IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(C) No.7398 of 2026

M/s Binod Construction a partnership firm and a registered MSME having its office at Industrial Estate Kokar, P.O Ranchi GPO, PS Sadar, District Ranchi 834001 through one of its partners namely Shri Vikash Kumar aged about 53 years son of Late Binod Kishore Prasad residing at 876/N, Subhash Chowk, Jatra Tand Bazar, PO Kokar PS Sadar and Dist. Ranchi ... Petitioner

Versus

1. Union of India through Ministry of Railways having its offices at Rail Bhawan, 1, Raisina Road, Rajpath Area, Central Secretariat, PO & PS Central Secretariat, New Delhi, 110001, India
2. Divisional Railway Manager South Eastern Railways Ranchi Division having its offices at DRM Office Ranchi, Hatia, PO & PS Hatia, Dist. Ranchi
3. Senior Divisional Electrical Engineer (TRD), Ranchi having its offices at DRM Office Ranchi, Hatia, PO & PS Hatia, Dist. Ranchi
4. Praveen Meena Sr. Divisional Electrical Engineer (TRD), Ranchi having its offices at DRM Office Ranchi, Hatia, PO & PS Hatia, Dist. Ranchi ... Respondents

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CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE MANOJ PRASAD

For the Petitioner Mr. Amit Kumar Das, Sr. Advocate
Mr. Sahay Gaurav Piyush, Advocate
For the Respondents Mr. Kumar Vaibhav, CGC
Mr. Parth Jalan AC to CGC

03/Dated: 30.09.2026

1. Heard Mr Amit Kumar Das, Sr. Advocate, appearing for the petitioner, with Mr Sahay Gaurav Piyush, and Mr Kumar Vaibhav, CGC, appearing for respondents 1 to 3, with Mr Parth Jalan. No notice is required for the 4th respondent.

2. Rule. The Rule is made returnable immediately with the consent of the learned counsel for the parties.

3. Petitioner challenges communication dated 27.08.2026 (Annexure-14) by which 1st to 4th respondents have terminated the contract with the petitioner, ordered the forfeiture of performance security deposit and further, debarred the petitioner from participation in bid for executing any work being rendered by the Ranchi Division for a period of two years from the date of issue of the impugned communication dated 27.08.2026.

4. Mr Das submitted that the termination of the contract and the invocation of the performance guarantee was *ex facie* arbitrary and unreasonable. He submitted that the petitioner's response to the show-cause notice was not even considered before the impugned communication was issued.

5. Without prejudice, Mr Das submitted that the order of blacklisting/debarment is an *ex facie* violation of the principles of natural justice and fair play. He further submitted that the show-cause notice dated 17.08.2026, which preceded the impugned communication, neither expressly nor by implication refers to any proposed action of black-listing. He relied on several decisions of the Hon'ble Supreme Court and of this Court including the decision in **UMC Technologies Pvt. Ltd. Vrs. Food Corporation of India & Anr. (2021) 2 SCC 551,** to contend that a blacklisting/debarment order without due compliance with principles of natural justice and fair play warrants interference because this is one of the harshest orders that can be made against the contractor.

6. Mr. Kumar Vaibhav submits that despite grant of several opportunities, the quality of services provided by the petitioner did not improve. He submitted that a show-cause notice was issued and after finding that the cause shown was unsatisfactory and further, the petitioner took no serious steps to make good its apparent defects, a decision was taken to terminate the contract and invoke the performance guarantee. He submitted that this decision was entirely consistent with Clause 7.4 of the general conditions of contract, and that no arbitrariness or unreasonableness was involved in the decision-making process.

7. Insofar as blacklisting/debarment is concerned, Mr Kumar Vaibhav submitted that reference to the proposed action of blacklisting/debarment need not always be express but can also be implied from the surrounding circumstances as held in the case of **Gorkha Security Services Vrs. Government (NCT of Delhi) & Ors**., **(2014) 9 SCC 105**. He pointed out that, under Clause 4.11.8 of the contract, blacklisting/debarment for a period of two years is a consequence only of rescission of the contract. He submitted that, in such circumstances, it was more than implied that debarment/blacklisting was on the anvil if the petitioner failed to show sufficient cause.

8. The rival contentions now call for our determination.

9. Insofar as rescission of the contract and invocation of performance guarantee is concerned, we are satisfied that any

evaluation of the rival contentions on this issue would involve adjudication into seriously disputed questions of fact.

10. The petitioner has asserted valid compliance with the contractual terms. The respondents seriously dispute compliances. They point to several letters in which shortcomings and defects were pointed out to the petitioner, and the petitioner was called upon to rectify them. At this stage, based on the material on record, it would neither be appropriate nor be possible for this Court, exercising its summary jurisdiction, to adjudicate upon such highly disputed questions of fact.

