



CGHC010246152026

2026:CGHC:27631-DB

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WPC No. 3429 of 2026**

M/s Bundelkhand Engineers Through - Proprietor Madhur Agrawal S/o Shri Suresh Chandra Agrawal, 39 Years R/o H I G - 518, S A D A Colony, S U B P Nagar, Jamnipali, Korba, Distt Korba (C.G.)

... **Petitioner**

**versus**

**1** - State of Chhattisgarh Through - The Secretary Urban Administration Department, Mantralaya, Mahanadi Bhawan, Atal Nagar, Raipur (C.G.)

**2** - Municipal Corporation Korba, Through - The Commissioner, Municipal Corporation, Korba, District Korba (C.G.)

... **Respondents**

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Prafull N. Bharat, Senior Advocate assisted by Mr. Mayank Chandrakar, Advocate
For State/Respondent No.1	:	Mr. Prasun Kumar Bhaduri, Deputy Advocate General
For Respondent No.2	:	Mr. Shashank Thakur, Advocate

**Hon'ble Shri Ramesh Sinha, Chief Justice**  
**Hon'ble Shri Ravindra Kumar Agrawal, Judge**  
**Order on Board**

**Per Ramesh Sinha, Chief Justice**

**06.07.2026**

1. Heard Mr. Prafull N. Bharat, learned Senior Counsel assisted by Mr. Mayank Chandrakar, learned counsel for the petitioner. Also

heard Mr. Prasun Kumar Bhaduri, learned Deputy Advocate General, appearing for the State/respondent No.1 as well as Mr. Shashank Thakur, learned counsel appearing for respondent No.2.

2. By filing the present petition, the petitioner calls in question the legality and validity of the order dated 30.04.2026, whereby the tender awarded in his favour has been cancelled, the security amount has been forfeited and the petitioner has been blacklisted for a period of two years. The petitioner has prayed for following relief(s) :-

*“10.1 To call for the records of the case for the kind perusal of this Hon'ble Court.*

*10.2 To issue an appropriate writ or order and declare that the order dated 30.04.26 (Annexure P-1) is illegal and bad and also in contravention of settled principles of law.*

*10.3 To issue an appropriate writ or order and quash the order dated 30.04.26 (Annexure P-1).*

*10.4 To issue an appropriate writ or order and quash the System Tender No.191792 (second call dated 27.05.26).*

*10.5 Any other relief deemed fit in the facts and circumstances of the case may also be granted.”*

3. Brief facts of the case are that the petitioner is a registered Government contractor and has been undertaking works for various Government departments and local authorities. It is the

case of the petitioner that he has also been carrying out contractual works for respondent No.2 since the year 2008 and, as on the date of filing of the present petition, some works awarded by respondent No.2 were still continuing.

4. Respondent No.2 issued a Procurement Tender Notice bearing System Tender No.181916 dated 29.12.2025 for execution of construction works relating to CC road, retaining wall, box culvert, pitching work, borewell work and providing/fixing of High Mast Light and Street Light at CBG Plant Area, Barbaspur, Korba. The probable value of the contract was Rs.285.00 lakhs and online bids were invited up to 20.01.2026. Pursuant to the said tender notice, the petitioner participated in the tender process and was declared successful. Thereafter, by communication / Letter of Intent dated 02.04.2026, respondent No.2 informed the petitioner that since the bid amount quoted by him was 18.60% below the SOR, he was required, in terms of the tender conditions, to deposit an additional performance guarantee to the tune of Rs.21,50,000/- and to complete the necessary formalities for execution of the agreement and commencement of work. Subsequently, on 16.04.2026, respondent No.2 again communicated to the petitioner that the additional performance guarantee had not yet been deposited and that the agreement had not been executed, and called upon him to deposit the amount at the earliest, failing which the bid would be liable to be rejected and the security amount forfeited.

