

**IN THE HIGH COURT AT CALCUTTA  
(Constitutional Writ Jurisdiction)  
ORIGINAL SIDE**

**Present:**

**The Hon'ble Justice Krishna Rao**

**W.P.O. No. 95 of 2026**

**M/s. Pavan Supply Corporation**

**Vs.**

**Union of India &Anr.**

Mr. Srijib Chakraborty

Mr. Pankaj Agarwal

Ms. Champa Pal

....For the petitioner.

Mr. Dhruv Surana

Ms. Debjani Ghoshal

....For the respondent no.1/ UOI.

Mr. AyanPoddar

Mr. Yashodhara B. Roy

Mr. Soham Dutta

Ms. Anjali Shaw

Ms. Shweta Bharti

Ms. Darshita Sethia

Mr. Aditya Sharma

....For the respondent no.2.

Hearing Concluded On : 09.06.2026

Judgment On : 15.06.2026

Uploaded On : 15.06.2026

**Krishna Rao, J.:**

1. The petitioner has filed the present writ petition praying for quashing of show cause notice or in the alternative issuance of mandamus directing the respondents not to pass any adverse or final order pursuant to the show cause notice dated 18<sup>th</sup> February, 2026, without granting proper opportunity of personal hearing.
2. The petitioner is a “Small Enterprise” under the MSME and is registered on Government e-Marketplace (hereinafter referred to as GeM) Portal. On 18<sup>th</sup> February, 2026, the petitioner has received a show cause notice through its GeM Portal under Clause 32 of the GeM Incident Management Policy on the allegation that the petitioner has participated with same IP address, proximity of time and proximity of price with other two sellers in 20 Bids. By the show cause notice, the petitioner is directed to file reply within 10 days with supporting documents, as to why action shall not be taken against the petitioner in accordance with the IM Policy.
3. In the show cause notice, it was also informed to the petitioner that if no reply is received or any reply if submitted is not satisfactory, the GeM may initiate appropriate action including suspension of the account of the petitioner for a period of two years and removal of all

product/ catalogues, brand and OEM Panel/ dashboards, registration, VA/VAE approval in terms of GeM's Policies.

- 4.** The petitioner has submitted reply to the show cause notice stating that the petitioner is not in any manner involved in any anti-competitive behavior or cartel formation whether under the GeM Incident Management Policy or GeM General Terms and Conditions. In the reply to the show cause notice, it is the specific case of the petitioner that the petitioner being the authorized dealer of Vert Equipment Private Limited (hereinafter referred to as "OEM") and have participated in all the tenders as per the authorization issued by the Vert Equipment Private Limited.
- 5.** It is submitted by the Learned Counsel appearing for the petitioner that in terms of the authorization the petitioner appointed a tender consultant and planner, namely, i-Sourcing Technology Private Limited to help and assist the petitioner in planning and participating on various tenders. He submits that the said firm is also rendering its services to various business units/ bidders and may have also worked for "M/s Sree Baba Traders" and "M/s Brisk Solutions" due to which there is a same IP Address in the bids.
- 6.** Mr. Srijib Chakraborty, Learned Advocate representing the petitioner submits that the GeM has issued the show cause notice with pre-mediated mind to impose punishment by suspending the account of the petitioner for a period of two years or removal of all product/catalogues,

brand and OEM Panel / dashboards and registration. He submits that the show cause notice issued by the GeM is without any date and without any signature. He further submits that though the petitioner has submitted reply to the show cause notice but from the tenor of the show cause notice, it reveals that GeM authority has already made up their mind for imposing severe penalty upon the petitioner.

7. Mr. Chakraborty submits that as per Incident Management Policy of GeM, if the GeM is imposing penalty of two years, the same is to be approved from Chief Marketplace Officer – GeM but without the approval of the Chief Marketplace Officer - GeM, the GeM authority has issued the show cause notice for imposing penalty for two years which is without any jurisdiction.
8. Mr. Chakraborty in support of his submission, has relied upon the judgment in the case of **Commissioner of Central Excise, Bangalore vs. Brindavan Beverages (P) Ltd. &Ors.** reported in **(2017) 5 SCC 388** and submits that if the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or unintelligible, it is sufficient to hold that the noticee has not given proper opportunity to meet the allegations made in the show cause notice. He submits that in the present case though the GeM authority has alleged that the petitioner has deliberately and maliciously violated the GeM GTC and IM Policy but have not described the alleged violation.

9. Mr. Chakraborty further relied upon the judgment in the case of ***Oryx Fisheries Pvt. Ltd. vs. Union of India & Ors.*** reported in ***(2010) 13 SCC 427*** and submits that at the stage of show cause, the person proceeded against must be told the charges against him so that he can take his defence and prove his innocence but in the present case, no such charge has been explained in the show cause notice.
  
10. Mr. Ayan Poddar, Learned Advocate appearing for GeM submits that the petitioner has filed the present writ petition challenging the show cause notice and thus the writ petition is not maintainable. He further submits that the writ petition filed by the petitioner is pre-matured as on receipt of the show cause notice, the petitioner has submitted his reply but without waiting for the decision of the authorities, has filed the present writ petition. In support of his submission, he has relied upon the judgment in the case of ***Union of India & Anr. vs. Vicco Laboratories*** reported in ***(2007) 13 SCC 270*** and submits that the interference at the show cause notice stage should be rare and not in a routine manner. He further submits that in the present case, the respondent authorities has categorically described the allegation against the petitioner in the show cause notice and the petitioner has filed his reply, thus, the writ petition is not maintainable and the same is liable to be dismissed.
  
