



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

% *Judgment reserved on: 15.06.2026*
Judgment delivered on: 22.06.2026

+ **W.P.(C) 8148/2026, CM APPL. 38790/2026 & CM APPL. 38791/2026**

GREW ENERGY PRIVATE LIMITEDPetitioner

Versus

NTPC RENEWABLE ENERGY LIMITEDRespondent

Advocates who appeared in this case

For the Petitioner : Mr. Sandeep Sethi, Senior Advocate along with Mr. Krisna Gambhir, Ms. Shreya Sethi, Mr. Monark Gahlot, Mr. Raunak Dhillion, Mr. Nihaad Dewan, Ms. Priyal Shah, Mr. Himanshu Bhargava & Mr. Parthiv Gandhi, Advocates.

For the Respondent : Mr. Rajesh Gupta & Mr. Harpreet Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE TEJAS KARIA

HON'BLE MS. JUSTICE MADHU JAIN

JUDGMENT

TEJAS KARIA, J

1. The present writ petition has been instituted by the Petitioner under Article 226 of the Constitution of India, 1950 (“**Constitution**”), seeking quashing of the letter dated 08.04.2026 (“**Termination Notice**”), the notice inviting tender dated 10.04.2026 (“**Retender Notice**”) for supply of Solar Photovoltaic Modules (“**Solar PV Modules**”) for the 1000 MW Solar Park



Project, and the suspension order dated 01.06.2026 (“**Suspension Order**”), issued by the Respondent.

FACTUAL BACKGROUND:

2. The Petitioner is a company incorporated under the Companies Act, 2013 and is engaged, *inter alia*, in the manufacture of Solar PV Modules, and in the sale of Solar PV products, wafers and ingots.

3. The Respondent is a Government of India enterprise functioning under the administrative control of the Ministry of Power.

4. On 02.01.2019, the Ministry of New and Renewable Energy (“**MNRE**”) enlisted eligible models and manufacturers of Solar PV Cells and Solar PV Modules compliant with the Bureau of Indian Standards (“**BIS**”) and published the same in the Approved List of Models and Manufacturers (“**ALMM**”).

5. MNRE further issued an office memorandum dated 02.01.2019 (“**ALMM Order**”), stipulating that only such models and manufacturers as were included in the ALMM would be eligible for use in Government and Government-assisted projects under Government schemes and programmes. The ALMM Order comprised two lists, namely List I for Solar PV Modules (“**List I**”) and List II for Solar PV Cells (“**List II**”). The effective date for implementation of List I and List II (“**ALMM Lists**”) was fixed as 31.03.2020.

6. The MNRE, *vide* office memorandum dated 29.03.2024, clarified that the ALMM Order would come into effect for List I from 01.04.2024. Thereafter, *vide* List II order dated 09.12.2024, the MNRE proposed to release List II, which was to become effective from 01.06.2026.



7. The MNRE, *vide* office memorandum dated 28.07.2025, extended the exemption from compliance with List II to projects where the last date for submission of bids was “*on or before the cut-off date*”, and defined the cut-off date as the date falling exactly one month after publication of List II. Upon publication of List II by the MNRE *vide* office memorandum dated 31.07.2025, 31.08.2025 was fixed as the cut-off date for implementation of List II compliance.

8. On 31.07.2025, the Respondent issued an Invitation for Bids (“**IFB**”) inviting bids through domestic competitive bidding for “*Supply of Solar PV Modules for 1000 MW Solar PV Projects in Lalitpur and Chitrakoot in U.P.*” (“**Package**”). The Package contemplated contracts for supply and transportation of Solar PV Modules for three blocks, namely Lalitpur I, Lalitpur II and Chitrakoot I (“**Projects**”).

9. On 20.08.2025, the Petitioner submitted its Techno-Commercial Bid (Envelope I) and Price Bid (Envelope II). The Respondent, *vide* e-mail dated 03.11.2025, intimated that the Petitioner had been found eligible to participate in the e-Reverse Auction Process for the Package. Pursuant thereto, the Petitioner participated in the said process.

10. On 07.11.2025, the Petitioner issued a letter accepting to match the L1 bid price for the Package. The Respondent, *vide* letter dated 15.12.2025, requested the Petitioner to extend the validity of its bid. The Petitioner responded *vide* letter dated 16.12.2025 and extended the bid validity by a further period of 30 days.