- 5.** In response thereto, the petitioner submitted a communication dated 27.04.2026 stating that on account of bank holidays and Government holidays, he was unable to immediately arrange the additional performance guarantee in the form of TDR/Bank Guarantee. In the said communication, the petitioner also referred to his ongoing work with respondent No.2 and requested that time up to 04.05.2026 be granted for deposit of the additional performance guarantee. Thereafter, according to the petitioner, after obtaining the TDR for the purposes of furnishing the additional performance guarantee, he submitted the same before respondent No.2 on 02.05.2026 along with a communication stating that the remaining formality regarding deposit of TDR was being completed.
- 6.** According to the petitioner, thereafter an order dated 30.04.2026 came to be served upon him on 05.05.2026, whereby respondent No.2 cancelled the tender/ bid awarded in his favour, forfeited the security amount and further blacklisted the petitioner for a period of two years. The petitioner has pleaded that the said order was dispatched by speed post on 04.05.2026, and in support thereof has referred to the postal envelope in which the article booking time is shown as 04.05.2026 at 10:22:10 hours. The petitioner has further stated that by the time the aforesaid order was dispatched, the TDR towards additional performance guarantee had already been submitted by him on 02.05.2026.

7. After receipt of the order dated 30.04.2026, the petitioner submitted an application dated 11.05.2026 requesting review of the said order and stating therein that the additional performance guarantee in the form of TDR had already been deposited and that the other formalities had also been completed. Thereafter, a reminder dated 29.05.2026 was also submitted by the petitioner requesting reconsideration/review of the order dated 30.04.2026. On the same date, i.e., 29.05.2026, the petitioner also preferred an appeal before the Appeal Committee of Municipal Corporation, Korba ventilating his grievance against the order of cancellation of tender, forfeiture of security amount and blacklisting.
8. Subsequently, on 05.06.2026, the Executive Engineer, Municipal Corporation, Korba returned the TDR submitted by the petitioner towards the additional performance guarantee and informed him that since his tender had already been cancelled, a second tender notice had been issued on 27.05.2026. The petitioner has also brought on record the second call of the tender notice issued thereafter.
9. In the aforesaid factual backdrop, the petitioner has filed the present writ petition calling in question the order dated 30.04.2026, whereby the tender awarded in his favour has been cancelled, the security amount has been forfeited and the petitioner has been blacklisted for a period of two years, and also challenged the consequential issuance of second tender notice.

- 10.** Mr. Prafull N. Bharat, learned Senior Counsel assisted by Mr. Mayank Chandrakar, learned counsel appearing for the petitioner submits that the impugned order dated 30.04.2026, whereby the tender awarded in favour of the petitioner has been cancelled, the security amount has been forfeited and the petitioner has been blacklisted for a period of two years, is wholly illegal, arbitrary, unreasonable and unsustainable in law. He would submit that the petitioner, being a registered Government contractor, had participated in the tender process initiated by respondent No.2 pursuant to the Procurement Tender Notice dated 29.12.2025 and, having been declared successful, a Letter of Intent dated 02.04.2026 was issued in his favour. It is contended that the only requirement thereafter was deposit of the additional performance guarantee of Rs.21,50,000/- on account of the bid amount being 18.60% below the SOR, and the petitioner had never evinced any unwillingness to comply with the said requirement.
- 11.** Learned Senior Counsel would submit that immediately upon receipt of the communication dated 16.04.2026, the petitioner approached respondent No.2 by way of a representation dated 27.04.2026 and specifically apprised the authority that due to intervening bank holidays and Government holidays, the TDR/Bank Guarantee could not be arranged immediately. In the said communication, the petitioner sought only a short extension of time up to 04.05.2026 for deposit of the additional performance

guarantee. It is submitted that the request made by the petitioner was bona fide, reasonable and was made well before the expiry of the extended period sought by him. According to learned Senior Counsel, respondent No.2 neither rejected the said request nor communicated any decision thereon to the petitioner and, in the meantime, the petitioner, acting bonafide and with due diligence, arranged the TDR and submitted the same on 02.05.2026, i.e., even before the last date up to which extension had been sought by him.

