

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**BEFORE:
THE HON'BLE JUSTICE OM NARAYAN RAI**

WPA 2386 of 2025

**Prantik Care Earth Geo Info Solution Private Limited & Anr.
vs.
The State of West Bengal & Ors.**

For the Petitioners : Mr. Diptendra Nath Mallick, Adv.
Mr. Dipak Kumar Mookerjee, Adv.

For the State : Mr. Mrinal Kanti Ghosh, Adv.
Ms. Debdooti Dutta, Adv.

Heard on : 03.02.2026

Judgment on : 03.02.2026

Om Narayan Rai, J.:-

1. Heard Mr. Mallick, learned advocate appearing for the petitioners and Mr. Ghosh, learned advocate appearing for the respondent State Authorities. Mr. Ghosh hands up to court a copy of the instructions forwarded to him by the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal. The same is taken on record.
2. This writ petition has been filed assailing an order of blacklisting of the petitioner no.1 (hereafter "the petitioner") passed by the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal on June 01, 2023.

3. Subsequently, a supplementary affidavit has also filed on behalf of the petitioners whereby the petitioners have has inter alia sought for issuance of a writ of mandamus thereby setting aside the order of termination of the contract between the petitioner and the respondents and has also asserted that the order of blacklisting has been passed in total derogation of the principles of natural justice.

FACTS OF THE CASE:

4. The facts relevant for the purpose of adjudication of the present writ petition are as follows:-

- a) Upon successfully participating in a tender process, the petitioner was awarded a work order dated August 26, 2022 for ground surveying “using DGPS and ETS” in the mouzas indicated therein. The work order also specified that the work awarded was to be completed within eight months from the date of issuance of the work order. Subsequently, on August 25, 2022 an agreement was also entered into between the parties whereby it was reiterated that the survey-work was to be completed by the petitioner within eight months from the date of execution of the agreement.
- b) As the petitioner could not complete the work awarded within the time stipulated in the work order and the aforesaid agreement, a notice dated March 10, 2023 was issued to the petitioner by the Additional District Magistrate (R) and District Land and Land Reforms Officer, Purba Bardhaman thereby calling upon the petitioner to show cause as to why action should not be taken against it in terms of Clause 8 of the memorandum of agreement. The

said notice was followed by another notice of the same date issued by the Additional District Magistrate and District Land and Land Reforms Officer, Purulia whereby the petitioner was called upon to explain the undesirable delay occasion by the petitioner in completing the work. The notice cautioned that failure to complete the work would attract penal provisions in terms of Para 4.1.5 of the Notice Inviting Tender (NIT).

- c)** The petitioner replied to the said notices on March 13, 2023 and March 14, 2023 respectively and furnished its explanation.
- d)** The petitioner thereafter also made representations dated March 23, 2023 and May 04, 2023 indicating the difficulties that the petitioner faced in execution of the work awarded to the petitioner.
- e)** Ultimately, on June 01, 2023 an order was passed by the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal thereby blacklisting the petitioner from taking up or participating in any kind of work under the Directorate of Land Records & Surveys for a period of three years from the date of issuance of the said order, while also recording therein that the petitioner's contract had been terminated.
- f)** It is the petitioner's contention that the termination of the contract, forfeiture of the petitioner's earnest money and blacklisting of the petitioner for a period of three years are absolutely arbitrary and illegal. It has been alleged that the blacklisting has been done without following the principles of natural justice. Hence this writ petition.

3. It is recorded that at the very outset this Court has made it clear to the petitioner that the writ petition would be heard only on the issue pertaining to blacklisting of the petitioner and not on the issue pertaining to the termination of the contract inasmuch as the latter involves adjudication of contractual and factual disputes which a Writ Court should refrain from entering into.

SUBMISSIONS ON BEHALF OF THE PETITIONERS:

4. It was submitted on behalf of the petitioner that the petitioner cannot be condemned unheard. It was submitted that the notices to show-cause which were served upon the petitioner did not even whisper about the petitioner's blacklisting being in contemplation and therefore the petitioner did not get any opportunity to represent against its blacklisting.
5. In support of his submission that a person cannot be blacklisted without being afforded an opportunity of making appropriate representation against the proposed blacklisting, the following decisions have been cited:-

- a) ***Gorkha Security Services vs. Government (NCT of Delhi) & Ors.¹***;
- b) ***M/s. Patel Engineering Ltd. vs. Union of India & Anr.²***;
- c) ***Vetindia Pharmaceuticals Limited vs. State of Uttar Pradesh & Anr.³***;

