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

% ***Judgment pronounced on: 18.12.2025***

\+ **W.P.(C) 16352/2025, CM APPLs. 66961/2025, 73399/2025**

BLS INTERNATIONAL SERVICES LIMITED .....Petitioner

Through: Mr. Sandeep Sethi (Sr. Advocate) along with Mr. Amit Sibal (Sr. Advocate), Mr. Sunil Dalal (Sr. Advocate), Mr. Ravi Prakash (Sr. Advocate), Mr. Shashank Garg (Sr. Advocate) along with Mr. Vijay Aggarwal, Mr. Naman Joshi, Mr. Ayush Jindal, Ms. Amber Tickoo, Ms. Priya Goyal, Advocates.

versus

UNION OF INDIA .....Respondent

Through: Mr. Chetan Sharma (ASG), Ms. Nidhi Raman (CGSC) along with Mr. Amit Gupta, Mr. Subham Sharma, Mr. Naman, Mr. Vikram Aditya, Mr. Yash Wardhan, Mr. Akash Mishra, Mr. Arnav Mittal, Mr. Mayank Sansanwal, Mr. Omran, Advs. and Ms. Akshi Bali (Legal Consultant), Mr. R. Prabhay, Advs. for MEA.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

JUDGMENT

1. The present petition has been filed by the Petitioner/ BLS International Services Limited assailing the Debarment Order dated 09.10.2025 bearing No. VII/415/30/2025 (“Impugned Order”) issued by the Respondent/ Ministry of External Affairs. *Vide* the said Order, the

Respondent, invoking Rule 151 (iii) of the General Financial Rules ("GFR"), 2017, has debarred the Petitioner from participating in all future tenders of the Ministry and its Indian Posts/ Missions abroad for a period of two (2) years from the date of issuance thereof.

2. In the present petition, the Petitioner seeks the following reliefs:

> *"A. Issue a writ of certiorari or any other appropriate writ, order, or direction quashing the Impugned Order dated 9.10.2025 debarring the Petitioner from participation in future tenders of MEA and Indian Missions abroad for two (2) years w.e.f. 9.10.2025; and*
> *B. Issue a writ of certiorari or any other appropriate writ, order, or direction quashing the Show Cause Notice dated 1.8.2025 on account of inapplicability of Rule 175(1)(i)(c) of General Financial Rules, 2017; or*
> *C. Alternatively, remand the matter for de novo consideration with the Respondent being directed to (i) supply the entire material relied upon (including all complaints/penalty records) to the Petitioner; (ii) grant an effective hearing on specific, particularized charges to the Petitioner; and (iii) pass a reasoned and speaking order;*
> *D. Pass such other and further orders as this Hon'ble Court may deem fit in the interests of justice."*

3. The Petitioner claims to be a long-standing Outsourced Service Provider ("OSP") to the Respondent and its Indian Missions abroad for Consular, Passport and Visa ("CPV") services, having been engaged in such services since 2008.

4. The case of the Petitioner is that in February/ March 2025, the Respondent's Missions abroad floated 26 CPV tenders, and the Petitioner was awarded only one tender in which it emerged as the L-1 bidder. Of the remaining 25 tenders, the Petitioner challenged the tender results in respect of five L-1 bidders by filing writ petitions before a Division Bench of this Hon'ble Court, *inter alia*, on the ground that their bids were financially and technically unviable. The Petitioner alleges that soon thereafter, the Respondent issued a Show Cause Notice ("SCN") dated 01.08.2025 which,

inter alia, treated the Petitioner's invocation of Article 226 jurisdiction, and the complaints received against the Petitioner, as grounds for the proposed debarment.

5. It is further the case of the Petitioner that, despite submitting a detailed reply to the SCN and being afforded a personal hearing before the Respondent, the Impugned Order arbitrarily imposed a two-year debarment upon the Petitioner under Rules 151(iii) and 175(1)(i)(c) of the GFR, 2017. The Petitioner contends that its reply was not dealt with; that vague and unspecified complaints were relied upon; that its resort to judicial remedies was characterized as misconduct, and the Respondent branded the Petitioner's practices as "anticompetitive/ obstructionist". The Petitioner further asserts that it was informally asked to withdraw the pending writ petitions, where it had obtained interim protection, failing which its response to the SCN would not be considered by the Respondent. The Petitioner states that thereafter it withdrew all such petitions and has now approached this Hon'ble Court by the way of the present Writ Petition under Article 226 of the Constitution of India, seeking quashing of the Impugned Order, or alternatively, remanding the matter back to the Respondent for de novo consideration.

6. The Respondent, on the other hand, submits that the Impugned Order has been passed after due consideration of the Petitioner's submissions and material on record. It is contended that the debarment is a result of the Respondent's cumulative assessment of (i) history of complaints and unethical practices attributed to the Petitioner; (ii) financial penalties imposed upon the Petitioner; (iii) the Petitioner's alleged impairment of fair competition; (iv) monopolistic behaviour and pattern of misconduct by the

Petitioner; (v) repeated tender challenges targeting other L-1 bidders by the Petitioner; and (vi) the public interest impact of such acts committed by the Petitioner.

FACTUAL MATRIX

7. In February / March 2025, the Respondent participated in 26 Request for Proposal ("RFPs") released by the Respondent for its 2025 tender cycle for provision of CPV services. The Petitioner participated in all the 26 tenders across several Missions/ Posts of the Respondent, across the world. Out of the 26 tenders, the Petitioner was declared as the L-1 bidder in one of the tenders.

8. Thereafter, in March 2025, the Petitioner instituted Writ Petitions bearing W.P. (C) Nos. 4181/2025, 4215/2025 and 4217/2025 before this Hon'ble Court challenging the award of contracts to L-1 bidders for the concerned services in the UAE, Singapore and Australia respectively, primarily on grounds relating to the alleged financial and technical viability of the L-1 bidders. Thereafter, Interim Orders dated 03.04.2025 were passed to the effect that the award of contracts would remain subject to further orders of this Hon'ble Court. The Petitioner has since, withdrawn all such petitions. The relevant extract of the Interim Orders dated 03.04.2025 has been reproduced hereunder:

> *"4. In the meantime, we provide that the award of tender shall be subject to further orders that may be passed by the Court in this writ petition. We further direct that the entity to whom a letter of intent is issued shall be intimated by the tendering authority about the pendency of the present proceedings as well as the interim order passed by the Court."*

9. During this period, certain financial penalties were imposed on the Petitioner by the Respondent's Mission/Post at Oslo, Norway with respect to

certain non-compliances. While the Petitioner initially cleared the penalties, it subsequently invoked arbitration proceedings against the Respondent in relation thereto.

10. The Petitioner also filed another Writ Petition bearing W.P. (C) No. 6105/ 2025 challenging the eligibility of one L-1 bidder, Alankit Assignments Limited, on the ground of it having alleged criminal antecedents. This Court passed an interim order dated 08.05.2025 directing that the award of the contract would not be made until verification of such antecedents. Alankit Assignments Limited has since been debarred by the Respondent for a period of two (2) years, as on date.

11. On 01.08.2025, a Show Cause Notice was issued by the Respondent for the proposed debarment of the Petitioner from future tenders. The SCN referred to, *inter alia*, (i) history of complaints and unethical practices attributed to the Petitioner; (ii) financial penalties imposed upon the Petitioner; (iii) the Petitioner's alleged impairment of fair competition; (iv) monopolistic behaviour and pattern of misconduct by the Petitioner; (v) repeated tender challenges targeting other L-1 bidders by the Petitioner; and (vi) the public interest impact of such acts committed by the Petitioner.