11. The Respondent, *vide* six Notifications of Award (“**NOAs**”) issued on 24.12.2025, awarded the Projects to the Petitioner. By letter dated



29.12.2025, the Petitioner conveyed its acceptance of the NOAs to the Respondent. On 02.01.2026 and 03.01.2026, the Petitioner sent e-mails to the Respondent sharing the draft formal contract agreement. The Respondent, *vide* e-mail dated 16.01.2026, proposed 19.01.2026 as the date for execution of the contract agreement.

12. By e-mail dated 18.01.2026 addressed to the Respondent, the Petitioner stated that its authorised signatory was unavailable on 19.01.2026 and requested that the date for execution of the contract agreement be rescheduled to a mutually convenient date. Thereafter, *vide* e-mail dated 22.01.2026, the Petitioner sought a further extension of two weeks for execution of the contract agreement and submission of the Contract Performance Guarantee (“**CPG**”) on the same ground. *Vide* communication dated 28.01.2026, the Petitioner informed the Respondent that, owing to the non-availability of its Directors in India, it was unable to proceed with execution of the contract agreement and submission of the CPG.

13. On 16.02.2026, the Respondent issued a notice of contractor’s default dated 16.02.2026 (“**Default Notice**”), calling upon the Petitioner to execute the formal contract agreement and submit the CPG within 30 days of issuance of the Default Notice. The Petitioner, *vide* letter dated 16.03.2026 (“**Default Notice Response**”), extended the bid security until 31.05.2026 and stated that it was unable to execute the contract agreement and submit the CPG owing to the unavailability of its authorised signatories.

14. The Procurement Policy Division, Department of Expenditure, Ministry of Finance, issued an office memorandum dated 29.04.2026 (“**Force Majeure OM**”), notifying that the ongoing West-Asian conflict was



to be treated as war, thereby permitting invocation of the *force majeure* clause.

15. The Respondent, *vide* the Termination Notice, terminated the Projects awarded to the Petitioner and declared the Petitioner ineligible to participate in the retendering of the Package. On 09.04.2026, the Respondent encashed the bid security furnished by the Petitioner in terms of Clause 24(c) of the General Purchase Conditions (“GPC”).

16. On 10.04.2026, the Respondent issued the Retender Notice inviting fresh bids for the Package. The Petitioner, *vide* letter dated 02.05.2026 (“**Termination Notice Response**”), challenged the Termination Notice.

17. MNRE, *vide* office memorandum dated 25.05.2026 (“**List II Exemption OM**”), declined to grant a blanket extension of the deadline for List II compliance and carved out specific categories under which exemption from List II could be availed. The Respondent, *vide* communication dated 15.08.2025, invited bids for supply of Solar PV Modules at Khavda RE Park, Kutch, Gujarat (“**Khavda IFB**”). Thereafter, after terminating the communication dated 15.08.2025, the Respondent issued communication dated 08.05.2026 inviting fresh bids for the Khavda IFB (“**Khavda Retender Notice**”). On 01.06.2026, the Respondent issued the Suspension Order under Clause 6.1(b) read with Clause 6.3.3 of the Policy for Debarment from Business Dealings (“**Debarment Policy**”).

18. It is the case of the Petitioner that the Termination Notice was erroneously issued by resorting to Clauses 42.0 and 43.0 of the GPC, despite Clause 24(c) of the GPC and Clause 34.0 of the Special Purchase Conditions (“**SPC**”) specifically providing for annulment of the NOAs as the



consequence of non-execution of the contract agreement and non-submission of the CPG. It is further contended that the Retender Notice is contrary to the List II Exemption OM, and that the Suspension Order was issued without issuance of a show cause notice or affording any opportunity of hearing. On these grounds, the Petitioner seeks setting aside of the Termination Notice, the Retender Notice and the Suspension Order.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