- 12.** It is further submitted that once the petitioner had deposited the TDR on 02.05.2026, there was no occasion for respondent No.2 to proceed with cancellation of the tender or to forfeit the security amount, particularly when the petitioner had substantially complied with the requirement regarding additional performance guarantee. Learned Senior Counsel would contend that the chronology of events itself clearly demonstrates the arbitrary manner in which respondent No.2 acted. Though the impugned order bears the date 30.04.2026, the same was admittedly dispatched only on 04.05.2026 through speed post and was served upon the petitioner thereafter. According to him, this fact assumes significance because by 02.05.2026 itself the petitioner had already submitted the TDR before respondent No.2. It is, therefore, contended that despite being in receipt of the additional performance guarantee, respondent No.2 proceeded to dispatch the impugned order, which renders the action wholly arbitrary and

actuated by non-application of mind. Learned Senior Counsel would urge that the manner in which the impugned order was issued and dispatched creates serious doubt about the fairness of the decision-making process and clearly indicates that the petitioner's request as well as the subsequent deposit of TDR were not taken into consideration at all.

- 13.** Learned Senior Counsel further submits that even assuming, without admitting, that there was some delay on the part of the petitioner in depositing the additional performance guarantee, the same by itself could not have justified the drastic consequences of cancellation of the tender, forfeiture of security and blacklisting, all in one stroke, without considering the explanation furnished by the petitioner and without taking into account the fact that the petitioner had ultimately deposited the TDR before the impugned order was dispatched. According to him, the action of the respondents is grossly disproportionate, arbitrary and contrary to the basic norms of fairness expected from a public authority dealing with contractual matters, particularly when the petitioner had not abandoned the contract, had not refused to furnish the additional performance guarantee, and had, on the contrary, taken steps to comply with the tender conditions within the extended time sought by him. It is next submitted that the impugned order, insofar as it forfeits the security amount, is also unsustainable, as the same has been done mechanically and as a consequence of an erroneous assumption that the petitioner had failed to comply

with the terms of the tender and the Letter of Intent. Learned Senior Counsel would submit that forfeiture of security, being a penal consequence having civil ramifications, could not have been resorted to in a casual or mechanical manner without considering the petitioner's explanation and the subsequent compliance made by him by depositing the TDR. He would contend that once the petitioner had demonstrated his readiness and willingness to perform the contract and had actually submitted the additional performance guarantee, the respondents could not have invoked the drastic consequence of forfeiture as though the petitioner had wilfully defaulted or had resiled from the contractual obligations.

14. Learned Senior Counsel has laid particular emphasis on the part of the impugned order whereby the petitioner has been blacklisted for a period of two years. It is submitted that the order of blacklisting is *ex facie* illegal and vitiated for total non-compliance with the principles of natural justice. According to him, blacklisting has serious civil and commercial consequences, inasmuch as it not only stigmatizes the contractor but also deprives him of the opportunity to participate in future tenders and to carry on his business with the Government and its instrumentalities. It is contended that the law on the point is no longer *res integra* that before an order of blacklisting is passed, the affected party must be put to notice in clear terms that blacklisting is one of the proposed actions and must be afforded an adequate and meaningful opportunity to show cause against such proposed

action. Learned Senior Counsel would submit that in the present case no show-cause notice whatsoever proposing blacklisting was ever issued to the petitioner. At best, the communications on record required deposit of the additional performance guarantee and indicated possible rejection of the bid and forfeiture of security in case of non-compliance, but nowhere was the petitioner put to notice that he was also proposed to be blacklisted for two years. In absence of such a specific notice, the order of blacklisting is, according to learned Senior Counsel, wholly void and unsustainable in law.