12. Thereafter, the Petitioner submitted a detailed reply to the SCN on 14.08.2025, addressing each allegation. A personal hearing was thereafter granted by the Respondent to the Petitioner. Following the hearing, the Respondent passed the Impugned Order dated 09.10.2025, imposing a two-year debarment upon the Petitioner, *inter alia*, on similar grounds as were mentioned in the SCN issued by the Respondent.

SUBMISSIONS ON BEHALF OF THE PETITIONER

13. Learned counsel for the Petitioner submits that the Show Cause Notice dated 01.08.2025 is vague and bereft of particulars, thereby violating the principles of natural justice. It is contended that although the SCN refers to "numerous" complaints against the Petitioner, none of the underlying complaints were furnished along with the SCN to enable an effective response by the Petitioner.

14. It is further submitted that the Impugned Order imposing a two-year debarment does not disclose any reasoning justifying the imposition of the maximum permissible period of two years under Rule 151(iii) of the GFR, 2017. Reliance is placed upon ***Om Kumar Shukla v. Union of India (2001) 2 SCC 386***, to contend that proportionality is a distinct and independent ground for judicial review, and any punitive measure must reflect a calibrated and reasoned assessment.

15. Learned counsel for the Petitioner also relies upon ***Techno Prints v. Chhattisgarh Textbook Corporation Ltd. and Anr. (2025 SCC OnLine SC 343)*** to contend that an order of debarment cannot traverse beyond the allegations contained in the SCN, and if it does, it becomes untenable. It is submitted that the Impugned Order in the present case is unsustainable since it travels beyond the SCN and relies, *inter alia*, on the Petitioner's subsequent withdrawal of writ petitions, conduct which post-dates the SCN and, is not a ground forming part of the SCN.

16. Learned counsel for the Petitioner submits that between 01.01.2024 and 30.06.2025 it processed approximately 18.27 lakh applications, and only fourteen (14) complaints were referred to in the SCN, thereby amounting to

a complaint ratio of less than 0.0008%. It is urged that the Impugned Order's reference to "*hundreds of complaints*" is unsupported and no particulars thereof have been disclosed at any stage, before the passing of the Impugned Order.

17. It is further submitted that resort to litigation against competing bidders and invocation of arbitration in relation to penalties imposed by the Respondent cannot, by any stretch, constitute "anti-competitive behaviour" under Rule 175(1)(i)(c) of the GFR, 2017, which has been reproduced hereunder:

> "*Rule 175(1) Code of Integrity: No official or procuring entity or a bidder shall act in contravention of the codes which includes*
> *(i) Prohibition of*
> *(a) making offer, solicitation or acceptance of bribe, reward or gift or any material benefit, either directly or indirectly, in exchange for an unfair advantage in the procurement process or to otherwise influence the procurement process.*
> *(b) any omission, or misrepresentation that may mislead or attempt to mislead so that financial or other benefit may be obtained or an obligation avoided.*
> *(c) any collusion, bid rigging or anti-competitive behaviour that may impair the transparency, fairness and the progress of the procurement process.*
> *(d) improper use of information provided by the procuring entity to the bidder with an intent to gain unfair advantage in the procurement process or for personal gain.*
> *(e) any financial or business transactions between the bidder and any official of the procuring entity related to tender or execution process of contract; which can affect the decision of the procuring entity directly or indirectly*
> *(f) any coercion or any threat to impair or harm, directly or indirectly, any party or its property to influence the procurement process.*
> *(g) obstruction of any investigation or auditing of a procurement process*
> *(h) making false declaration or providing false information for participation in a tender process or to secure a contract"*

For this, the Learned Counsel for the Petitioner places reliance upon ***Blue Dreamz Advertising Pvt. Ltd. v. Kolkata Municipal Corporation (2024 SCC OnLine SC 1896)*** to submit that bona fide contractual disputes and recourse to legal remedies cannot attract debarment, which amounts to "civil death" for a bidder. Therefore, it is submitted that the Impugned Order has misapplied the GFR, 2017 while debarring the Petitioner in the present case.

18. It is further contended by the Petitioner that it is for this Court alone to determine whether the litigations filed by it are bona fide or vexatious. Hence, if this Hon'ble Court has issued notice in the Writ Petitions instituted by the Petitioner against the other L-1 bidders and has also granted interim orders, the same constitutes ex facie evidence of the proceedings being bona fide and not frivolous or vexatious. Therefore, the Petitioner submits that the Respondent cannot assume the role of a judge and treat such litigations as *mala fide.*

19. Further, it is asserted by the learned counsel for the Petitioner that the Impugned Order contravenes the procedural safeguards mandated under the Manual for Procurement of Non-Consultancy Services, 2025 and Rule 151 GFR, 2017, which contemplate debarment only as a measure of last resort. The Impugned Order is alleged to be unreasoned, excessive, and contrary to the procedural requirements governing blacklisting.

20. Lastly, the Petitioner assails the finding of "*monopolistic intent*" recorded in the Impugned Order, contending that any such determination must emanate from, or at least be grounded in, findings of the Competition Commission of India ("CCI"). In the absence of any proceeding or finding by the CCI, it is submitted that the conclusion in the Impugned Order is speculative and unsustainable.

SUBMISSIONS ON BEHALF OF THE RESPONDENT

21. It is contended by the Respondent that the grounds for issuing the Show Cause Notice against the Petitioner were based on numerous complaints received from several Embassies availing CPV services of the Petitioner, wherein certain unethical and corrupt practices were alleged to have been committed by the Petitioner. These practices, as alleged in the complaints, *inter alia*, include: (i) lack of transparency in the service fee; (ii) overcharging applicants; (iii) poor response to applicants' requests; (iv) exploitation of blue-collared workers by charging hefty prices for services; and (v) compelling applicants to pay extra charges for Value Added Services.

22. It is asserted by the Respondent that the fourteen complaints cited in the SCN do not comprise of all the complaints and were referred to only to illustrate the practices allegedly adopted by the Petitioner. The Respondent submits that numerous other complaints had also been received, but attaching all of them would have made the SCN voluminous; therefore, only details of some complaints were mentioned. It is further stated that the Petitioner never requested copies of the complaints cited in the SCN, which is why they were not provided to the Petitioner.

23. It has been contended by the Respondent that several Embassies had imposed penalties upon the Petitioner for various non-compliances and violations of the service agreements between the Petitioner and the Embassies. However, the Petitioner paid off these penalty amounts only in the month of March 2025, i.e., just before the last date for submission of bids, in order to participate in the tender process, and thereafter, after

conclusion of the tender process, the Petitioner invoked arbitration with respect to the same, demonstrating the *mala fide* intention of the Petitioner.

24. It is further submitted that the Petitioner has, on numerous occasions, allegedly stalled the tender process and destabilized the newly discovered L1 price by filing frivolous litigations against the L1 bidders. Such acts committed by the Petitioner are stated to have discouraged new companies from entering the tender process and compelled the Indian diaspora to pay hefty amounts for the services provided by the Petitioner.