11. At least *Prima- facie,* we cannot accept that the termination was *ex facie* in violation of principles of natural justice. This is because a due show-cause notice was issued to the petitioner, and the impugned order notes that the petitioner took no steps to improve the quality of services and that the deployment of staff violated the contractual provisions and the Labour Laws. The order also notes that the petitioner did not even submit the duty roster.

12. Thus, the contention that the petitioner's reply was not considered at all cannot be accepted. The absence of a formal line stating that the decision maker considered the reply and found it unsatisfactory is a mere matter of semantics. The authority terminating the contract is not acting in some judicial or quasi-judicial capacity requiring writing of elaborate orders.

13. Therefore, we decline the invitation to adjudicate upon the issue of termination of the contract or the invocation of the performance guarantee on the ground that such adjudication would involve highly disputed questions of fact.

14. However, we clarify that, since we have not adjudicated upon such dispute, our refusal to grant the petitioner any relief on this score should not be construed as this Court's rejection of relief. The petitioner may, if so advised, resort to any appropriate alternate remedy, including a civil suit, to seek redress on the issue of termination of the contract and the invocation of the performance guarantee. This Court has left the contentions of all parties on this issue open, as it has not decided them in this matter. Any observations in this judgment and order are made only in the context of deciding the issue of appropriate remedy; therefore, they should not influence the courts or the authorities if approached to decide the issue of termination and invocation of the performance guarantee.

15. As to the issue of debarment for two years, this Court can investigate it, particularly because the challenge to this part of the impugned communication is not to the merits of the decision but to the decision-making process itself. The petitioner has contended that the decision regarding debarment violated principles of natural justice because the show-cause notice preceding the debarment

neither expressly nor by implication suggested any proposal for debarment.

16. Admittedly, the notice in this case makes no express reference to debarment. It also makes no specific reference to Clause 4.11.8 of the Contract. In any event, Mr Kumar Vaibhav's contention that debarment is only a consequence of rescission of the contract can itself be said to be debatable, given the decisions of the Hon'ble Supreme Court that one of the harshest actions, debarment or blacklisting, cannot be resorted to merely because it is established that the contractor may have breached the contractual terms.

17. In any event, the law is fairly settled that the show-cause notice is required to be issued before any order of blacklisting or debarment is made. It must, expressly or by implication, suggest that such action is being proposed. The Hon'ble Supreme Court has explained that blacklisting is one of the harshest actions against a contractor and has also compared it to civil death. In several decisions, including **UMC Technologies Pvt. Ltd. (Supra),** the Hon'ble Supreme Court has underscored the importance of issuing a particularised show-cause notice so the noticee can show cause as to why such action should not be initiated against it.

18. In the above regard, reference can usefully be made to the contents of paragraphs 13 to 21 of the decision rendered by the

Supreme Court in **UMC Technologies** (Supra) which are transcribed below for the convenience of reference:-

> ***"13. At the outset, it must be noted that it is the first principle of civilised jurisprudence that a person against whom any action is sought to be taken or whose right or interests are being affected should be given a reasonable opportunity to defend himself. The basic principle of natural justice is that before adjudication starts, the authority concerned should give to the affected party a notice of the case against him so that he can defend himself. Such notice should be adequate and the grounds necessitating action and the penalty/action proposed should be mentioned specifically and unambiguously.*** *An order travelling beyond the bounds of notice is impermissible and without jurisdiction to that extent. This Court in Nasir Ahmad v. Custodian General, Evacuee Property has held that it is essential for the notice to specify the particular grounds on the basis of which an action is proposed to be taken so as to enable the noticee to answer the case against him. If these conditions are not satisfied, the person cannot be said to have been granted any reasonable opportunity of being heard.*
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> ***14. Specifically, in the context of blacklisting of a person or an entity by the state or a state corporation, the requirement of a valid, particularized and unambiguous show cause notice is particularly crucial due to the severe consequences of blacklisting and the stigmatization that accrues to the person/entity being blacklisted. Here, it may be gainful to describe the concept of blacklisting and the graveness of the consequences occasioned by it. Blacklisting has the effect of denying a person or an entity the privileged opportunity of entering into government contracts. This privilege arises because it is the State who is the counterparty in government contracts and as such, every eligible person is to be afforded an equal opportunity to participate in such contracts, without arbitrariness and discrimination. Not only does blacklisting take away this privilege, it also tarnishes the blacklisted person's reputation and brings the person's character into question. Blacklisting also has long-lasting civil consequences for the future business prospects of the blacklisted person.***
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> ***15.*** *In the present case as well, the appellant has submitted that serious prejudice has been caused to it due to the Corporation's order of blacklisting as several other government corporations have now terminated their contracts with the appellant and/or prevented the appellant from participating in*