19. The learned Senior Counsel for the Petitioner made the following submissions:

- 19.1. In terms of Clause 17 of the Instructions to Bidders (“ITB”), the Petitioner’s bid for the Projects, formulated on the basis of the market conditions prevailing in August 2025, was valid for a period of 120 days, i.e., until 19.12.2025.
- 19.2. The e-mails dated 18.01.2026, 22.01.2026 and 28.01.2026 demonstrate the *bona fides* of the Petitioner, which had duly informed the Respondent that it was in the process of extending the validity of the bid security in order to protect the commercial interests of both parties.
- 19.3. Article 3.1 of the draft contract agreement proposed by the Respondent contemplated a period of two months from the date of the NOAs for completion of pre-execution formalities, including execution of the contract agreement and submission of the CPG. The said period of two months was to expire only on 24.02.2026. Accordingly, the Default Notice was issued before expiry of the contractual window available for



completing the pre-execution formalities and was, therefore, premature.

- 19.4. By way of the Default Notice Response, the Petitioner had apprised the Respondent of a *force majeure* event arising from disruption of supply chains and a manifold increase in the prices of raw materials required for manufacture of Solar PV Modules, owing to the West-Asian conflict. The said event was stated to be unforeseeable at the time of bid submission and beyond the control of the Petitioner.
- 19.5. The Respondent failed to consider the *force majeure* event specifically highlighted by the Petitioner in the Default Notice Response. According to the Petitioner, deterioration of the supply chain for Solar PV Cells and the exorbitant increase in the price of silver on account of the West-Asian conflict constituted a fit case for invocation of *force majeure*, as recognised in the Force Majeure OM and the List II Exemption OM.
- 19.6. The Default Notice Response had also pointed out that the Respondent's reliance on Clauses 42.0 and 43.0 of the GPC was misplaced, since the bidding documents provided a specific remedy, namely annulment of the NOAs under Clause 34.0 of the SPC, in the event of default in signing the contract agreement and/or submitting the CPG.
- 19.7. The Respondent could not have terminated the NOAs by invoking Clause 42.0 of the GPC, particularly when the law



recognises that a specific remedy prescribed for a specific default prevails to the exclusion of a general remedy under the contract. Clause 24(c) of the GPC and Clause 34.0 of the SPC provide for annulment of the NOAs as the consequence of non-signing of the contract agreement and non-submission of the CPG. Further, Clause 45.0 of the SPC stipulates that the SPC shall prevail over the GPC.

- 19.8. Having encashed the bid security under Clause 24(c) of the GPC, which was the sole and specific remedy prescribed for the alleged default and which resulted in annulment of the NOAs, the Respondent could not thereafter impose a separate and inconsistent remedy of risk purchase under Clause 43.0 of the GPC for the same default.
- 19.9. Clause 43.0 of the GPC applies only to failures occurring at the supply stage. At the time of issuance of the Termination Notice, no material had been tendered for delivery, no scheduled delivery period had expired, and no modules had been supplied, rejected or found deficient. Clause 43.0 of the GPC also contemplates forfeiture of the CPG. In the present case, no CPG was ever submitted by the Petitioner, the same being a supply-stage security furnished only after execution of the formal contract agreement. What existed was only the bid security/EMD, which was a pre-execution security. Therefore, forfeiture of the CPG, as contemplated under Clause 43.0 of the GPC, could not have arisen. The Termination Notice was,



accordingly, submitted to be contrary to the contractual framework and barred by the doctrine of election.

- 19.10. Clause 5.6 of the Debarment Policy provides a mechanism for suspension, and not outright termination at risk and cost, in cases where an agency fails to sign the contract agreement or fails to submit acceptable performance security.
- 19.11. In view of the prevailing market conditions, the Respondent had terminated the Khavda IFB and issued the Khavda Retender Notice requiring compliance with the ALMM Lists. It was submitted that, in order to sustain a risk purchase claim, the retender ought to be issued on substantially similar conditions. Notwithstanding the same, the Retender Notice was issued requiring compliance only with List I, allegedly with a *mala fide* intent to saddle the Petitioner with risk purchase liability.
- 19.12. The List II Exemption OM prescribes the following criteria concerning the status of Solar PV Modules for availing exemption from List II compliance:
- i. 100% of the Solar PV Modules required for the project have been installed on the project site prior to 01.06.2026; or
 - ii. 100% of all Solar PV Modules required for the project have arrived at the project site prior to 25.05.2026; or
 - iii. More than 50% of all Solar PV Modules required for the project have been installed at the project site prior to 01.06.2026.