25. Further, it has been contended that the Petitioner is adopting a strategy to maintain a de-facto monopoly over the CPV service contracts by challenging only those tender processes wherein it did not emerge as the L-1 bidder, thereby violating Rule 175(1)(i)(c) of the GFR, 2017, amounting to anti-competitive behaviour. It is submitted that such breach of the Code of Integrity not only results in financial losses to the public exchequer but also jeopardizes the international prestige of the Government of India. It has been contended by the Respondent that, as per the terms of the subject RFP of 2025, it was evident that the L-1 status would be determined solely on the basis of the lowest service fee, and hence, such litigations by the Petitioner were malicious.

26. The Respondent has attached copies of the complaints received against the Petitioner from different Embassies, along with its Counter Affidavit. These complaints relate to customers being allegedly compelled to avail of the premium paid services provided by the Petitioner in order to rectify minor errors in their passport/visa applications, thereby harassing the applicants.

27. The Respondent further contends that while exercising power of judicial review, the Courts only examine the decision-making process of the Authorities but not the decision itself. For this, reliance has been placed upon ***Gohil Vishvaraj Hanubhai & Ors. v. State of Gujarat & Ors. (2017) 13 SCC 621,*** the relevant extract of which has been extracted hereunder:

> *"18.Normally while exercising power of judicial review, the Courts will only examine the decision – making process of the administrative authorities but not the decision itself. The said principle has been repeatedly stated by this Court on a number of occasions."*

28. Further, the Respondent has placed reliance upon ***Gorkha Security Services v. GNCTD (2014) 9 SCC 105*** to contend that it has adhered to the procedural requirements laid down therein. The Respondent submits that it duly served the SCN explicitly mentioning the proposal to debar the Petitioner; the Petitioner was given an opportunity to show cause as to why it should not be debarred; and the Petitioner was also afforded a personal hearing. It is submitted that only after complying with all such procedural steps was the Debarment Order dated 09.10.2025 passed.

ANALYSIS AND CONCLUSION

29. I have considered the rival submissions advanced by respective counsels for the parties and perused the material placed on record. At the outset, it must be reiterated that in matters concerning blacklisting or debarment, the scope of this Court's judicial review extends to examining adherence to the procedural due process as also the decision itself. The jurisprudence in this regard is crystallized through a consistent line of decisions of the Supreme Court, *inter alia*, ***Erusian Equipment & Chemicals Ltd. v. State of West Bengal (1975) 1 SCC 70; Gorkha Security***

Services (supra)***; Grosons Pharmaceuticals Pvt. Ltd. And Anr. v. State of UP and Ors. (2001) 8 SCC 604; and UMC Technologies Pvt. Ltd. v. Food Corporation of India & Anr. (2021) 2 SCC 551; Blue Dreamz*** (supra) and; ***Techno Prints*** (supra).

30. The legal position is thus well settled that before any action of blacklisting or debarment is taken, it is incumbent upon the concerned Authority to issue a show cause notice to the concerned party (against whom action is proposed to be taken) clearly indicating the reasons and factual basis for the proposed action and such party must also be afforded an adequate opportunity to respond thereto.

31. The Supreme Court has repeatedly emphasized that blacklisting or debarment is a drastic and stigmatic measure, akin to imposing a civil death upon a juristic person or entity. Accordingly, such power must be exercised with utmost circumspection and only in strict compliance with the procedural safeguards prescribed by law and the principles of natural justice. It has been reiterated in ***Gorkha Securities*** (supra) that blacklisting is akin to a civil death of a person/ entity, as it disables such person/ entity from participating in government tenders, and effectively deprives them of the opportunity to secure government contracts. The relevant extract reads as under:

> *"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."

32. Further, in ***UMC Technologies Pvt. Ltd.*** (supra), the Supreme Court observed that the blacklisting of an entity sets off a domino effect, effectively resulting in the entity's civil death, thereby underscoring that the consequences of blacklisting or debarment are far-reaching and enduring. The relevant extract reads as under:

> *"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."*

33. The legal position is equally well settled that this Court may intervene in the exercise of its power of judicial review where the action of blacklisting or debarment is demonstrated to be manifestly arbitrary, irrational, or disproportionate, such that it falls foul of the constitutional standards of fairness and reasonableness.

34. In ***Blue Dreamz*** (supra) and ***Techno Prints*** (supra), it has been held that a mere breach of contract or a contractual difference/dispute is not enough to warrant a debarment/blacklisting action. There have to be strong, independent and overwhelming materials to resort to this power by the concerned authority, given the drastic consequences thereof. It has further been held in ***Blue Dreamz*** (supra) that where the explanation offered by the

person concerned raises *bonafide* dispute, the blacklisting/debarment as a penalty ought not to be resorted to. The relevant observations in ***Techno Prints*** (supra) are as under:

> *"**29.**However, what is important for us to say is that when there are guiding principles explained by this Court as to when & in what circumstances a blacklisting order can be passed then, in our opinion such principles should also be borne in mind by the Authority at the time of issuing a show cause notice. We say so because in the facts of a given case like the one on hand, on the face of which it could be said that there was no good reason for the Authority to issue a show cause notice calling upon the contractor why he should not be blacklisted. Why ask the contractor to face the proceedings when applying the aforesaid principles, the issue of show cause notice would be an empty formality. We are saying all this keeping in mind the peculiar facts of this case.*
>
> ***30.** Therefore, the Authority is expected to be very careful before issuing a show cause notice. It is expected to understand the facts well and try to ascertain what sort of violation is said to have been committed by the contractor. As noted above, there is always an inherent power in the Authority to blacklist a contractor. But possessing such inherent power and exercising such power are two different situations and connotations. There may be a power but there should be reasonable ground to exercise such power.*
>
> ***31.** To put it by way of an illustration, the Police has the power to arrest but it is not necessary that in all cases arrest must be effected. The Police should know whether at all arrest is necessary.*
>
> ***32.** We may put it in a slightly different way. Take for instance, the show cause notice in the present case is the final order of blacklisting. The final order in any case cannot travel beyond the show cause notice. Therefore, we take the show cause notice as the final order. Whether it makes out a case for blacklisting? This should be the test to determine whether it is a genuine case to blacklist a contractor or visit him with any other penalty like forfeiture of EMD, recovery of damages etc. We say so because once an order of blacklisting is passed the same would put an end to the business of the person concerned. It is a drastic step. Once the final order blacklisting the Contractor is passed then the Contractor is left with no other option but to go to the High Court invoking writ jurisdiction under Article 226 of the Constitution and challenge the same. If he succeeds before the Single Judge then it is well and good otherwise he may have to prefer a writ appeal or LPA as the case may be. This again would lead to unnecessary litigation in the High Courts. The endeavour should be to curtail the litigation and not to overburden the*

High Courts with litigations of the present type more particularly when the law by and large is very well settled and there is no further scope of any debate.