- 15.** It is further submitted that blacklisting cannot be treated as an automatic or incidental consequence of cancellation of a tender. Blacklisting, by its very nature, is an independent penal action carrying grave civil consequences and, therefore, the authority is required to form an objective opinion, assign reasons and comply strictly with the principles of natural justice before resorting to such action. Learned Senior Counsel would submit that the impugned order does not disclose any independent consideration for blacklisting the petitioner; nor does it record any finding of fraud, misrepresentation, abandonment of work, deliberate non-compliance or conduct of such nature as would justify debarring the petitioner from future participation for a period of two years. He would therefore contend that the order of blacklisting is liable to be set aside on this ground alone.

- 16.** Learned Senior Counsel would also submit that the petitioner has been continuously working with respondent No.2 since the year 2008 and even at the time when the present dispute arose, certain works of respondent No.2 were still being executed by the petitioner. According to him, this circumstance itself demonstrates that the petitioner is not a fly-by-night contractor or an unreliable agency, but an established contractor who has been executing Government works for a considerable period of time. It is contended that in such a situation, when the petitioner had explained the reasons for seeking a short extension of time and had in fact furnished the TDR before dispatch of the impugned order, respondent No.2 ought to have acted in a fair, reasonable and pragmatic manner instead of taking an unduly harsh and punitive view of the matter.
- 17.** Learned Senior Counsel also submits that the subsequent conduct of the petitioner in immediately filing a review application dated 11.05.2026, followed by a reminder dated 29.05.2026 and an appeal before the Appeal Committee on the same date, clearly shows that the petitioner had been diligently pursuing the matter and had brought to the notice of the respondents that the TDR had already been deposited and that the impugned action required reconsideration. However, instead of objectively considering the petitioner's grievance, respondent No.2 proceeded to return the TDR and issue a second tender notice, thereby compounding the arbitrariness already committed.

According to him, the issuance of the second tender notice during pendency of the petitioner's request for review/appeal further shows undue haste on the part of the respondents and reinforces the petitioner's grievance that the entire decision-making process was vitiated by arbitrariness and unfairness.

- 18.** It is also submitted that though the matter arises in the realm of tender/contract, the present challenge is not directed against any commercial decision taken in the ordinary course of contractual dealings, but against an action of a public authority which is ex facie arbitrary, unreasonable and violative of principles of natural justice. Learned Senior Counsel would submit that cancellation of a tender, forfeiture of security and blacklisting by a State instrumentality must satisfy the constitutional requirement of fairness under Article 14 of the Constitution of India. Once the action of the respondents is shown to be arbitrary, disproportionate, unsupported by due process and in violation of natural justice, the existence of a contractual element would not oust the writ jurisdiction of this Court.
- 19.** On the strength of the aforesaid submissions, learned Senior Counsel would contend that the impugned order dated 30.04.2026 deserves to be quashed in its entirety. It is urged that the cancellation of the tender is liable to be set aside as the petitioner had already deposited the additional performance guarantee before the impugned order was dispatched and the

request for extension of time was never decided or communicated. It is further urged that the forfeiture of security amount is arbitrary and unsustainable, and the order of blacklisting is liable to be annulled independently on the ground that the same has been passed without issuance of any notice or affording any opportunity of hearing to the petitioner. Learned Senior Counsel, therefore, prays that the impugned order dated 30.04.2026, as also the consequential second tender process initiated thereafter, be set aside and appropriate directions be issued in favour of the petitioner.

- 20.** Mr. Prasun Kumar Bhaduri, learned Deputy Advocate General appearing for the State/respondent No.1, submits that the principal contesting respondent in the present matter is respondent No.2, namely, the Municipal Corporation, Korba, as the tender in question was floated by the said respondent and the impugned order dated 30.04.2026 has also been passed by the competent authority of respondent No.2. He would submit that the State has no direct role in the issuance of the Notice Inviting Tender, acceptance of bids, imposition of contractual conditions or in passing of the impugned order and, therefore, the controversy essentially pertains to respondent No.2.
- 21.** Mr. Shashank Thakur, learned counsel appearing for respondent No.2/Municipal Corporation, Korba, submits that respondent No.2 is a statutory local self-government body constituted under the