¹ (2014) 9 SCC 105

² AIR 2012 SC 2342

³ AIR 2020 SC 5753

d) *M/s. Erusian Equipment and Chemicals Ltd. Vs. State of West Bengal & Anr.*⁴;

e) *UMC Technologies Private Limited vs. Food Corporation of India & Anr.*⁵

SUBMISSIONS ON BEHALF OF THE RESPONDENTS:-

6. Mr. Ghosh, learned advocate appearing for the respondents submitted that the petitioner cannot claim that the petitioner has been condemned unheard inasmuch as the petitioner was duly put on notice that penal action would be taken against the petitioner for its defaults in the work awarded. It was submitted that it was not only the petitioner's contractual but also pious obligation to conclude the work allotted to the petitioner within the time frame mentioned in the work order as well as in the agreement inasmuch as the work was of public importance.
7. It was stressed by Mr. Ghosh that by the agreement that was entered into subsequent to the issuance of the work order, time was made the essence the contract. Mr. Ghosh, further submitted that the work that was awarded to the petitioner was one in the interest of general public and by not completing the same in terms of the work order and the following contract, the petitioner has adversely affected public interest. Relying on the order impugned it was submitted that it will be clear from reading it that the petitioner has been blacklisted to safe guard

⁴ AIR 1975 SC 266

⁵ Civil Appeal No. 3687 of 2020(SC), order dated November 16,2020

public interest from the irresponsible and dishonest conduct of the petitioner.

8. In support of his submission, Mr. Ghosh has relied on a judgment of the Hon'ble Supreme Court in the case of ***Techno Prints vs. Chhattisgarh Textbook Corporation & Another***⁶. Relying on the aforesaid judgment, Mr. Ghosh submits that in terms of paragraph 27.2 thereof, blacklisting can be imposed where it is necessary to safe guard the public interest from irresponsible or dishonest contractors.
9. While arguing in reply the same judgment was also relied on by the petitioner to submit that principles of natural justice must be complied with.

ANALYSIS & DECISION:

10. Heard learned Advocates appearing for the respective parties and considered the material on record.
11. The notice to show cause issued to the petitioner on March 10, 2023 by the Additional District Magistrate and District Land and Land Reforms Officer Purulia has indicated that in case the petitioner fails to furnish satisfactory explanation, penal provision in terms of Para 4.1.5 of the NIT would be invoked. In so far as, the other notice dated March 10, 2023 issued by the Additional District Magistrate (LR) and District Land and Land Reforms Officer, Purba Bardhaman is concerned, the same puts the petitioner on notice that if the petitioner's written

⁶ 2025 SCC OnLine SC 343

representation is not up to the mark, the petitioner would face action in terms of Clause 8 of the memorandum of agreement.

- 12.** The two clauses which have been referred to in the said two notices therefore deserve the first attention. Clause 8 of the memorandum of agreement reads as follows:-

“8. Time is the essence of this Agreement. In case the SECOND PARTY fails to deliver the part or whole of the Survey work in terms of Clause (3) of this Agreement and as per the terms and conditions mentioned in the Tender Papers and the Annexures thereof, this Agreement shall be deemed to have been terminated; whereupon the FIRST PARTY shall be at liberty to forfeit the Security Deposit mentioned in Clause (13) to this Agreement and to cause the survey work done from elsewhere and the SECONDPARTY will be liable to pay such further sum as will be sufficient to meet the difference of cost between the rates tendered and those at which the survey work will actually be made, if that be higher. This is without prejudice to the right of the FIRST PARTY to take action under Clause (15) thereof. Each PARTY desiring to terminate the Agreement shall provide a 30 (Thirty) days notice prior to termination”.

- 13.** Para 4.1.5 of the NIT reads as follows:-

“4.1.5 Liquidated Damages for delay in completion (penalty cause for Delay and Inaccuracies)

(a) If the Agency fails to deliver the services ordered thereof within the period fixed for such delivery, or on account of inaccuracies in the work executed the Director of Land Records & Surveys, West Bengal shall have the right to claim penalty. As this project is a time bound project being implemented by this Directorate, the delivery schedule given by this Directorate should be scrupulously observed. Preferably one mouza per month may be delivered.

(b) If the Agency fails to complete the work or job within the contracted time, he shall without prejudice to any other right or remedy available under the Law, on account of such breach pay the agreed compensation to this Directorate.”

- 14.** A bare perusal of the clauses extracted above reveals that they do not, even remotely, pertain to the penalty of blacklisting. Consequently, the two show-cause notices issued to the petitioner, which referred only those clauses, failed to notify the petitioner that blacklisting was under

contemplation or proposed. Axiomatically, the petitioner was denied any opportunity to respond to the proposed penalty of blacklisting.