33. *As observed by this Court in Erusian Equipment & Chemicals Ltd. v. State of W.B., (1975) 1 SCC 70, an order of blacklisting casts a slur on the party being blacklisted and is stigmatic. Given the nature of such an order and the import thereof, it would be unreasonable and arbitrary to visit every contractor who is in breach of his contractual obligations with such consequences. There have to be strong, independent and overwhelming materials to resort to this power given the drastic consequences that an order of blacklisting has on a contractor. The power to blacklist cannot be resorted to when the grounds for the same are only breach or violation of a term or condition of a particular contract and when legal redress is available to both parties. Else, for every breach or violation, though there are legal modes of redress and which compensate the party like the Corporation before us, it would resort to blacklisting and at times by abandoning or scuttling the pending legal proceedings.*

34. *Plainly, if a contractor is to be visited with the punitive measure of blacklisting on account of an allegation that he has committed a breach of a contract, the nature of his conduct must be so deviant or aberrant so as to warrant such a punitive measure. A mere allegation of breach of contractual obligations without anything more, per se, does not invite any such punitive action.*

The relevant observations in ***Blue Dreamz*** (supra) are as under:

"24. *What is significant is that while setting out the guidelines prescribed in USA, the Court noticed that comprehensive guidelines for debarment were issued there for protecting public interest from those contractors and recipients who are non-responsible, lack business integrity or engage in dishonest or illegal conduct or are otherwise unable to perform satisfactorily. The illustrative cases set out also demonstrate that debarment as a remedy is to be invoked in cases where there is harm or potential harm for public interest particularly in cases where the person's conduct has demonstrated that debarment as a penalty alone will protect public interest and deter the person from repeating his actions which have a tendency to put public interest in jeopardy. In fact, it is common knowledge that in notice inviting tenders, any person blacklisted is rendered ineligible. Hence, blacklisting will not only debar the person concerned from dealing with the employer concerned, but because of the disqualification, their dealings with other entities also is proscribed. Even in the terms and conditions of tender in the present*

> *case, one of the conditions of eligibility is that the agency should not be blacklisted from anywhere.*
> ***25.*** *In other words, where the case is of an ordinary breach of contract and the explanation offered by the person concerned raises a bona fide dispute, blacklisting/debarment as a penalty ought not to be resorted to. Debarring a person albeit for a certain number of years tantamounts to civil death inasmuch as the said person is commercially ostracised resulting in serious consequences for the person and those who are employed by him.*
> ***26.*** *Too readily invoking the debarment for ordinary cases of breach of contract where there is a bona fide dispute, is not permissible. Each case, no doubt, would turn on the facts and circumstances thereto."*

35. Where the allegations against an entity pertain merely to breaches of contractual obligations, the Respondent is adequately empowered to take recourse to remedies available under the contract itself, including termination, levy of penalties, or invocation of other contractual safeguards. Resort to the extreme measure of debarment or blacklisting, which carries grave civil consequences and casts a lasting stigma, cannot be justified in cases involving only contractual breaches, absent circumstances warranting such exceptional action.

36. Reference may also be made to the judgment of the Supreme Court in ***Subodh Kumar Singh Rathour v. Chief Executive Officer & Ors., 2024 SCC OnLine SC 1682***, wherein it was held as under:

> ***"57.*** *Thereafter, this Court in its decision in M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd. exhaustively delineated the scope of judicial review of the courts in contractual disputes concerning public authorities. The aforesaid decision is in the following parts:*
> ***[..] (i) Scope of judicial review in matters pertaining to contractual disputes***
> ***57.1.*** *This Court in M.P. Power Management case held that the earlier position of law that all rights against any action of the State in a non-statutory contract would be governed by the contract alone and thus not amenable to the writ jurisdiction of the Courts is no longer a good law in view of the subsequent rulings. Although writ jurisdiction is a public law*

remedy, yet a relief would still lie under it if it is sought against an arbitrary action or inaction of the State, even if they arise from a non-statutory contract. The relevant observations read as under:

"81. … when the offending party is the State. In other words, the contention is that the law in this field has witnessed an evolution and, what is more, a revolution of sorts and a transformatory change with a growing realisation of the true ambit of Article 14 of the Constitution of India. The State, he points out, cannot play the Dr Jekyll and Hyde game anymore. Its nature is cast in stone. Its character is inflexible. This is irrespective of the activity it indulges in. It will continue to be haunted by the mandate of Article 14 to act fairly. There has been a stunning expansion of the frontiers of the Court's jurisdiction to strike at State action in matters arising out of contract, based, undoubtedly, on the facts of each case. It remains open to the Court to refuse to reject a case, involving State action, on the basis that the action is, per se, arbitrary.

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82.1. It is, undoubtedly, true that the writ jurisdiction is a public law remedy. A matter, which lies entirely within a private realm of affairs of public body, may not lend itself for being dealt with under the writ jurisdiction of the Court.

82.2. The principle laid down in Bareilly Development Authority that in the case of a non-statutory contract the rights are governed only by the terms of the contract and the decisions, which are purported to be followed, including Radhakrishna Agarwal , may not continue to hold good, in the light of what has been laid down in ABL and as followed in the recent judgment in Sudhir Kumar Singh.

82.3. The mere fact that relief is sought under a contract which is not statutory, will not entitle the respondent State in a case by itself to ward-off scrutiny of its action or inaction under the contract, if the complaining party is able to establish that the action/inaction is, per se, arbitrary."

(emphasis supplied)

[…] (ii) Exercise of writ jurisdiction in disputes at the stage prior to the award of contract

57.2. *An action under a writ will lie even at the stage prior to the award of a contract by the State wherever such award of contract is imbued with procedural impropriety, arbitrariness, favouritism or without any application of mind. In doing so, the courts may set aside the decision which is found to be vitiated for the reasons stated above but cannot substitute the same with its own decision. The relevant observations read as under:*

"82.4. An action will lie, undoubtedly, when the State purports to award any largesse and, undoubtedly, this relates to the stage prior to the

contract being entered into (see Ramana Dayaram Shetty). This scrutiny, no doubt, would be undertaken within the nature of the judicial review, which has been declared in the decision in Tata Cellular v. Union of India."

(emphasis supplied)

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[…] (v) <u>Other relevant considerations for exercise of writ jurisdiction</u>

57.5. *Lastly, this Court in M.P. Power Management held that the courts may entertain a contractual dispute under its writ jurisdiction where: (I) there is any violation of natural justice, or (II) where doing so would serve the public interest, or (III) where though the facts are convoluted or disputed, but the courts have already undertaken an in-depth scrutiny of the same provided that it was pursuant to a sound exercise of its writ jurisdiction. The relevant observations read as under:*

"82. … 82.13. A lodestar, which may illumine the path of the Court, would be the dimension of public interest subserved by the Court interfering in the matter, rather than relegating the matter to the alternate Forum.

82.14. Another relevant criteria is, if the Court has entertained the matter, then, while it is not tabooed that the Court should not relegate the party at a later stage, ordinarily, it would be a germane consideration, which may persuade the Court to complete what it had started, provided it is otherwise a sound exercise of jurisdiction to decide the matter on merits in the writ petition itself.

82.15<u>. Violation of natural justice has been recognised as a ground signifying the presence of a public law element and can found a cause of action premised on breach of Article 14.</u> (See Sudhir Kumar Singh)."

(emphasis supplied)

58. *What can be discerned from the above is that there has been a considerable shift in the scope of judicial review of the court when it comes to contractual disputes where one of the parties is the State or its instrumentalities. In view of the law laid down by this Court in ABL , Joshi Technologies and in M.P. Power, it is difficult to accept the contention of the respondent that the writ petition filed by the appellant before the High Court was not maintainable and the relief prayed for was rightly declined by the High Court in exercise of its writ jurisdiction. Where State action is challenged on the ground of being arbitrary, unfair or unreasonable, the State would be under an obligation to comply with the basic requirements of Article 14 of the Constitution and not act in an arbitrary, unfair and unreasonable manner. This is the constitutional limit of their authority. There is a jural postulate of good faith in business relations and undertakings which is given effect to by preventing arbitrary exercise of powers by the public functionaries in*

> *contractual matters with private individuals. With the rise of the social service State more and more public-private partnerships continue to emerge, which makes it all the more imperative for the courts to protect the sanctity of such relations."*

37. The foregoing discussion makes it evident that this Court's jurisdiction under Article 226 extends both to examining the decision-making process, and the decision itself, *inter-alia*, on the touchstone of Article 14.