- 19.13. The Respondent did not satisfy any of the criteria under the List II Exemption OM for claiming exemption from List II compliance. Issuing IFBs for similar packages on materially different conditions was, therefore, arbitrary and violative of Article 14 of the Constitution.
- 19.14. The Suspension Order was issued without affording the Petitioner a reasonable opportunity of hearing, in violation of the principles of natural justice. Clause 2.2 of the Debarment Policy equates ‘withholding’, ‘suspension’ and ‘banning’ with debarment, and Rule 151(iv) of the General Financial Rules, 2017 requires a reasonable opportunity to represent before debarment.
- 19.15. The Manual of Procurement of Goods, 2024 treats debarment as a quasi-judicial process requiring adherence to natural justice. No such opportunity was granted to the Petitioner; the Suspension Order was issued unilaterally and deprived the Petitioner of participation in the retender process.
- 19.16. The Suspension Order, which bars the Petitioner from future tenders of NTPC Limited, its subsidiaries and joint ventures for six months, entails serious civil and commercial consequences, including disclosure-related prejudice in future procurement processes.
- 19.17. Clause 5.3 of the Debarment Policy mandates issuance of a legally vetted show cause notice, grant of 15 days to respond,



and an opportunity of oral hearing before the Standing Committee. None of these safeguards were followed.

- 19.18. Reliance was placed on *M/s Techno Prints v. Chhattisgarh Textbook Corporation & Anr.*, Neutral Citation: 2025 INSC 236; *Blue Dreamz Advertising Private Limited v. Kolkata Municipal and Others*, (2024) 15 SCC 264; and *Gorkha Securities Services v. Government (NCT of Delhi) and Others*, (2014) 9 SCC 105, to submit that blacklisting or debarment requires prior compliance with natural justice, reasoned decision-making, and absence of arbitrariness or discrimination.
- 19.19. Mere delay or non-execution, without more, cannot justify blacklisting or suspension. The Respondent ignored the documented *force majeure* circumstances, the Force Majeure OM, the List II Exemption OM, and the Petitioner's responses before issuing the Suspension Order.
- 19.20. The Respondent's actions were, therefore, manifestly arbitrary, discriminatory and violative of Article 14 of the Constitution.

SUBMISSIONS ON BEHALF OF THE RESPONDENT:

20. The learned Counsel for the Respondent made the following submissions:

- 20.1. Upon issuance of the NOAs, the Petitioner was repeatedly called upon to execute the formal contract agreement. The Petitioner, however, failed to do so, initially citing the non-availability of its authorised representatives and subsequently raising a plea of adverse market conditions in the Default



Notice Response. The relevant extract from the Default Notice Response is reproduced hereinbelow:

“4. It is pertinent to highlight that proceeding with supply of SPV Cells at the prices quoted in August 2025, would result in substantial financial losses for us on account of reasons beyond our control. Further, unless the market conditions improve, proceeding at the rates of August 2025 would defeat the commercial objective of the entire contractual framework and would be severely detrimental to us.

5. ... We are genuinely attempting to comply with our obligations under the NOAs. It is however imperative to acknowledge that the prevailing market conditions present a material challenge to our ability to do so at the contracted price. In addition to the input cost pressures described above, the ongoing armed conflict involving Israel, Iran and the United States of America in the Gulf region has caused severe disruption to international shipping and logistics corridors, resulting in significantly reduced availability of commercial vessels and cargo aircraft and a corresponding increase in costs.

6. These compounding factors, i.e., the increase in raw material and SPV cell prices on one hand, and deterioration of global supply chains on the other, are entirely beyond our control. These factors were unforeseeable at the time of bid submission and have together materially hampered our ability towards contract execution and commencement of supply within the originally contemplated timelines. A further period of time would give us an opportunity to resolve that challenge internally and mobilize towards commencement of supply. Accordingly, we respectfully request you grant a further extension of 6 (six) months from the date of this letter within which we will make every effort to enter and execute the Contract Agreement, submit the CPG and commence supply of modules subject to the market conditions described above.”