provisions of the Chhattisgarh Municipal Corporation Act, 1956 and is entrusted with execution of public works and implementation of civic and developmental activities within its jurisdiction. He submits that the tender in question was floated by respondent No.2 for execution of construction works relating to CC road, retaining wall, box culvert, pitching work, borewell work and providing/fixing of High Mast Light and Street Light at CBG Plant Area, Barbaspur, Korba, and the entire tender process was undertaken strictly in accordance with the terms and conditions of the Notice Inviting Tender and the governing contractual stipulations.

- 22.** According to respondent No.2, after the petitioner was found successful in the tender process and the Letter of Intent dated 02.04.2026 was issued in his favour, he was specifically called upon to deposit an additional performance guarantee of Rs.21,50,000/- as his bid amount was 18.60% below the SOR rates, and such deposit was a mandatory pre-condition for execution of the agreement and commencement of the work. It is contended that despite grant of sufficient opportunity and despite issuance of reminder/communication dated 16.04.2026, the petitioner failed to comply with the essential tender condition within the stipulated time and also failed to execute the agreement, as a result of which the competent authority was constrained to invoke the relevant special conditions of contract and pass the impugned order dated 30.04.2026 cancelling the

tender, forfeiting the security amount and blacklisting the petitioner for a period of two years.

- 23.** Learned counsel for respondent No.2 would further submit that the tender conditions and the special conditions of contract specifically empowered the respondent-Corporation to reject the bid, forfeit the security amount and take consequential action in the event of failure on the part of the successful bidder to comply with the conditions of the Letter of Intent and to furnish the requisite additional performance guarantee within the prescribed period. According to him, the petitioner, having participated in the tender process with full knowledge of the tender terms and having accepted the Letter of Intent subject to such conditions, is estopped from contending that the respondent-Corporation could not enforce the contractual consequences flowing from non-compliance of the tender conditions. It is submitted that the petitioner did not deposit the additional performance guarantee within the time contemplated under the tender conditions and the communication dated 02.04.2026, and, therefore, no enforceable right accrued in his favour for execution of the agreement or award of the contract.
- 24.** Learned counsel would contend that the subsequent request made by the petitioner seeking extension of time did not create any vested right in his favour, particularly in the absence of any formal extension having been granted by the competent authority.

He would submit that the petitioner cannot claim, as a matter of right, that mere submission of a representation seeking extension would automatically amount to extension of time or would dilute the consequences stipulated under the tender conditions for non-compliance. He also submits that the impugned action has been taken strictly in accordance with the special conditions of contract and in the larger interest of maintaining contractual discipline and ensuring timely execution of public works. It is contended that the petitioner failed to fulfil the mandatory pre-condition of deposit of additional performance guarantee within the stipulated period and, therefore, respondent No.2 was fully justified in proceeding to cancel the tender and initiate further consequential action. He would further submit that the tender process relates to execution of public works and any delay or uncertainty in compliance of tender conditions by the successful bidder has a direct bearing on public projects and public interest.

- 25.** According to learned counsel for respondent No.2, once the petitioner committed default in complying with the essential tender condition within time, the competent authority was well within its rights to invoke the contractual clauses and pass the impugned order. It is, therefore, submitted that the action of respondent No.2 neither suffers from any illegality nor calls for interference in exercise of writ jurisdiction, and the writ petition deserves to be dismissed.