38. On a perusal of the records of the present case, this Court notices a crucial aspect which impinges upon the validity of the action taken by the Respondent. The show cause notice refers to "History of Complaints and Unethical/ Corrupt Practices" on the part of the petitioner. While specifically referring to "numerous complaints for Indian diaspora availing CPV services", the SCN goes on to cite only 14 complaints against the Petitioner. These are enumerated as under:-

a) Eol Muscat *vide* email dated 23.08.2023 received a complaint against the company for forcing the applicant to avail paid photography service.

b) Ministry, *vide* an email dated 02.11.2024, received a complaint against the Company's Brampton office for forcing the applicant to avail the Premium Services at hefty prices.

c) CGI Toronto *vide* email 24.11.2024 received complaint against the company for forcing the applicant to pay extra charges under the guise of extra services.

d) CGI Dubai *vide* email dated 24.12.2024 received complaint against the company for forcing the applicant to avail optional services.

e) Ministry vide email dated 28.12.2024 received a complaint against the company for asking the applicant to pay extra for charges for photo correction at application centre.

f) Ministry, vide an email dated 15.01.2025, received a complaint against Company's Brampton Centre for overcharging the applicant for availing services at the Centre.

g) Ministry vide email dated 30.01.2025 received a complaint against the company for asking the applicant to pay extra charges for form filling.

h) Eol Kuwait vide email dated 22.03.2025 received a complaint regarding unethical and exploitative practices of company, including forcing Indian expatriates to avail of overpriced services related to document typing, photocopying, printing and passport-size photography.

i) CGI Toronto *vide* email dated 28.03.2025 received complaint against the company for forcing applicant to avail optional services at higher price.

j) Ministry, vide an email dated 23.04.2025, received a complaint against the Company for forced selling of Premium Lounge Services at the Company's Ottawa Centre.

k) HCI Kuala Lumpur *vide* email dated 23.05.2025 received a complaint against the company, wherein complainant was forced to buy passport cover and courier services, saying it was mandatory services and made the applicant pay additional unjustified amount.

l) Ministry, *vide* an email dated 11.07.2025, received a complaint against Company's Vancouver Centre for compelling the applicant to pay hefty fee for Premium Lounge services.

m) Ministry, *vide* an email dated 28.07.2025, received a complaint the deceptive practices by the Company at Missisauga Canada Centre for charging hefty prices under the guise of Premium Lounge Service.

n) Ministry, *vide* an email dated 29.07.2025, received a complaint against the Company's Surrey Office for extorting money from the applicant to avail the optional service of courier under the guise of Premium Service.

39. In the Petitioner's response to the show cause notice, the aforesaid complaints were dealt with by the Petitioner. It was stated as under:-

> *a) Each complaint cited (Muscat, Brampton, Toronto, Dubai, Kuwait, Ottawa, Kuala Lumpur, Vancouver, Mississauga, Surrey) was duly investigated in a timely fashion, with written responses submitted to the respective Missions. Where appropriate, BLS took corrective action, including staff retraining, fee refunds, or system upgrades as appropriate. In each such instance, BLS has been prompt and accurate in replying, and has taken steps to resolve the matter at the earliest possible opportunity. In several cases, the complaints were determined after investigation to be unsubstantiated or based on misunderstanding of optional services versus mandatory services. Be that as it may, BLS has also, Suo motu commenced retraining of its staff in line with best practices to ensure that even stray issues that have arisen in the past do not arise again.*
>
> *b) BLS confirms that it has not engaged in any unethical or corrupt practices at Indian Consular Application Centers (ICACs) and has operated with full transparency in relation to service fees and value-added service charges. All service charges are clearly displayed on the BLS website, the Client Government website, and on the notice boards of the respective Mission post. In accordance with the Service Level Agreements (SLAs) under the RFP, BLS issues a barcode receipt to each*

applicant showing all applicable fees—both service and value-added service charges. One copy of this receipt is attached to the application file that is submitted to the Mission. BLS has maintained complete clarity and transparency in this process.

c) BLSs' contracts specifically provided for collection of service and optional fees, as well as up-selling of value-added services—these provisions were agreed upon in the RFP and are industry-wide practice. Fee structures were disclosed in accordance with contract and Mission guidance.

d) BLS maintains that the aggregate number of complaints remains exceptionally low relative to the total volume of applicants served annually. In any high-volume operation, isolated complaints are inevitable and are addressed appropriately. The Excel Sheet displaying the volume of applications received is annexed herewith as Annexure A.

e) *Importantly, until recently, no Mission/MEA classified these issues as grave misconduct or worthy of disqualification.*

40. The aforesaid reply dated 14.08.2025 submitted by the Petitioner goes on to request the Respondent to identify any complaint which it found to be unresolved, recurring or willfully concealed, so that the Petitioner could take action accordingly.

41. *Vide* the impugned order passed by the Respondent, it has been stated as under:-

"The contention of the company that the aggregate number of complaints remains exceptionally low relative to the total volume of applicants served annually, is untenable. Whereas the SCN cites only a few complaints to illustrate the tactics adopted by the company to secure financial gains, hundreds of complaints have been received by various Missions against the company for exploiting applicants under the pretext of providing value-added services. Crucially, the Ministry notes that, missions had formally warned or penalised BLS for these issues, indicating that they were taken seriously at the time, contrary to the claim of the Company that they were not treated as disqualifying earlier. While BLS's reply contents that each incident was addressed and resolved, the sheer number and geographical spread of similar grievances indicate systemic issues in the Company's compliance and ethical standards. These practices not only violate the trust of the public and diaspora but also breach the Service Level Agreements which

> *emphasize transparency and fairness in service fees. The Ministry finds that BLS's conduct in this regard was unethical and against the contract, warranting serious concern in public interest. Although several Missions have issued multiple SCNs and imposed penalties, they refrained from terminating the contract to avoid disruption of services-a fact the company appears to have taken for granted."*

42. It is apparent that the show cause notice, while making a reference to "numerous complaints," substantially rested on the fourteen specific complaints enumerated therein as the basis for alleging unethical practices by the Petitioner. The Petitioner therefore could reasonably have been expected to respond only to those particular complaints expressly cited in the show cause notice, which it duly did. However, the aforesaid extract of the Impugned Order clearly suggests that the conclusion drawn therein is ostensibly founded on "hundreds of complaints" received by various missions of the Respondent, against the Petitioner. It was, therefore, incumbent upon the Respondent to specifically put the Petitioner to notice as to all the complaints on the basis of which it was sought to be concluded that the Petitioner is guilty of unethical/ corrupt practices. This clearly flows in terms of the dicta laid down in the judgment ***Gorkha Security Services*** (supra), in which it has been observed as under:

> *"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."*

The same has also been reiterated by the Supreme Court in ***UMC Technologies Pvt. Ltd.*** (supra), wherein it has been observed as under:

> *"**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.*
>
> ***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, particularised and unambiguous show-cause notice is particularly crucial due to the severe consequences of blacklisting and the stigmatisation 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.*
>
> *****
>
> ***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.*
>
> ***22.** To test whether the above stipulations as to the contents of the show cause have been satisfied in the present case, it may be useful to extract the relevant*

portion of the said show-cause notice dated 10-4-2018 wherein the Corporation specified the actions that it might adopt against the appellant:

> *"Whereas, the above cited clauses are only indicative and not exhaustive.*
>
> *Whereas, it is quite evident from the sequence of events that M/s UMC Technologies Pvt. Ltd., Kolkata has violated the condition/clauses governing the contract due to its abject failure and clear negligence in ensuring smooth conduct of examination. As it was the sole responsibility of the agency to keep the process of preparation and distribution of question paper and conducting of exam in highly confidential manner, the apparent leak points towards, acts of omission and commission on the part of M/s UMC Technologies Ltd., Kolkata.*
>
> *Whereas, M/s UMC Technologies Pvt. Ltd., Kolkata is hereby provided an opportunity to explain its position in the matter before suitable decision is taken as per T&C of MTF. The explanation if any should reach this office within a period of 15 days of receipt of this notice failing which appropriate decision shall be taken ex parte as per terms and conditions mentioned in MTF without prejudice to any other legal rights and remedies available with the Corporation."*

23. *It is also necessary to highlight the order dated 9-1-2019 passed by the Corporation pursuant to the aforesaid notice, the operative portion of which reads as under:*

> *"After having examined the entire matter in detail, the shortcomings/negligence on the part of M/s UMC Technologies Pvt. Ltd. stands established beyond any reasonable doubt. Now, therefore in accordance with Clause 42.1(II) of the governing MTF, the competent authority hereby terminates the contract at the risk and cost of the Agency. As per Clauses 10.1 & 10.2 the said M/s UMC Technologies Pvt. Ltd. is hereby debarred from participating in any future tenders of the Corporation for a period of five years. Further, the security deposit too stands forfeited as per Clause 15.6 of MTF. This order is issued without prejudice to any other legal remedy available with FCI to safeguard its interest."*

24. *A plain reading of the notice makes it clear that the action of blacklisting was neither expressly proposed nor could it have been inferred from the language employed by the Corporation in its show-cause notice. After listing 12 clauses of the "Instruction to Bidders", which were part of the Corporation's bid document dated 25-11-2016, the notice merely contains a vague statement that in light of the alleged leakage of question papers by the appellant, an appropriate decision will be taken by the Corporation. In fact, Clause 10 of the same Instruction to Bidders section of the bid document, which the Corporation has argued to be the source of its power to blacklist the appellant, is not even mentioned in the show-cause notice. While the notice clarified that the 12 clauses specified in the notice were only indicative and not exhaustive, there was nothing in the notice which could have given the*

appellant the impression that the action of blacklisting was being proposed. This is especially true since the appellant was under the belief that the Corporation was not even empowered to take such an action against it and since the only clause which mentioned blacklisting was not referred to by the Corporation in its show-cause notice. While the following paragraphs deal with whether or not the appellant's said belief was well-founded, there can be no question that it was incumbent on the part of the Corporation to clarify in the show-cause notice that it intended to blacklist the appellant, so as to provide adequate and meaningful opportunity to the appellant to show cause against the same.

25. *The mere existence of a clause in the bid document, which mentions blacklisting as a bar against eligibility, cannot satisfy the mandatory requirement of a clear mention of the proposed action in the show-cause notice. The Corporation's notice is completely silent about blacklisting and as such, it could not have led the appellant to infer that such an action could be taken by the Corporation in pursuance of this notice. Had the Corporation expressed its mind in the show-cause notice to blacklist, the appellant could have filed a suitable reply for the same. Therefore, we are of the opinion that the show-cause notice dated 10-4-2018 does not fulfil the requirements of a valid show-cause notice for blacklisting. In our view, the order of blacklisting the appellant clearly traversed beyond the bounds of the show-cause notice which is impermissible in law. As a result, the consequent blacklisting order dated 9-1-2019 cannot be sustained."*

43. Even during the course of arguments, it has been repeatedly emphasised by the Respondent that there was a recurrence of a large number of complaints across several Missions of the Respondent, and that the inference that has been drawn regarding the Petitioners indulging in unethical/ corrupt practices, is based on the alleged "hundreds of complaints". Clearly, to the extent that the SCN does not specifically notify the Petitioner as regards the "hundreds of complaints" against it, the same suffers on account of denial of the principles of natural justice, and is unsustainable.

44. *Vide* order dated 22.11.2025, this Court directed the Respondent to place on record the data pertaining to the number of complaints received in respect of other service providers engaged by it for the calendar years 2023-

2025, along with the details of the territories in which they were operating. Pursuant thereto, the Respondent has filed the relevant data. A perusal thereof indicates that complaints have also been received against other service providers. However, there does not appear to be any Standard Operating Procedure or guidelines which prescribe a threshold number of complaints that would justify debarring or blacklisting action. No doubt, it is within the prerogative of the Respondent to take contractual action against any service provider, including termination, in the event of deficiency in service. Nevertheless, in the absence of an established protocol governing the initiation of debarment or blacklisting on the basis of customer complaints, it would be untenable to single out any service provider for such action merely on the basis of the number of complaints received.

45. This Court recognises that there may arise situations where, having regard to the nature, volume, and breadth of the complaints against a concerned entity, deficiency or sub-standard quality of services may be writ large, warranting action by way of debarment or blacklisting. Such action is also permissible under the extant guidelines of the Government of India, *inter alia*, in terms of the Office Memorandum dated 02.11.2021, (which supplements Rule 151(ii) of the GFR, 2017). The said Office Memorandum (hereinafter "OM dated 02.11.2021") reads as under:

"OFFICE MEMORANDUM

Subject: Guidelines on Debarment of firms from Bidding

Attention is drawn towards Rule 151 of General Financial Rules (GFRs), 2017 regarding 'Debarment from Bidding' which is reproduced as under:

(1) A bidder shall be debarred if he has been convicted of an offence-

(a) under the Prevention of Corruption Act, 1988; or

(b) the Indian Penal Code or any other law for the time being in force, for causing any loss of life or property or causing a threat to public health as part of execution of a public procurement contract.
(ii) A bidder debarred under sub-section (i) or any successor of the bidder shall not be eligible to participate in a procurement process of any procuring entity for a period not exceeding three years commencing from the date of debarment. Department of Commerce (DGS&D) will maintain such list which will also be displayed on the website of DGS&D as well as Central Public Procurement Portal.
(iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/ Department will maintain such list which will also be displayed on their website.
(iv) The bidder shall not be debarred unless such bidder has been given a reasonable opportunity to represent against such debarment.

2. This department has received a reference from Department of Commerce with a proposal that the task of universal banning of firms as per Rule 151 (ii) of GFRs as above may be undertaken by Department of Expenditure or should be decentralized to individual line Ministries/ Departments as DGS&D had been wind up on 31.10.2017. Central Public Procurement Portal (CPPP) or the Department of Expenditure can then maintain a master data of all such banned firms and it can be made available in public domain.

3. In context of above, all issues regarding debarment have been reviewed in consultations with major procuring Ministries/ Departments and it is decided to issue attached 'Debarment Guidelines' in suppression to all earlier instructions on this subject.

4. This issues with the approval of Finance Secretary."

46. The "debarment guidelines" enclosed along with the said OM dated 02.11.2021, *inter alia*, provide as under :

"5.Orders for debarment of a firm(s) shall be passed by a Ministry/ Department/ organizations keeping in view of the following:
c. A bidder can also be debarred for any actions or omissions by the bidder other than violation of code of integrity, which in the opinion of the Ministry/Department, warrants debarment, for the reasons like supply of sub-standard material, non-supply of material, abandonment of

works, sub-standard quality of works, failure to abide "Bids Securing Declaration" etc."

47. However, if the above is sought to be resorted to, it is imperative for the Respondent to specifically put the Petitioner to notice as regards the complaints on the basis of which the said action is sought to be taken and also to provide copies thereof to the Petitioner. In terms of the judgments of the Supreme Court in ***Gorkha Security Services*** (supra) and ***UMC Technologies*** (supra), an adequate opportunity is required to be afforded to the Petitioner to submit its explanation or version, and only thereafter can any action be taken, if so warranted, by way of a reasoned order.

48. As noticed, in the present case, the same has not been done in the context of the first (and arguably the main) allegation against the Petitioner *viz*. *"History of Complaints and Unethical / Corrupt practices"*. Instead, as noticed, the impugned order contains only a generic reference to the "persistent repetition of identical issues" and to "hundreds of complaints", without affording the Petitioner a meaningful opportunity to respond thereto.

49. It is also notable that the show cause notice or the impugned order does not even advert to Rule 151(ii) of the GFR, 2017 or to the OM dated 02.11.2021, nor does it refer to the debarment guidelines appended thereto. Instead, from the concluding portion of the impugned order, it is evident that the same is avowedly founded only on Rule 175(1)(i)(c) read with Rule 151(iii) of the GFR, 2017. This is untenable for reasons enumerated herein below.

50. Apart from the allegations pertaining to a "history of complaints" and "unethical practices", it is noticed that the Impugned Order essentially attributes fault to the Petitioner on account of the following conduct:

(i) Failure on the part of the Petitioner to make timely payment of the financial penalties imposed by the Respondent from time to time. It is further alleged that such penalties were paid belatedly only with a view to securing participation in tenders floated by 26 Indian Missions, and that arbitration proceedings were initiated thereafter upon conclusion of the tender process. According to the Respondents, the same "speaks volumes of the *mala fide* intentions of the company."

(ii) The Petitioner has assailed the tender process by instituting litigation, allegedly in contravention of the undertaking furnished during the tender process, wherein it had agreed that the Respondent would be at liberty to award the contract to the L1 bidder even if the bid price was too low.

(iii) The pattern of legal challenges initiated by the Petitioner is stated to indicate an attempt to prolong its incumbency in the territories where it is already the incumbent contractor. It is pointed out that consequently, the Respondent was constrained to extend certain existing contracts with the Petitioner on an *ad-hoc* basis.

(iv) The Petitioner has resorted to litigation only in the context of those tenders in which it did not emerge as the L1 bidder; demonstrating that where the company succeeded in the tender process, it raised no grievance regarding the RFP or bid viability, and that objections as to bid viability were confined only to those Missions where the Petitioner did not qualify as the L1 bidder.

(v) That the Petitioner violated the "Code of Integrity" under Public Procurement Rules, *inter alia*, Paragraph 175(1)(i)(c) of the GFR, 2017.

51. Each of the aforesaid grounds is *ex-facie* misconceived.

52. The fact that the Petitioner has paid the penalties levied by the Respondent (*albeit* belatedly), can hardly be cited as a circumstance adverse to the Petitioner. Equally, it is untenable to impute *mala fides* to the Petitioner solely on the ground that it initiated arbitration proceedings to contest the financial penalties imposed upon it.

53. The Impugned Order proceeds on the assumption that the Petitioner paid the penalties imposed on it merely to avoid disqualification in the tender process. However, it is wholly untenable for the Respondent to treat the payment of a prescribed penalty, an act done in compliance with contractual obligations, as a circumstance justifying debarring or blacklisting.

54. Resort to the prescribed dispute resolution mechanism is a contractual right available to the Petitioner, (as well as to the Respondent), and the exercise of such a right cannot, by itself, give rise to any inference of *mala fide* intention.

55. Moreover, it is pertinent to note that although the Respondent's Mission/Post at Oslo, Norway imposed penalties upon the Petitioner, the record reflects that no complaint was ever received by that Mission against the Petitioner, thereby rendering the basis for such penal action unclear.

56. It is noticed that the Impugned Order labels the Petitioner's conduct of filing petitions under Article 226 of the Constitution of India as "anti-competitive" and "abusive" solely because Writ Petitions filed by it against

the L-1 bidders were withdrawn by the Petitioner, after issuance of SCN dated 01.08.2025, and under threat of debarment.

57. Clearly, reliance on such post–show cause notice conduct is impermissible, and the introduction of any new ground in the Impugned Order would necessitate the issuance of a supplementary show cause notice in terms of the dicta laid down in ***Mohinder Singh Gill v. Chief Election Commissioner, New Delhi & Ors. [(1978) 1 SCC 405]***.

58. Likewise, the mere fact that the Petitioner has initiated legal proceedings to assail the tender processes cannot be held against it. While it is true that the extensive litigation initiated by the Petitioner may have caused considerable inconvenience to the Respondent and may have disrupted the tender process/es, such conduct, without more, cannot be treated as conclusive evidence of '*mala fides*' or 'breach of integrity'. It is untenable to take debarring/ blacklisting action against an entity as a consequence/response to an entity exercising its constitutional right to file a Writ Petition assailing any aspect of the tender process. There is merit in the contention of the Petitioner that such a situation would not cross the threshold in terms of the dicta laid down in ***Blue Dreamz Advertising Pvt. Ltd.*** (supra) and ***Techno Prints*** (supra) so as to warrant a debarment order.

59. Debarment or blacklisting, *inter-alia*, on the ground that an entity has initiated multiple legal proceedings (howsoever frivolous or misconceived) challenging tender processes is *ex facie* impermissible and fraught with serious constitutional and administrative infirmities. An entity cannot be penalised for invoking judicial remedies in the exercise of its constitutional rights.

60. Debarment on the ground of 'litigiousness' would create a chilling effect, dissuading the bidders from questioning tender conditions even if they are arbitrary or discriminatory. Such an approach would foster unquestioned executive discretion and undermine the salutary role of judicial review.

61. Permitting debarment on the basis that a party or bidder has resorted to frivolous/ unnecessary litigation would, in essence, legitimise retaliatory action by the State in the form of 'debarring' or 'blacklisting' an entity as a response to challenge to the tender process, which cannot be countenanced.

62. The Impugned Order also erroneously concludes that the Petitioner's conduct squarely falls within the ambit of Rule 175(1)(i)(c) of the GFR, 2017, and on that foundation, the Respondents have proceeded to invoke Rule 151(iii) of the GFR, 2017 to justify the impugned debarment. Rule 175 (1)(i)(c) and Rule 151 (iii) of the GFR, 2017 read as under:-

> *"Rule 175(1) Code of Integrity: No official or procuring entity or a bidder shall act in contravention of the codes which includes*
>
> *(i)Prohibition of*
>
> *(c) any collusion, bid rigging or anti-competitive behaviour that may impair the transparency, fairness and the progress of the procurement process."*

> *"Rule 151: Debarment from bidding.*
>
> *(iii) A procuring entity may debar a bidder or any of its successors, from participating in any procurement process undertaken by it, for a period not exceeding two years, if it determines that the bidder has breached the code of integrity. The Ministry/ Department will maintain such list which will also be displayed on their website."*

Essentially, the allegation against the Petitioner is that it has been acting with the intent to make undue financial gains by compelling the members of the Indian diaspora to avail the Value Added Services ("VAS") offered by the Petitioner. Further, it is alleged that the Petitioner has been

resorting to frivolous and untenable litigation with the intent of influencing the outcome of various tenders issued by the Respondent. It is emphasised in the Impugned Order that the Petitioner has resorted to litigation with the objective of scuttling/ postponing the tender process in those territories where it did not become the incumbent operator. Further, it is alleged that such conduct is in breach of the Petitioner's own undertaking furnished during the tender process, wherein it affirmed that it fully understood and accepted the prescribed procedure for selection of the successful bidder and, having agreed to that, the determination of the lowest bidder would be based solely on the price bids submitted, and it could not thereafter question the viability of the competing bids. Even assuming the allegations in the Impugned Order are taken at face value, it is evident that the said allegations do not fall within the sweep of Rule 175(1)(i)(c) of GFR, 2017. The said Rule contemplates collusive conduct among bidders intended to distort the outcome of the tender process and encompasses situations such as cartel formation, or the like. It cannot, by any stretch of imagination, be invoked to fault a bidder for exercising its constitutional right to approach a court of law by instituting proceedings under Article 226 of the Constitution of India, even if such proceedings are perceived to be frivolous or founded on untenable grounds.

63. In the opinion of the Court, the mere institution of legal proceedings by the Petitioner, even if directed against successful L-1 bidders, cannot by itself constitute "anti-competitive behaviour" so as to justify a measure as severe as debarment. As noticed hereinabove, the right to access courts is a constitutional right, and the exercise of such right cannot be treated as an act impairing the fairness or progress of the tender/procurement process. The

expression "anti-competitive behaviour" in Rule 175(1)(i)(c) of the GFR, 2017 must be understood in its proper textual setting. Applying the settled principle of *noscitur a sociis*, as explained by the Supreme Court in ***Rohit Pulp & Paper Mills Ltd. v. Collector of Central Excise, Baroda (1990) 3 SCC 447***, the meaning of a generic term is guided by the company it keeps. The relevant extract from the said judgment is reproduced hereunder:

> *"12.The principle of statutory interpretation by which a generic word receives a limited interpretation by reason of its context is well established. In the context with which we are concerned, we can legitimately draw upon the "nosci- tur a sociis" principle. This expression simply means that "the meaning of a word is to be judged by the company it keeps. Gajendragadkar, J. explained the scope of the rule in State of Bombay v. Hosptial Mazdoor Sabha in the following words: (SCR pp. 873-74)*
>
> > *"This rule, according to Maxwell, means that, when two or more words which are susceptible of analogous meaning are coupled together they are understood to be used in their cognate sense. They take as it were their colour from each other, that is, the more general is restricted to a sense analogous to a less general. The same rule is thus interpreted in "Words and Phrases" (Vol. XIV, p. 207): "Associated words take their meaning from one another under the doctrine of noscitur a sociis, the philosophy of which is that the meaning of a doubtful word may be ascertained by reference to the meaning of words associated with it; such doctrine is broader than the maxim ejusdem generis". In fact the latter maxim "is only an illustration or specific application of the broader maxim noscitur a sociis". The argument is that certain essential features of attributes are invariably associated with the words "business and trade" as understood in the popular and conventional sense, and it is the colour of these attributes which is taken by the other words used in the definition though their normal import may be much wider. We are not impressed by this argument. It must be borne in mind that noscitur a sociis is merely a rule of construction and it cannot prevail in cases where it is clear that the wider words have been deliberately used in order to make the scope of the defined word correspondingly wider. It is only where the intention of the legislature in associating wider words with words of narrower significance is doubtful, or otherwise not clear that the present rule of construction can be usefully applied. It can also be applied where the meaning of the words of wider import*

> *is doubtful; but, where the object of the legislature in using wider words is clear and free of ambiguity, the rule of construction in question cannot be pressed into service."*
>
> *This principle has been applied in a number of contexts in judicial decisions where the court is clear in its mind that the larger meaning of the word in question could not have been intended in the context in which it has been used. The cases are too numerous to need discussion here. It should be sufficient to refer to one of them by way of illustration. In Rainbow Steels Ltd. v. CST this Court had to understand the meaning of the word 'old' in the context of an entry in a taxing traffic which read thus:*
>
> *"Old, discarded, unserviceable or obsolete machinery, stores or vehicles including waste products....."*
>
> *Though the tariff item started with the use of the wide word 'old', the court came to the conclusion that "in order to fall within the expression 'old machinery' occurring in the entry, the machinery must be old machinery in the sense that it has become non-functional or non-usable". In other words, not the mere age of the machinery, which would be relevant in the wider sense, but the condition of the machinery analogous to that indicated by the words following it, was considered relevant for the purposes of the statute."*

In the present case, "anti-competitive behaviour" appears alongside "collusion" and "bid rigging", both of which have a distinct connotation and cannot be construed to subsume initiation/pursuit of litigation. As such, when read *ejusdem generis* with these preceding expressions, the phrase cannot be expanded to include exercise of legal remedies. Litigation pursued to challenge irregularities or to enforce rights may or may not succeed on merits, but it does not, without anything more, acquire the character of collusive or rigged conduct or "anti-competitive behaviour". The impugned finding with respect to the breach of the Code of Integrity, therefore, rests on a fundamentally flawed understanding of the GFR, and cannot be sustained.

64. Thus, it is *ex facie* untenable to attribute misconduct or draw adverse conclusions regarding breach of the "code of integrity" merely on the basis that the Petitioner has been a prolific litigator.

65. There is also no inkling in the Impugned Order as to the basis for the period of banning as mentioned in the Impugned Order. The Respondent has failed to furnish any justification for prescribing a two (2) year period of debarment in the Impugned Order. Rule 151(iii) of the GFR, 2017 empowers the procuring entity to debar a bidder for a period not exceeding two years upon determination of a breach of the Code of Integrity. The prescription of an upper limit necessarily implies that the authority is required to exercise discretion judiciously, on the basis of the nature, gravity, and attendant circumstances of the alleged breach. However, the Impugned Order is conspicuously silent as to the factors that weighed with the Respondent in imposing a debarment for the 'maximum' permissible period of two years. The Impugned Order does not demonstrate any application of mind to the principle of proportionality, which is an essential facet of administrative decision-making. In the absence of any discernible rationale, the imposition of a two-year debarment appears to be mechanical and arbitrary.

66. In the circumstances, and for all the above reasons, the Impugned Order is unsustainable; and the same is accordingly set aside. However, liberty is granted to the Respondent to issue a fresh show cause notice in case it is sought to debar the Petitioner on the ground of alleged substandard quality of work/services. In the event of such show cause notice being issued, it shall be incumbent on the Respondent to:

(i) expressly specify the complaint/s, document, instance/s of alleged misconduct, or material that the Respondent seeks to rely upon;

(ii) all such material must be supplied to the Petitioner along with the notice;

(iii) the Petitioner must be granted a reasonable and effective opportunity to respond, including the right to produce explanations, documents, and any supporting material;

(iv) any final decision by the Respondent must contain cogent reasons.

67. The petition is disposed of in the above terms. Pending applications also stand disposed of.

SACHIN DATTA, J

DECEMBER 18, 2025/*uk/ka*