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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 7th February, 2026+ **W.P.(C) 800/2026 & CM APPL. 3950/2026****ABISHEK KUMAR**

.....Petitioner

Through: Mr. Jitender Mehta, Mr. Lalit Kumar,
Mr. Abhinav Kumar, Mr. Avaneesh
Singh & Mr. Shivam Pahal,
Advocates.

versus

**INDIAN RAILWAY CATERING AND
TOURISM CORPORATION LIMITED**

.....Respondent

Through: Ms. Manisha Singh, Mr. Kanav
Khatana & Ms. Jyoti Singh,
Advocates.**CORAM:****HON'BLE MR. JUSTICE AMIT BANSAL****AMIT BANSAL, J. (Oral)**

1. The present writ petition has been filed impugning the letter dated 3rd December, 2025 issued by the respondent/IRCTC in terms of which the petitioner has been debarred for a period of one (1) year from participating in future projects of the respondent/IRCTC. The petitioner also impugns the letter dated 25th November, 2025 in terms of which the contract of the petitioner has been annulled.
2. Notice in the present petition was issued on 20th January 2026.
3. Counter-affidavit has been filed on behalf of the respondent.



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4. In the present case, the petitioner was awarded a temporary license-cum-commencement of On-Board Catering Services in *Train No. 12289-90, CSMT-NGP*, pursuant to a Notice Inviting Limited E-Tender No.2025/IRCTC/TSV/06/MAY/27 issued by the respondent/IRCTC.

5. In terms of the Letter of Award dated 12th June 2025, the petitioner was required to deposit the following sums of money.

Description	Amount / Details
License fee	Rs. 5,78,999/-
GST @ 18%	Rs. 1,04,220/-
Total	Rs. 6,83,219/- (to be paid at IRCTC/WZ)
Security deposit	Rs. 68,322/- (10% of the Quoted LF to be submitted within 05 working days as advised by IRCTC (to be deposited in IRCTC/WZ))
Spl. Security deposit	NIL
RDS deposit	Rs. 13,664/- (to be paid at IRCTC/WZ)

6. The license was to operate from 1st July, 2025 and hence, the aforesaid payments had to be made by the petitioner by 25th June 2025.

7. The letter of award also provided that there is no provision for delayed payment and the failure to pay as per the schedule would be treated as default and action would be taken in accordance with the Tender Conditions.

8. It is the case of the petitioner that he suffered from medical issues and hence, he could not make payment within the aforesaid time frame.

9. However, the petitioner did make the requisite payments to the respondent on 8th July 2025.

10. Three (3) reminders were sent on behalf of the respondent/IRCTC to



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the petitioner on 16th June 2025, 23rd June 2025 and 28th June 2025, calling upon the petitioner to pay the requisite amounts.

11. On 12th July, 2025, the respondent/IRCTC awarded the Contract to a third-party.

12. On 15th July, 2025, a communication was issued by the respondent/IRCTC to the petitioner stating that, in view of the non-compliance of the terms and conditions of the Contract, the Earnest Money/SEMD deposited at the time of empanelment/Security Deposit has been forfeited and the petitioner's empanelment in the TSV category was kept on hold. Further, the petitioner was directed to deposit a security deposit of Rs. 2,00,000/- for reinstatement of his empanelment in the TSV category.

13. A show cause notice was issued by the respondent/IRCTC to the petitioner on 15th September 2025, invoking Clause 5.2 of the Tender conditions, as to why the requisite action in terms of the said clause should not be taken against the petitioner. For ease of reference, Clause 5.2 of the Tender conditions is set out below:

“Clause 5. Security Deposit.

5.2 Failure to pay License Fee/Security Deposit/Other Charges-

“In the event of failure of payment of license fee or any other charges payable to the IRCTC/Railway, IRCTC will be at liberty to forfeit Earnest Money/SEMD deposited at the time of empanelment/Security deposit and terminate the contract forthwith without prejudice to any rights of IRCTC and to cancel the allotment and also debar licensee from participating in tender of IRCTC for upto one year”. ”

14. To be noted, Clause 5.2 provides for the following penal action



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against a licensee:-

- i. Forfeiture of Earnest Money/SEMD deposited at the time of empanelment/ Security Deposit
- ii. Termination of the Contract
- iii. Cancellation of Allotment
- iv. Debarment of the licensee from participating in the Tender of IRCTC for upto one (1) year.