- 26.** We have heard learned counsel for the parties at length, considered their rival submissions with due care and perused the pleadings and documents available on record.
- 27.** The controversy involved in the present petition lies in a narrow compass. The petitioner, a registered contractor, participated in the tender process initiated by respondent No.2 for execution of works relating to construction of CC road, retaining wall, box culvert, pitching work, borewell work and providing/fixing of High Mast Light and Street Light at CBG Plant Area, Barbaspur, Korba. It is not in dispute that the petitioner was declared successful in the tender process and, pursuant thereto, a Letter of Intent dated 02.04.2026 came to be issued in his favour. Since the bid amount quoted by the petitioner was 18.60% below the SOR, the petitioner was required to furnish an additional performance guarantee of Rs.21,50,000/- as a pre-condition for execution of the agreement. The grievance of the petitioner is directed against the impugned order dated 30.04.2026 whereby the tender has been cancelled, the security amount has been forfeited and the petitioner has been blacklisted for a period of two years.
- 28.** The principal submission advanced on behalf of the petitioner is that the impugned order is arbitrary and unsustainable for the reason that before the said order was dispatched, the petitioner had already submitted the additional performance guarantee in the shape of TDR on 02.05.2026 and, therefore, there was no

justification for respondent No.2 to proceed with cancellation of the tender or to impose the further consequences of forfeiture and blacklisting. It is also urged that the petitioner had, prior thereto, by communication dated 27.04.2026, sought a short extension of time till 04.05.2026 on account of intervening bank holidays and Government holidays and that no decision on the said request was ever communicated to him. It is further contended that the order of blacklisting, in particular, is vitiated for non-compliance with the principles of natural justice inasmuch as no show-cause notice proposing blacklisting was ever issued to the petitioner. The submission on behalf of respondent No.2, on the other hand, is that the petitioner failed to comply with an essential condition of the Letter of Intent within the stipulated period and, therefore, respondent No.2 was fully justified in invoking the relevant tender conditions and in passing the impugned order.

- 29.** Having bestowed our anxious consideration to the rival submissions, we are of the considered opinion that the challenge raised by the petitioner deserves to be examined in three distinct compartments, namely, (i) cancellation of the tender/Letter of Intent, (ii) forfeiture of the security amount, and (iii) blacklisting of the petitioner for a period of two years. Though these consequences have been incorporated in one composite order, each of them stands on a different legal footing and is required to be tested on its own parameters.

- 30.** Insofar as the cancellation of the tender is concerned, it is well settled that even after issuance of a Letter of Intent, unless all essential conditions precedent are fulfilled and a formal contract comes into existence in terms of the tender conditions, the bidder does not acquire an indefeasible or vested right to insist upon execution of the agreement. The tendering authority is entitled to insist upon strict compliance with the conditions governing the award, particularly where the Letter of Intent itself stipulates furnishing of an additional performance guarantee within the prescribed time. In the present case, it is not in dispute that by communication dated 02.04.2026 the petitioner was called upon to deposit the additional performance guarantee of Rs.21,50,000/- and to complete the requisite formalities. It is equally not in dispute that such amount was not deposited within the original period contemplated under the Letter of Intent and that respondent No.2 thereafter issued a further communication dated 16.04.2026 requiring the petitioner to deposit the said amount, failing which action would be taken in accordance with the tender conditions. Thus, on the date when the impugned order came to be passed, the petitioner had admittedly not complied with the stipulation within the time originally granted.
- 31.** At the same time, the matter does not rest merely there. The material placed on record indicates that the petitioner, before passing/dispatch of the impugned order, had addressed a communication dated 27.04.2026 explaining the circumstances in

which the TDR/Bank Guarantee could not be arranged immediately and seeking extension of time till 04.05.2026. It is also the petitioner's case, supported by documents placed on record, that the TDR of Rs.21,50,000/- was actually submitted on 02.05.2026. It is further borne out from the record that though the impugned order bears the date 30.04.2026, the same was dispatched through speed post on 04.05.2026. The petitioner, therefore, seeks to contend that once the additional performance guarantee had already been deposited on 02.05.2026, the respondent-Corporation ought to have considered the same and ought not to have proceeded with cancellation of the tender.