future tenders even though the impugned blacklisting order was, in fact, limited to the Corporation's Madhya Pradesh regional office. ***This domino effect, which can effectively lead to the civil death of a person, shows that the consequences of blacklisting travel far beyond the dealings of the blacklisted person with one particular government corporation and in view thereof, this Court has consistently prescribed strict adherence to principles of natural justice whenever an entity is sought to be blacklisted.***

16. *The severity of the effects of blacklisting and the resultant need for strict observance of the principles of natural justice before passing an order of blacklisting were highlighted by this Court in Erusian Equipment & Chemicals Ltd. v. State of West Bengal in the following terms:*

> *"12. …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.*
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> *15. …The blacklisting order involves civil consequences. It casts a slur. It creates a barrier between the persons blacklisted and the Government in the matter of transactions. The black lists are "instruments of coercion".*
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> *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."*

17. *Similarly, this Court in Raghunath Thakur v. State of Bihar struck down an order of blacklisting for future contracts on the ground of non-observance of the principles of natural justice. The relevant extract of the judgement in that case is as follows:*

> *"4. … It is an implied principle of the rule of law that any order having civil consequences 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."

18. *This Court in Gorkha Security Services v. Government (NCT of Delhi) has described blacklisting as being equivalent to the civil death of a person because blacklisting is stigmatic in nature and debars a person from participating in government tenders thereby precluding him from the award of government contracts. It has been held thus:*

> *"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."*

19. *In light of the above decisions, it is clear that a prior show cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted. In these cases, furnishing of a valid show cause notice is critical and a failure to do so would be fatal to any order of blacklisting pursuant thereto.*

20. *In the present case, the factum of service of the show cause notice dated 10.04.2018 by the Corporation upon the appellant is not in dispute. Rather, what Shri Banerji has argued on behalf of the appellant is that the contents of the said show cause notice were not such that the appellant could have anticipated that an order of blacklisting was being contemplated by the Corporation. Gorkha Security Services is a case where this Court had to decide whether the action of blacklisting could have been taken without specifically proposing/contemplating such an action in the show-cause notice. For this purpose, this Court laid down the below guidelines as to the contents of a show cause notice pursuant to which adverse action such as blacklisting may be adopted:*

> *"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.***

22. The High Court has simply stated that the purpose of show-cause notice is primarily to enable the noticee to meet the grounds on which the action is proposed against him. No doubt, the High Court is justified to this extent. ***However, it is equally important to mention as to what would be the consequence if the noticee does not satisfactorily meet the grounds on which an action is proposed. To put it otherwise, we are of the opinion that in order to fulfil the requirements of principles of natural justice, a show-cause notice should meet the following two requirements viz:***

(i)The material/grounds to be stated which according to the department necessitates an action;

(ii)Particular penalty/action which is proposed to be taken. It is this second requirement which the High Court has failed to omit.

We may hasten to add that even if it is not specifically mentioned in the show-cause notice but it can clearly and safely be discerned from the reading thereof, that would be sufficient to meet this requirement."

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."

19. In this case, we are satisfied that the show-cause notice which preceded the impugned communication made neither any express reference nor any implied reference to the proposal for blacklisting/debarment. The notice makes no specific reference to Clause 4.11.8 of the Contract. Simply stating that punitive action will be taken in accordance with law or contractual provisions is not sufficient. Even a simple reference to contractual provisions would not suffice. On the short ground, the impugned communication, to the extent it bars the petitioner from participating in the bid for executing any work tendered by the Ranchi Division, is quashed and set aside. However, it is clarified that such quashing shall not preclude the respondents from issuing a fresh show-cause notice to the petitioner and disposing of it in accordance with law.

20. This petition is therefore, partly allowed. The challenge to the termination of the contract and invocation of performance guarantee is rejected, leaving it open to the petitioner to avail of alternate remedies, but the impugned communication, to the extent it debars or blacklists the petitioner, is hereby quashed and set aside. Again, liberty is granted to the respondents to issue a fresh show-cause notice and dispose it of in accordance with law on the issue of blacklisting/debarment.

21. The rule is made partly absolute in the above terms without any order for costs.

22. IAs, if any, do not survive and are disposed of.

(M.S. Sonak, C.J.)

(Manoj Prasad, J.)

September 30, 2026

Pramanik/Anjali

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