11. Mr. Poddar has further relied upon the judgment in the case of ***Gorkha Security Services vs. Government (NCT of Delhi) & Ors.*** reported in ***(2014) 9 SCC 105*** and submits that the show cause notice should

consists of material/ grounds and particular of penalty or action which is proposed to be taken and in the present case, the respondent authorities have categorically stated about the material/ grounds and the penalty proposed to be taken and thus it cannot be said that the show cause notice is issued with pre-mediated mind to impose penalty against the petitioner.

- 12.** Mr. Poddar submits that as per the terms and conditions on GeM dated 22<sup>nd</sup> December, 2025, all users including buyers and sellers will get User ID and Password created on GeM following the due registration process defined on GeM and it is the responsibility of the user to keep their User ID and Password secure and confidential. He submits that individual user shall be solely and completely responsible for all transactions taking place on GeM portal using his/ her User ID and Password and the GeM shall not be responsible in any manner.
- 13.** Mr. Poddar submits that as per Clause 32 of Incident Management Policy, indulgence in any anti-competitive behavior or cartel formation, the severity is severe. In the show cause notice, the allegation has been explained to the petitioner and also show caused to the petitioner also to why the punishment shall not be imposed.
- 14.** Mr. Poddar submits that the show cause notice is served upon the petitioner through e-mail and the petitioner admitted that the notice was issued on 18<sup>th</sup> February, 2026. In the email, it is mentioned that the notice is issued by the Admin of the GeM, thus the allegations

made by the petitioner that the show cause notice does not contain the date and signature is totally baseless.

- 15.** Mr. Poddar submits that in the show cause notice, it is categorically mentioned that the petitioner has participated with the same IP address, proximity of time and proximity of price with the other two bidders, namely, “M/s Sree Baba Traders” and “M/s Brisk Solutions” in 20 bids and the details of the bids has also been described in the show cause notice and thus the petitioner cannot say that no description of the allegations is provided in the show cause notice.
- 16.** Heard the Learned Counsel for the respective parties, perused the materials on record and the judgments relied by the parties.
- 17.** In the show cause notice, it is mentioned that the GeM authorities on analysis of the bidding data with respect to the petitioner firm, it was found that the petitioner has participated in 20 bids with other two sellers, namely, “M/s Sree Baba Traders” and “M/s Brisk Solutions” with the same IP address, proximity of time and proximity of price. The details of all bids, name of the seller companies, IP address, participation data, time proximity with list value, offered price and price proximity is provided. It is also mentioned that in all the bids, IP address along with time proximity and price proximity and all the three sellers are matching.

18. Though the petitioner has tried to justify that the petitioner has appointed a tender consultant and planner, namely, i-Sourcing Technology Private Limited to help and assist the petitioner in planning and participating in various tenders and the said firm is also rendering its service to various other business units including “M/s Sree Baba Traders” and “M/s Brisk Solutions” due to which the IP address in the said bids are same.
19. The petitioner has taken a specific defence with regard to matching of IP address in the reply to the show cause notice and thus the petitioner ought to have been waited for the decision of the authority but without waiting the decision, has filed the present writ petition.
20. By the show cause notice, the GeM authorities have called upon the petitioner to clarify with the necessary supporting documents within 10 days and the petitioner has already submitted his reply. The show cause notice further provided that in the event no reply is received within the prescribed time limit or in case the reply is not satisfactory, the GeM may initiate appropriate action imposing suspension of the account of the petitioner for a period two years. Mere mentioning that if the petitioner failed to give reply or if the reply is submitted and it is not satisfactory, the authority will initiate appropriate action including suspension of the account of the petitioner for two years does not amount to issuance of the notice with pre-mind determination to impose penalty upon the petitioner. In the case of **Oryx Fisheries Pvt. Ltd. (supra)**, the Hon’ble Supreme Court has held that at the stage of

show cause notice, the person proceeded against must be told the charges against him so that he can take his defence and to prove his innocence. It is obvious at that stage, the authority issuing the charge sheet, instead of telling him the charges, confront him with definite conclusion of his alleged guilt. If that is done, the entire proceeding is initiated by the show cause notice get vitiated by unfairness and bias, and subsequent proceeding become an ideal ceremony. In the case of ***Gorkha Securities Services (supra)***, the Hon'ble Supreme Court held that in order to fulfill the requirements of principles of natural justice, a show cause notice should meet the following two requirements:

*i. The material/grounds to be stated which according to department necessitates an action.*

*ii. Particular penalty/ action which is proposed to be taken.*

- 21.** In the present case, the respondents have given the total details of the charges leveled against him describing that the petitioner has participated in 20 bids with same IP address, proximity of time and proximity of price with other two sellers and the total description has been provided. It is also mentioned in the notice that if no reply is received or if reply is not satisfactory, the GeM may initiate appropriate action including the suspension of account of the petitioner for the period of two years and removal of all product catalogues, brand and OEM Panel/ dashboards and registration.

- 22.** This Court finds that mere mentioning that if the reply is not given or reply is not satisfactory, the authorities may initiate appropriate action including suspension of account of the petitioner and further consequential punishment cannot be said that the GeM authority has come to the conclusion of the guilt of the petitioner at the time of issuance of show cause notice.
- 23.** Considering the above, this Court did not find any justification to interfere with the show cause notice issued by the GeM authority, accordingly, **WPO No. 95 of 2026** is **dismissed**. Interim order is stand vacated.
- 24.** The petitioner has already filed reply to the show cause notice, the respondent authorities are directed to consider the reply submitted by the petitioner on its own merits without being influence of any observation made in this order. It is made clear that if necessary, the petitioner may also be given an opportunity of personal hearing.

**(Krishna Rao, J.)**