- 32.** In our considered view, even if the petitioner had submitted the TDR on 02.05.2026, the same by itself would not automatically create an enforceable right in his favour to demand execution of the contract, particularly when the tender conditions required deposit of the additional performance guarantee within the stipulated period and no formal extension of time had been granted by the competent authority. A bidder cannot proceed on the assumption that mere submission of a representation seeking extension of time would amount to deemed extension, unless the authority concerned expressly grants such indulgence. In contractual matters of this nature, the terms of the tender and the conditions of the Letter of Intent have to be given due sanctity, and the Court, while exercising jurisdiction under Article 226 of the Constitution of India, ordinarily does not sit in appeal over the

commercial or administrative wisdom of the tendering authority in deciding whether time for compliance ought to be extended or not. Therefore, if respondent No.2, in the facts of the case, considered the petitioner to be in default of an essential tender condition and consequently decided not to proceed further with the award, such decision by itself cannot be said to be wholly without jurisdiction or per se arbitrary so as to warrant interference in writ jurisdiction.

- 33.** The position, however, stands on a somewhat different footing when we examine the consequential action of forfeiture of security amount and, more particularly, the order of blacklisting. It is trite that though the State and its instrumentalities are entitled to prescribe tender conditions and to enforce the consequences flowing therefrom, any action having penal or stigmatic civil consequences must satisfy the minimum standards of fairness, reasonableness and compliance with the principles of natural justice. Forfeiture of security, depending upon the nature of the clause and the circumstances in which it is invoked, may partake the character of a penal consequence, and blacklisting undoubtedly visits the affected party with serious civil and commercial consequences.
- 34.** Insofar as forfeiture of security amount is concerned, respondent No.2 has sought to justify the same on the strength of the special conditions of contract, contending that failure to deposit the additional performance guarantee within time entitled the

Corporation to cancel the bid and forfeit the security amount. It is true that the parties are ordinarily governed by the contractual stipulations accepted by them, and the Court would be slow in interfering with contractual consequences expressly provided in the tender conditions. However, even while enforcing such stipulations, the authority concerned is expected to act fairly and to take into account the relevant attending circumstances. In the present case, the petitioner had, before the impugned order was dispatched, not only sought extension of time by assigning reasons but had also submitted the TDR on 02.05.2026. Whether such compliance was beyond time and whether the authority was still justified in declining to proceed with the tender is one matter; but whether, in the peculiar facts of the case, the extreme consequence of forfeiture ought to have been mechanically resorted to despite the petitioner's demonstrated willingness to furnish the additional performance guarantee, is an aspect which required due application of mind. The impugned order, however, does not reflect any such consideration and proceeds as though the petitioner had completely failed to respond or had abandoned the contract altogether. To that extent, the order suffers from lack of due consideration of the petitioner's request and subsequent conduct.

- 35.** The order of blacklisting stands on an even more vulnerable footing. Blacklisting is not a mere administrative formality or an incidental consequence of cancellation of a tender. It is a serious

punitive measure which has the effect of debarring a contractor from participating in future contracts with the authority concerned and casts a stigma on his commercial credibility. The law is by now too well settled to require elaborate discussion that before an order of blacklisting is passed, the affected party must be put to a clear and specific notice that blacklisting/debarment is one of the proposed actions and must be afforded a meaningful opportunity to show cause against such proposed action. A general notice calling upon a contractor to comply with a contractual term or warning him of rejection of bid cannot be treated as a substitute for a notice proposing blacklisting, unless the proposed penal consequence is specifically disclosed therein.

- 36.** In the case at hand, despite repeated queries addressed during the course of hearing, learned counsel appearing for respondent No.2 could not point out any material on record to demonstrate that prior to passing the impugned order, the petitioner was specifically put to notice that in the event of failure to deposit the additional performance guarantee within time, he was also likely to be blacklisted for a period of two years. The communications placed on record at best indicate that the petitioner was called upon to furnish the additional performance guarantee and was informed of the possibility of rejection of bid and forfeiture of security. There is, however, nothing on record to show that the petitioner was ever called upon to explain as to why the drastic penalty of blacklisting should not be imposed upon him. In

absence of such notice, the action of respondent No.2 in blacklisting the petitioner for two years is clearly in breach of the principles of natural justice and cannot be sustained.