- 20.2. The plea regarding escalation in silver prices, raised only at a subsequent stage demonstrate the Petitioner's *mala fide* attempt to avoid its contractual obligations on account of adverse market conditions.
- 20.3. The Petitioner cannot derive any benefit from the plea of *force majeure*. The Force Majeure OM applies only to entities that were not already in default prior to 27.02.2026, whereas the Petitioner was admittedly in default much before the said date. Having accepted the NOA and undertaken to execute the contract agreement, the Petitioner cannot subsequently seek to avoid its contractual obligations on the ground that market prices of silver had risen to approximately double the level prevailing at the time of bid submission.
- 20.4. The present case is not one of blacklisting. The suspension imposed upon the Petitioner is limited in scope and operates only in respect of tenders issued by the Respondent, while leaving the Petitioner free to participate in tenders floated by other organisations.
- 20.5. As regards the contention that a show cause notice ought to have preceded the Suspension Order, it was submitted that Clause 6.3.3 of the Debarment Policy does not contemplate issuance of a show cause notice in cases concerning failure to sign the contract agreement or submit the CPG. The relevant portion of Clause 6.3.3 of the Debarment Policy is reproduced hereinbelow:



“6.3.3 In cases of failure to sign the Contract Agreement or failure to submit an acceptable Performance Security

a) The concerned C&M dept. shall put up the proposal for "Suspension of business dealings" with the Agency for approval of the Competent Authority. After approval of Competent Authority, Suspension Order shall be issued which must include the following:

i) the Agency is put on suspension list

ii) in case the agency commits aforesaid transgression/default again in another tender of NTPC within three (03) years from the date of issuance of suspension order, business dealings with the agency shall be banned for a period of two (02) years from the date of issuance of speaking order for banning.

In case the agency commits aforesaid transgression/default again in another tender of NTPC within three (03) years from the date of issuance of suspension order, process for banning of business dealings with the Agency shall be initiated as mentioned at para 5.6 above.

b) Suspension of business dealings with any agency shall be done Company-wide (entire NTPC including Subsidiaries and JVs), for all cases including cases processed from NTPC, Subsidiaries and JVs.

c) The Suspension Order would operate for a period of six (06) months and is to be communicated to Agency.

d) Suspension order shall be issued by Competent Authority himself or by a person authorized for the said purpose.

e) The names of the Agencies with whom Business Dealings have been suspended shall be hosted at intranet of CC&M. During the period of suspension, no new business dealing shall be held with the Agency.

f) The suspension of Agency shall be automatically revoked on the expiry of the period of suspension.”

20.6. The omission of any requirement for issuance of a show cause notice in cases involving failure to execute the contract



agreement or submit the CPG is deliberate and forms part of the scheme of Clause 6.3.3 of the Debarment Policy.

- 20.7. The Petitioner's conduct frustrated the tender process and compelled the Respondent to initiate a fresh tendering exercise.
- 20.8. Therefore, in the facts and circumstances of the present case, the Respondent's actions were proportionate and founded upon legitimate commercial considerations, including the need to safeguard procurement processes from entities that had previously failed to honour their contractual obligations.

ANALYSIS AND FINDINGS:

21. The principal issues that arise for consideration in the present Petition are as follows:

- i. Whether the Termination Notice is liable to be set aside on the ground that the Respondent invoked Clause 42.0 of the GPC notwithstanding that Clause 24(c) of the GPC and Clause 34.0 of the SPC specifically prescribe annulment of the NOAs as the consequence of non-execution of the contract agreement and non-submission of the CPG?
- ii. Whether Retender Notice dated 10.04.2026 warrants interference by this Court?
- iii. Whether the Suspension Order dated 01.06.2026 could have been issued without a show cause notice and without affording the Petitioner an opportunity of hearing?

22. The Petitioner contends that failure to execute the contract agreement and furnish the CPG attracted only encashment of the Bid Security and



annulment of the NOAs under Clause 24(c) of the GPC and Clause 34.0 of the SPC.

23. It is submitted on behalf of the Petitioner that the Termination Notice invokes Clauses 42.0 and 43.0 of the GPC for the very same defaults, namely non-execution of the contract agreement and non-submission of the CPG.

24. A perusal of the bidding documents shows that Clause 42.0 of the GPC empowers the employer to terminate the order/contract where the supplier fails to remedy a default in performance within thirty days of notice, or within such further period as may be approved in writing. