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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2941/2026 & CM APPL. 14193/2026

NAND KISHOR GOYAL

.....Petitioner

Through: Mr. Rishi k Awasthi & Mr.
Rahul Raj Mishra, Advs.

versus

UNION OF INDIA AND OTHERS

.....Respondent

Through: Ms. Radhika Bishwajit Dubey,
CGSC, Mr. Dev Pratap Shahi,
GP, Ms. Gurleen Kaur Waraich,
Mr. Kritarth Upadhyay, Mr.
Vivek Sharma, Mr. Amulya
Dev Mishra, Advs. with Mr.
T.S Chauhan, AE (QS & C),
Sub/Clk(SD) Mr. Aneesh, EM.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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23.04.2026

1. The present Writ Petition was filed while making the following prayers :

- (a) Issue a Writ in the nature of Certiorari or any other appropriate writ/order/direction to quash the communication dated 23.02.2026 issued by the Respondent No.1; and/or
- (b) Issue a Writ in the nature of Mandamus or any other appropriate writ/order/direction commanding the respondents to allow the Petitioner's firm to participate in the financial bid of the Tender 2025_MES_744987_1 dated 17.12.2025 for Special Repairs to BLDG No. B-06 and NC -01 (Type II & Type III) Block and D-06 (Type-IV) Blocks, BLDGS of Residential Area at Deal Under GE(I) R&D Dehradun; and/or
- (c) Any other appropriate writ/order/direction may also be passed in favour of the petitioner against the respondents which this Hon'ble Court deems fit proper in the facts and circumstances stated herein above."



2. The Petitioner's bid was not being considered on account of the fact that he was involved in a litigation and he was disqualified from participating in the Tender process.

3. On 13.03.2026, the following order was passed:

"1. On the last date of hearing, this Court had passed the following orders:

"3. This petition has been filed with the following prayers:

"(a) Issue a Writ in the nature of Certiorari or any other appropriate writ/order/direction to quash the communication dated 23.02.2026 issued by the Respondent No.1; and/or

(b) Issue a Writ in the nature of Mandamus or any other appropriate writ/order/direction commanding the respondents to allow the Petitioner's firm to participate in the financial bid of the Tender 2025_MES_744987_1 dated 17.12.2025 for Special Repairs to BLDG No. B-06 and NC -01 (Type II & Type III) Block and D-06 (Type-

IV) Blocks, BLDGS of Residential Area at Deal Under GE(I) R&D Dehradun; and/or

(c) Any other appropriate writ/order/direction may also be passed in favour of the petitioner against the respondents which this stated herein above."

4. The submission of the learned counsel for the petitioner is that the impugned communication rejects the bid of the petitioner for certain works at Dehradun as the petitioner's firm is said to have been banned by the HQ ADG (NEI) on the ground of cancellation of the Shillong Contract. This according to the petitioner is not sustainable as a challenge to the action of the said authority i.e., HQ ADG (NEI) was made in the arbitration proceedings and the petitioner has succeeded in those proceedings inasmuch as cancellation of the Shillong contract has been held as illegal. Thus, the basis of the alleged ban does not survive any further.

5. Learned counsel for the respondent submits that the said award is under challenge in a petition under Section 34 of the Arbitration and Conciliation Act, 1996.



6. On a specific query from the Court, whether the award has been stayed, the answer is in the negative.

7. If that be so, appropriate shall be for us to issue notice.

8. Learned counsel for the respondent states that till the next date of hearing, the financial bid of the subject tender shall not be opened.

9. As requested by the counsel for the respondent to take instructions, renotify on 13.03.2026.”

2. Today, we have heard the learned counsel for the parties at length. At the outset, the learned counsel for the respondents would justify the decision taken by the respondents to declare that the bid of the petitioner was not considered in view of the fact that the petitioner firm is an unlisted/banned firm, due to the cancellation of the Shillong contract.

3. She states that the said contract though has been set aside by the learned Arbitrator, the same has been challenged by the department and in that sense till such time the adjudication process is complete, the petitioner’s case cannot be considered.

4. She also submit in the eventuality the award of the Arbitrator is set aside, the action of the respondents in not considering the bid of the petitioner on the ground that the petitioner was banned from the tendering process, would be justified.

5. Though the submission looks appealing on a first blush but the fact of the matter is that the petitioner having succeeded before the learned Arbitrator and it is also a conceded case of the respondents that it is because of the termination of the Shillong contract that the petitioner was treated as unlisted/banned and further the award of the learned Arbitrator has not been stayed by the Court in the hearing under Section 34 of the Arbitration and Conciliation Act, 1996, the only conclusion that can be drawn at this stage is that there is no impediment for considering the tender/bid submitted by the petitioner.

6. That apart we note the learned counsel for the petitioner is justified in drawing our attention to Annexure P-22, which is an intra office communication from Respondent No.3 to Respondent No.2 wherein the Respondent No.3 in paragraph 7.3 has stated as under:

“7.3 That the firm had applied for renewal of cyclic period 01 Jan 2021 to 31 Dec 2025 and for cyclic period 01 Jan 2026 to 31 Dec 2032 in time along with reqd documents.

It is evident that the default of the firm couldn't be established in Arbitration & court of law and there appears to be no good/legally sustainable reasons for non-renewal of enlistment of the firm M/s Kum



Kum Construction Co. (B-47/CC) for the above cyclic periods.

It is therefore recommended that permission may kindly be accorded for renewal of enlistment of the firm M/s Kum Kum Construction Co. (Index No. B-47/CC) keeping in view the provision laid down vide Para-7-of E-in-C's Branch Policy letter No. 66546/P-1/Renewal/2021-2025/02/E8 dated 24 Apr 2020 & 66546/P1/Renewal/2026/08/E8 dated 11 Mar 2025 by considering the case on top priority to avoid undue litigation & any adverse order by Hon'ble High Court Delhi in the petition No. 3634 of 2023, for renewal of firm, which is pending in the Hon'ble Court.

It is requested to consider the case for grant of permission for renewal of enlistment of firm and convey the decision of E-in-C at the earliest."

7. So, it follows pending filing of the counter affidavit, we deem it appropriate, to direct that the respondents shall first evaluate the technical bid of the petitioner de hors the case of the respondents that the petitioner is banned from tendering process and evaluate the same and if the petitioner is found eligible/fit then the financial bids of all the tenderers be opened, considered and evaluated. The final evaluation of the financial bids shall be placed before this Court in a sealed cover for our perusal.

8. This exercise shall be carried out before the next date of hearing, for which purpose, we list the matter on 17.04.2026.

9. Counter affidavit be filed within two weeks. Rejoinder thereto, be filed within two weeks thereafter."

4. In compliance with the said order, the Respondents have considered the Petitioner's bid which was submitted in two separate packets - one was technical bid and second was financial bid. After opening Petitioner's technical bid, the Respondent has passed an order on 09.04.2026, declaring that the Petitioner has not qualified the technical bid as he has not uploaded documents for past experience, annual turnover, audited balance sheet, bank solvency certificate, working capital and financial soundness as per eligibility class mentioned in NIC documents etc.

5. As far as the question of not permitting the Petitioners to



participate in the Tender, on account of pendency of Petition under Section 34 as noticed in the Order dated 13.03.2026, is concerned, it emerges that the learned Arbitrator has already decided in favor of the Petitioner. Hence, the subsequent filing of a Petition under Section 34, assailing the award passed in favor of the Petitioner, cannot debar him from participating in the Tender process as the proceedings under Section 34 were not at his behest but filed by the party against whom the learned Arbitrator passed the award (which, as per the above order, has not been stayed).

6. Be that as it may, the Petitioner is required to initiate fresh proceedings in accordance with law, in order to challenge the Order passed by the Respondents technically disqualifying him for not meeting the eligibility criteria. Needless to say, he is at liberty to avail appropriate legal remedies in accordance with law.

7. With these observations, the Writ Petition is disposed of. The order passed on 13.03.2026 is made absolute and the Order debarring the Petitioner from participating in the Tender process shall stand set-aside.

8. Pending application also stands disposed of.

ANIL KSHETARPAL, J

AMIT MAHAJAN, J

APRIL 23, 2026

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