- 37.** We are also unable to overlook the fact that the impugned order is a composite order whereby three distinct consequences have been imposed simultaneously, namely cancellation of the tender, forfeiture of security and blacklisting, without any independent discussion or reasoning as to why each of the said consequences was warranted in the facts of the case. The order does not advert to the petitioner's communication dated 27.04.2026 seeking extension of time, nor does it reflect any consideration of the petitioner's subsequent deposit of TDR on 02.05.2026. Likewise, the order does not record any reason as to why the conduct of the petitioner was of such gravity as to warrant blacklisting for two years. The requirement of recording reasons may vary depending upon the nature of the administrative action, but where the order has serious civil consequences and is visited with punitive effect, the authority is expected to disclose at least the basic reasons which weighed with it in taking such action. The absence of any such consideration renders the impugned action vulnerable, at least to the extent of its penal consequences.
- 38.** We may also observe that the writ jurisdiction of this Court in tender matters is indeed limited and the Court does not ordinarily interfere in purely contractual disputes or in commercial decisions

taken by the employer. However, where the action of the authority is shown to be arbitrary, disproportionate, violative of the principles of natural justice or unsupported by due application of mind, the existence of a contractual element by itself does not bar judicial review. The present case, in our view, is not one where the Court is being called upon to compel respondent No.2 to enter into a contract with the petitioner notwithstanding non-compliance of tender conditions. Rather, the Court is required to examine whether the drastic civil consequences of forfeiture and blacklisting have been imposed in a manner consistent with fairness and law.

- 39.** In that view of the matter, we are of the opinion that respondent No.2 cannot be compelled to execute the contract in favour of the petitioner merely because the petitioner subsequently deposited the TDR on 02.05.2026. No concluded contract had come into existence and the decision of respondent No.2 not to proceed with the tender, in the backdrop of the petitioner's failure to comply within the stipulated time and in absence of any formal extension granted by the competent authority, does not call for interference in exercise of writ jurisdiction. Accordingly, the challenge to the cancellation of the tender/Letter of Intent does not merit acceptance.
- 40.** However, for the reasons already recorded hereinabove, we are of the considered view that the consequential action of blacklisting

the petitioner for a period of two years cannot be sustained in law, having been passed without issuance of any specific show-cause notice and without affording an opportunity of hearing to the petitioner on the proposed action of blacklisting. The said part of the impugned order is, therefore, liable to be set aside. Insofar as forfeiture of the security amount is concerned, since the impugned order does not disclose any consideration of the petitioner's request for extension of time and the subsequent deposit of the TDR, we deem it appropriate to remit the matter to respondent No.2 for reconsideration of that limited aspect. Respondent No.2 shall, after affording an opportunity of hearing to the petitioner and after taking into account the petitioner's communications dated 27.04.2026 and 02.05.2026 as well as any other relevant material, pass a fresh reasoned order confined to the question whether forfeiture of the security amount is justified in the facts of the case.

- 41.** Consequently, the writ petition is partly allowed. The impugned order dated 30.04.2026 is upheld to the extent it cancels the tender/Letter of Intent in favour of the petitioner. However, the said order is set aside to the extent it blacklists the petitioner for a period of two years. The matter is remitted to respondent No.2 for fresh consideration on the limited issue of forfeiture of the security amount, in accordance with law, after affording an opportunity of hearing to the petitioner. The aforesaid exercise shall be completed by respondent No.2 preferably within a period of 60 days from the date of receipt of a copy of this order.

42. There shall be no order as to costs.
43. Pending application(s), if any, shall also stand disposed of.

**Sd/-**  
**(Ravindra Kumar Agrawal)**  
**Judge**

**Sd/-**  
**(Ramesh Sinha)**  
**Chief Justice**

Anu