the Tender Committee to provide the petitioners an effective opportunity of hearing. In the present case, however, the show-cause notice dated December 24, 2025 was issued prior to the recommendation of the Tender Committee, and the decision to blacklist the petitioners was thereafter taken by the Panchayat Samiti without giving them any further scope to deal with the allegations levelled against them.

16. The resolutions of the Tender Committee and the Panchayat Samiti further indicate that only the petitioners’ reply to the first show-cause notice dated July 10, 2025 was considered, whereas their reply to the subsequent show-cause notice dated December 24, 2025 was neither discussed nor considered by either the Tender Committee or the Panchayat Samiti. The first show-cause notice was not acted upon, and the petitioners were allowed to continue with the tender work.

Consequently, only the show-cause notice dated December 24, 2025 remained operative, and the blacklisting order ought to have been passed upon consideration of the petitioners' reply dated December 29, 2025.

17. Most importantly, the power to blacklist vests exclusively in the concerned department, namely the Panchayat Department of the State. In the present case, the blacklisting order was issued by the Panchayat Samiti, rendering the order without jurisdiction.

18. In ***Erusian Equipment & Chemicals Ltd. v. State of West Bengal, (1975) 1 SCC 70***, the Hon'ble Supreme Court held that blacklisting has civil consequences and cannot be done without affording an opportunity of hearing. It was observed that the State cannot act arbitrarily in the matter of grant of contracts and that such action must conform to Article 14. **(See paras 12, 13, 14 and 20).**

19. In ***Raghunath Thakur v. State of Bihar, (1989) 1 SCC 229***, the Supreme Court held that even in the absence of an express provision, the principles of natural justice must be read into an order of blacklisting, as it results in civil consequences. **(See para 4).**

20. In ***Patel Engineering Limited v. Union of India, (2012) 11 SCC 257***, the Court examined the inherent power of the State to blacklist and held that such power must be exercised fairly, reasonably and non-arbitrarily. The decision must satisfy the test of proportionality and Article 14. **(See paras 13, 14, 15, 16, 24 and 25).**

21. In view of the foregoing, the blacklisting order dated January 2, 2026 is set aside. This, however, shall not preclude the respondent authorities from initiating a fresh blacklisting proceeding against the petitioners, after duly considering their reply dated December 29, 2025 to the show-cause notice dated December 24, 2025, and in accordance with the procedure prescribed under the “Procedure for Debarment during the Contract Implementation Stage,” as explained in this judgment.

22. Accordingly, **W.P.A. No.561 of 2026** is allowed.

23. Urgent certified website copy of this judgment, if applied for, be supplied to the parties subject to compliance with all the requisite formalities.

(Kausik Chanda, J.)

Later

After the judgment is pronounced in open Court, learned counsel appearing on behalf of the State prays for a stay of the operation of the judgment and order. The said prayer is duly considered and rejected.

(Kausik Chanda, J.)