15. It is now settled by a long line of decisions of the Hon'ble Supreme Court that any order that has any civil or evil consequence must be passed only after following the principles of natural justice. In the case at hand since the petitioner was evidently not put on notice and was not afforded an opportunity to show cause as to why a penalty of blacklisting should not be imposed on it, the principles of natural justice have clearly been breached. On that score alone, the order impugned deserves interference insofar as the imposition of penalty of blacklisting is concerned.

16. In the case of **Gorkha Security Services** (supra), the Hon'ble Supreme Court referred to a number of earlier authorities including the judgments rendered in the cases of **M/s. Erusian Equipment and Chemicals Ltd.** (supra) and **M/s. Patel Engineering Ltd.** (supra) (relied on by the petitioner) and re-emphasised the necessity of issuing a show cause notice that specifically mentions the proposed penalty of blacklisting. The following paragraphs of the said judgment warrant attention:-

“Necessity of serving show-cause notice as a requisite of the principles of natural justice

16. *It is a common case of the parties that the blacklisting has to be preceded by a show-cause notice. Law in this regard is firmly grounded and does not even demand much amplification. The necessity of compliance with the principles of natural justice by giving the opportunity to the person against whom action of blacklisting is sought to be taken has a valid and solid rationale behind it. With blacklisting, many civil and/or evil consequences follow. It is described as “civil death” of a person who is foisted with the order of blacklisting. Such an order is*

stigmatic in nature and debars such a person from participating in government tenders which means precluding him from the award of government contracts.

17. Way back in the year 1975, this Court in *Erusian Equipment & Chemicals Ltd. v. State of W.B.* [*Erusian Equipment & Chemicals Ltd. v. State of W.B.*, (1975) 1 SCC 70], highlighted the necessity of giving an opportunity to such a person by serving a show-cause notice thereby giving him opportunity to meet the allegations which were in the mind of the authority contemplating blacklisting of such a person. This is clear from the reading of paras 12 and 20 of the said judgment. Necessitating this requirement, the Court observed thus: (SCC pp. 74-75)

“12. Under Article 298 of the Constitution the executive power of the Union and the State shall extend to the carrying on of any trade and to the acquisition, holding and disposal of property and the making of contracts for any purpose. The State can carry on executive function by making a law or without making a law. The exercise of such powers and functions in trade by the State is subject to Part III of the Constitution. Article 14 speaks of equality before the law and equal protection of the laws. Equality of opportunity should apply to matters of public contracts. The State has the right to trade. The State has there the duty to observe equality. An ordinary individual can choose not to deal with any person. The Government cannot choose to exclude persons by discrimination. The order of blacklisting has the effect of depriving a person of equality of opportunity in the matter of public contract. A person who is on the approved list is unable to enter into advantageous relations with the Government because of the order of blacklisting. A person who has been dealing with the Government in the matter of sale and purchase of materials has a legitimate interest or expectation. When the State acts to the prejudice of a person it has to be supported by legality.

* * *

20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains. The fact that a disability is created by the order of blacklisting indicates that the relevant authority is to have an objective satisfaction. Fundamentals of fair play require that the person concerned should be given an opportunity to represent his case before he is put on the blacklist.”

18. Again, in *Raghunath Thakur v. State of Bihar* [(1989) 1 SCC 229] the aforesaid principle was reiterated in the following manner: (SCC p. 230, para 4)

“4. Indisputably, no notice had been given to the appellant of the proposal of blacklisting the appellant. It was contended on behalf of the State Government that there was no requirement in the rule of giving any prior notice before blacklisting any person. Insofar as the contention that there is no requirement specifically of giving any notice is concerned, the respondent is right. But it is an

implied principle of the rule of law that any order having civil consequence should be passed only after following the principles of natural justice. It has to be realised that blacklisting any person in respect of business ventures has civil consequence for the future business of the person concerned in any event. Even if the rules do not express so, it is an elementary principle of natural justice that parties affected by any order should have right of being heard and making representations against the order. In that view of the matter, the last portion of the order insofar as it directs blacklisting of the appellant in respect of future contracts, cannot be sustained in law. In the premises, that portion of the order directing that the appellant be placed in the blacklist in respect of future contracts under the Collector is set aside. So far as the cancellation of the bid of the appellant is concerned, that is not affected. This order will, however, not prevent the State Government or the appropriate authorities from taking any future steps for blacklisting the appellant if the Government is so entitled to do in accordance with law i.e. after giving the appellant due notice and an opportunity of making representation. After hearing the appellant, the State Government will be at liberty to pass any order in accordance with law indicating the reasons therefor. We, however, make it quite clear that we are not expressing any opinion on the correctness or otherwise of the allegations made against the appellant. The appeal is thus disposed of.”

19. Recently, in *Patel Engg. Ltd. v. Union of India* [*Patel Engg. Ltd. v. Union of India*, (2012) 11 SCC 257; (2013) 1 SCC (Civ) 445] speaking through one of us (Jasti Chelameswar, J.) this Court emphatically reiterated the principle by explaining the same in the following manner: (SCC pp. 262-63, paras 13-15)

“13. The concept of ‘blacklisting’ is explained by this Court in Erusian Equipment & Chemicals Ltd. v. State of W.B. [Erusian Equipment & Chemicals Ltd. v. State of W.B., (1975) 1 SCC 70] as under: (SCC p. 75, para 20)

‘20. Blacklisting has the effect of preventing a person from the privilege and advantage of entering into lawful relationship with the Government for purposes of gains.’

14. The nature of the authority of the State to blacklist the persons was considered by this Court in the abovementioned case and took note of the constitutional provision (Article 298), which authorises both the Union of India and the States to make contracts for any purpose and to carry on any trade or business. It also authorises the acquisition, holding and disposal of property. This Court also took note of the fact that the right to make a contract includes the right not to make a contract. By definition, the said right is inherent in every person capable of entering into a contract. However, such a right either to enter or not to enter into a contract with any person is subject to a constitutional obligation to

obey the command of Article 14. Though nobody has any right to compel the State to enter into a contract, everybody has a right to be treated equally when the State seeks to establish contractual relationships. The effect of excluding a person from entering into a contractual relationship with the State would be to deprive such person to be treated equally with those, who are also engaged in similar activity.

15. It follows from the above judgment in Erusian Equipment case [Erusian Equipment & Chemicals Ltd. v. State of W.B., (1975) 1 SCC 70] that the decision of the State or its instrumentalities not to deal with certain persons or class of persons on account of the undesirability of entering into the contractual relationship with such persons is called blacklisting. The State can decline to enter into a contractual relationship with a person or a class of persons for a legitimate purpose. The authority of the State to blacklist a person is a necessary concomitant to the executive power of the State to carry on the trade or the business and making of contracts for any purpose, etc. There need not be any statutory grant of such power. The only legal limitation upon the exercise of such an authority is that the State is to act fairly and rationally without in any way being arbitrary—thereby such a decision can be taken for some legitimate purpose. What is the legitimate purpose that is sought to be achieved by the State in a given case can vary depending upon various factors.”

20. Thus, there is no dispute about the requirement of serving show-cause notice. We may also hasten to add that once the show-cause notice is given an opportunity to reply to the show-cause notice is afforded, it is not even necessary to give an oral hearing. The High Court has rightly repudiated the appellant's attempt in finding foul with the impugned order on this ground. Such a contention was specifically repelled in Patel Engg. [Patel Engg. Ltd. v. Union of India, (2012) 11 SCC 257 : (2013) 1 SCC (Civ) 445].

Contents of the show-cause notice

21. The central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of show-cause notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.”

17. The judgment in the case of **UMC Technologies Private Limited** (supra) has been rendered by the Hon'ble Supreme Court after considering the judgment in the case of **Gorkha Security Services** (supra). Paragraph 21 of the report is relevant for the present purpose. The same is extracted hereinbelow:-

"21. Thus, from the above discussion, a clear legal position emerges that for a show-cause notice to constitute the valid basis of a blacklisting order, such notice must spell out clearly, or its contents be such that it can be clearly inferred therefrom, that there is intention on the part of the issuer of the notice to blacklist the noticee. Such a clear notice is essential for ensuring that the person against whom the penalty of blacklisting is intended to be imposed, has an adequate, informed and meaningful opportunity to show cause against his possible blacklisting."

18. **Vetindia Pharmaceuticals Ltd.** (supra) is yet another judgment where the Hon'ble Supreme Court stressed upon the indispensable necessity of expressing the intent to impose a penalty of blacklisting in the show cause notice. Paragraph 11 of the judgment is apposite to the facts of the present case. The same is extracted herein:-

"11. If the respondents had expressed their mind in the show-cause notice to blacklist, the appellant could have filed an appropriate response to the same. The insistence of the respondents to support the impugned order by reference to the terms of the tender cannot cure the illegality in the absence of the appellant being a successful tenderer and supplier. We therefore hold that the order of blacklisting dated 8-9-2009 stands vitiated from the very inception on more than one ground and merits interference."

19. The judgment of the Hon'ble Supreme Court in the case of **Techno Prints** (supra) cited by Mr. Ghosh, indeed lays down a salutary principal that *"penalty of blacklisting may be imposed when it is necessary to safeguard the public interest from irresponsible or dishonest contractor"* but then the judgment also instructs that even a notice

calling upon a contractor to show cause why the said contractor should not be blacklisted is not to be lightly issued. The Hon'ble Court while relying on the earlier judgment of the Hon'ble Supreme Court in the case of **Kulja Industries Limited vs. Chief General Manager Western Telecom Project BSNL**⁷ and **The Blue Dreamz Advertising Pvt. Ltd. vs. Kolkata Municipal Corp.**⁸, not only reiterated the guiding principles required to be kept in mind while blacklisting a contractor but also while issuing a show-cause notice. The following extract of the said judgment is edifying in the present context:-

“25. This Court in Kulja Industries Limited v. Chief General Manager Western Telecom Project BSNL, (2014) 14 SCC 731 : AIR 2014 SC 9 has made pertinent observations as regards the power of an Authority to blacklist a company on the basis of the terms of the underlying contract. In the said case, Kulja Industries (Contractor) was blacklisted by BSNL (Authority) on the allegations of having obtained fraudulent payments from the Authority. This Court in the said case set aside the order of blacklisting passed by the Authority as it had the effect of permanently affecting the business of the contractor. This Court identified the limits of powers of statutory authorities to take coercive actions against companies. This Court after examining the terms and conditions prescribed in the tender document relating to disqualification and blacklisting observed that the power to disqualify a contractor was provided for in the tender document and such power could be read as an inherent power and in terms of the same, the Authority would have to show that the supplier:

- a. Habitually failed to supply the equipment in time;*
- b. The equipment supplied by the supplier did not perform satisfactorily or were not of a particular standard; or*
- c. Failed to honour the bid without sufficient grounds.*

26. Undoubtedly, Kulja Industries (supra) looked into the final order of blacklisting passed by the Authority concerned. We are still at the stage of a show cause notice. However, what is important to note, are the aforesaid three guiding

⁷ (2014) 14 SCC 731

⁸ 2024 INSC 589

situations or grounds on which the Authority may be justified in exercising its power to blacklist the contractor.

27. *This Court in The Blue Dreamz Advertising Pvt. Ltd. v. Kolkata Municipal Corp., 2024 INSC 589 while quashing and set asiding the blacklisting order as affirmed by the High Court in almost identical facts observed as under:*

1. In case there exists a genuine dispute between the parties based on the terms of the contract, blacklisting as a penalty cannot be imposed.

2. The penalty of blacklisting may only be imposed when it is necessary to safeguard the public interest from irresponsible or dishonest contractors, and

3. The Corporation being a statutory body, have a higher threshold to satisfy before passing such blacklisting order and therefore, the measures undertaken by it should be reasonable.

28. *Again, the aforesaid decision of this Court was rendered in a case where the blacklisting order was already passed.*

** * * * **

30. *Therefore, the Authority is expected to be very careful before issuing a show cause notice. It is expected to understand the facts well and try to ascertain what sort of violation is said to have been committed by the contractor. As noted above, there is always an inherent power in the Authority to blacklist a contractor. But possessing such inherent power and exercising such power are two different situations and connotations. There may be a power but there should be reasonable ground to exercise such power.”*

20. In view of the law settled by a catena of judgments of the Hon’ble Supreme Court thereby emphasising the aspect that failure to furnish a valid show-cause notice would be fatal to any order of blacklisting, the order impugned cannot be sustained.

21. For all the reasons aforesaid, the order impugned dated June 01, 2023 insofar as the same directs the petitioner to be blacklisted from participating in any kind of work for a period of three years from the date of issuance of the order is set aside. The respondent authority shall however at liberty to take appropriate steps and pass appropriate

orders upon issuing appropriate notice to show cause to the petitioner if they deem it necessary

- 22.** It is reiterated that this Court has not entered into the issue pertaining to the validity of the termination of the contract as alleged by the petitioner and has only decided the issue of blacklisting of the petitioner. Since no affidavit has been invited from the respondents, all allegations made in this writ petition are deemed not to have been admitted by the respondents.
- 23.** WPA 2386 of 2025 stands disposed of with the above observations. No costs.
- 24.** Urgent photostat certified copy of this order, if applied for, be supplied to the parties subject to compliance with all requisite formalities.

(Om Narayan Rai, J.)