15. It is the case of the petitioner that he did not receive the aforesaid show cause notice and hence, no reply was given to the said show cause notice.

16. Pursuant to the communication dated 15th July 2025, a sum of Rs. 2,00,000/- was deposited by the petitioner on 5th November 2025, towards the security deposit for reinstatement of the petitioner's empanelment.

17. On 25th November 2025, taking note of the fact that the petitioner has failed to respond to the show cause notice, the respondent/IRCTC annulled the Contract of the petitioner, in terms of Clause 5.2 of the Tender Conditions.

18. On 2nd December 2025, a representation was sent by the petitioner to the respondent/IRCTC seeking the recall of the communication dated 25th November 2025, annulling the Contract of the petitioner.

19. Subsequently, *vide* communication dated 3rd December 2025, the respondent/IRCTC decided to debar the petitioner from participating in future projects of the respondent/IRCTC for a period of one (1) year, from the date of issuance of the letter.

20. Mr. Mehta, counsel appearing on behalf of the petitioner, submits that the action taken by the respondent/IRCTC against the petitioner is wholly



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arbitrary, unjust and disproportionate.

21. He submits that for a delay of a few days in making the payments towards the license, the petitioner has been faced with unjust and disproportionate consequences of not only annulment of the contract and forfeiture of the security deposit but also debarment for a period of one (1) year.

22. He further submits that the penal consequences began from 15th July 2025, when the petitioner was disempanelled and now, *vide* letter dated 3rd December 2025, the respondent/IRCTC seeks to debar the petitioner for a further period of one (1) year from the said date.

23. Reliance is placed on the judgment of the Supreme Court in *M/s Kulja Industries Ltd. v. Western Telecom Project BSNL*¹, as well as judgment of this Court in *Jayanta Kumar Ghosh Outdoor Catering (P) Ltd. v. Indian Railway Catering & Tourism Corpn. Ltd.*² and judgment of Division Bench in *Indian Railway Catering & Tourism Corpn. Ltd. v. Jayanta Kumar Ghosh Outdoor Catering (P) Ltd.*³.

24. Ms. Manisha Singh, counsel appearing on behalf of the respondent/IRCTC, has taken the Court through various Clauses of the Tender in terms of which the respondent/IRCTC has the power to not only forfeit the earnest money/security deposit as well as the license fee, but also to annul the contract of a licensee and also debar the licensee from participation in future tenders. She submits that the show cause notice was duly sent to the petitioner through email, however, the petitioner failed to

¹ (2014) 14 SCC 731

² 2020 SCC OnLine Del 151

³ 2020 SCC OnLine Del 2301



respond to the same.

25. I have heard counsel appearing on behalf of the parties and perused the material placed on record.

26. Reference may be made to the judgment of the Supreme Court in ***Kulja Industries*** (supra) wherein it was held that even in contractual matters, the decision of a State instrumentality to blacklist or debar a contractor is subject to judicial review on the touchstone of fairness, reasonableness, natural justice and proportionality, and that the penalty imposed must bear a reasonable nexus with the gravity of the misconduct.

Paragraph no.20 of the said judgment is set out below:

“20. It is also well settled that even though the right of the writ petitioner is in the nature of a contractual right, the manner, the method and the motive behind the decision of the authority whether or not to enter into a contract is subject to judicial review on the touchstone of fairness, relevance, natural justice, non-discrimination, equality and proportionality.”

...

27. The Supreme Court also laid down the factors to be considered for debarring a contractor in paragraph no.22 of the aforesaid judgment, which is set out below:

“22. The guidelines also stipulate the factors that may influence the debarring official’s decision which include the following:

- a) The actual or potential harm or impact that results or may result from the wrongdoing.*
- b) The frequency of incidents and/or duration of the wrongdoing.*
- c) Whether there is a pattern or prior history of wrongdoing.*
- d) Whether contractor has been excluded or disqualified by an agency of the Federal Government or have not been allowed to participate in State or local contracts or assistance agreements on a basis of conduct similar to one or more of the causes for debarment specified*



in this part.

(e) Whether and to what extent did the contractor plan, initiate or carry out the wrongdoing.

(f) Whether the contractor has accepted responsibility for the wrongdoing and recognized the seriousness of the misconduct.

(g) Whether the contractor has paid or agreed to pay all criminal, civil and administrative liabilities for the improper activity, including any investigative or administrative costs incurred by the government, and have made or agreed to make full restitution.

((h) Whether contractor has cooperated fully with the government agencies during the investigation and any court or administrative action.

(i) Whether the wrongdoing was pervasive within the contractor's organization.

(j) The kind of positions held by the individuals involved in the wrongdoing.

(k) Whether the contractor has taken appropriate corrective action or remedial measures, such as establishing ethics training and implementing programs to prevent recurrence.

(l) Whether the contractor fully investigated the circumstances surrounding the cause for debarment and, if so, made the result of the investigation available to the debarring official."

28. Reference may also be made to the judgment of the Supreme Court in **Coimbatore District Central Coop. Bank v. Employees Assn.**⁴ wherein it was held that administrative penalties are subject to the doctrine of proportionality and that Courts are empowered to interfere where the punishment imposed is wholly out of proportion to the alleged misconduct. The relevant extracts from the said judgment are set out below:

"Doctrine of proportionality"

17. So far as the doctrine of proportionality is concerned, there is no gainsaying that the said doctrine has not only arrived in our legal system but has come to stay. With the rapid growth of administrative law and the need and necessity to control possible

⁴ (2007) 4 SCC 669



*abuse of discretionary powers by various administrative authorities, certain principles have been evolved by courts. **If an action taken by any authority is contrary to law, improper, irrational or otherwise unreasonable, a court of law can interfere with such action by exercising power of judicial review. One of such modes of exercising power, known to law is the “doctrine of proportionality”.***

18. “Proportionality” is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise—the elaboration of a rule of permissible priorities.

19. *de Smith* states that “proportionality” involves “balancing test” and “necessity test”. Whereas the former (balancing test) permits scrutiny of excessive onerous penalties or infringement of rights or interests and a manifest imbalance of relevant considerations, the latter (necessity test) requires infringement of human rights to the least restrictive alternative. [*Judicial Review of Administrative Action* (1995), pp. 601-05, para 13.085; see also *Wade & Forsyth: Administrative Law* (2005), p. 366.]

20. In *Halsbury's Laws of England* (4th Edn.), Reissue, Vol. 1(1), pp. 144-45, para 78, it is stated:

“The court will quash exercise of discretionary powers in which there is no reasonable relationship between the objective which is sought to be achieved and the means used to that end, or where punishments imposed by administrative bodies or inferior courts are wholly out of proportion to the relevant misconduct. The principle of proportionality is well established in European law, and will be applied by English courts where European law is enforceable in the domestic courts. The principle of proportionality is still at a stage of development in English law; lack of proportionality is not usually treated as a separate ground for



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review in English law, but is regarded as one indication of manifest unreasonableness.”

21. The doctrine has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without abuse of discretion. There can be no “pick and choose”, selective applicability of the government norms or unfairness, arbitrariness or unreasonableness. It is not permissible to use a “sledgehammer to crack a nut”. As has been said many a time; “where paring knife suffices, battle axe is precluded”.”

29. Counsel for the plaintiff has also placed reliance on the judgment of this Court in **Jayanta Kumar** (supra), wherein the Court was dealing with a case where IRCTC, the same respondent as in the present case, had terminated the contract of the petitioner therein and also forfeited the security deposit and license fee and debarred the petitioner therein for a period of three (3) years from participating in future projects of IRCTC on account of submitting a false Chartered Accountant’s certificate. Relying upon the aforesaid judgments of the Supreme Court in **Kulja Industries** (supra) and **Coimbatore District** (supra), a Coordinate Bench of this Court in **Jayanta Kumar** (supra) observed that the punishment imposed on the petitioner therein for a *bona fide* mistake is shockingly disproportionate. It was held that since the petitioner had already lost out on the contract, the decision to debar the petitioner for a period of three (3) years from participating in the future projects of the respondent as well as forfeiture of the licence fee and the security deposit of the petitioner therein by the respondent/IRCTC, was completely disproportionate and was accordingly,



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set aside.

30. IRCTC challenged the aforesaid judgment by way of an appeal before the Division Bench in LPA 87/2020. The Division Bench did not interfere with the judgment of the Single Bench, setting aside the debarring order. However, the Division Bench, in order to balance equities, directed the recovery of further amounts from the petitioner.

31. Admittedly, the only default committed by the petitioner in the present case was the delay of about 13 days in deposit of the license fee and security deposit, which was a condition of the Tender. The petitioner has given medical reasons for the aforesaid delay in depositing the amounts with the respondent.

Undoubtedly, the respondent/IRCTC was entitled to take action in terms of the Tender conditions against the petitioner. No fault can be found with the decision of the respondent/IRCTC to terminate the Contract of the petitioner or to forfeit the sum of Rs. 2 lakhs, being the security deposit amount for the reinstatement of the petitioner's empanelment, in terms of the letter dated 15th July 2025.

32. However, the act of the respondent/IRCTC to debar the petitioner for a period of one (1) year, when viewed in light of the aforesaid judgments of the Supreme Court, appears to be wholly disproportionate and cannot be sustained. It has to be taken note of that the petitioner has already suffered on account of the default committed by the petitioner, resulting in termination of the Contract and forfeiture of Rs. 2 lakhs.

33. It is also to be borne in mind that the petitioner was disempanelled as far back on 15th July, 2025, and hence, was unable to participate in any contracts of IRCTC from the said date. By way of the impugned



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communication dated 3rd December, 2025, the respondent is once again debarring the petitioner for a further period of one (1) year from the said date. In the opinion of this Court, this would amount to extending the period of debarment for a period beyond one (1) year, as stipulated in the Tender condition.

34. Accordingly, in my considered view, the ends of justice would be met if the debarment of the petitioner, which is *de facto* in place from 15th July 2025 till now, for a period of almost seven (7) months, is not extended any further.

35. In view of the above, the impugned letter dated 3rd December, 2025 to the extent it debars the petitioner from participating in future contracts of the respondent for a period one (1) year is hereby quashed.

36. Since the petitioner has already paid a sum of Rs. 2,00,000/-, for fresh empanelment, in terms of the communication dated 15th July 2025, the empanelment of the petitioner will continue.

37. In the counter-affidavit of the respondent/IRCTC, it has been specifically stated that the license fee and security fee are to be refunded to the petitioner in due course of time. The relevant paragraph from the said counter-affidavit is set out below:

*“34. The Petitioner's letters dated 09.10.2025 and 05.11.2025, seeking bank details and thereafter depositing an amount of Rs. 2,00,000/- towards EMD for reinstatement of empanelment, do not in any manner wipe out or cure the earlier breach committed by the Petitioner in respect of the specific contract for Train No. 12289-90. Reinstatement of empanelment, even if sought or processed, is distinct and independent from the contractual consequences arising out of non-payment of the licence fee for a particular train. **Furthermore, it is pertinent to mention here that the License fee and the security fee are under process and will be refunded to the Petitioner in due time.**”*



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38. In terms of what is stated in the counter-affidavit with regard to the refund of the license fee, the respondent shall forthwith release the amount of the license fee and the security deposit/RDS of the petitioner in favour of the petitioner within two (2) weeks from today. However, no interference is called for with the decision of the respondent/IRCTC of the forfeiture of Rs.2,00,000/- deposited by the petitioner in terms of the letter dated 15th July 2025.

39. In terms of the aforesaid, the petition, along with the pending application, stands disposed of.

AMIT BANSAL, J

FEBRUARY 7, 2026

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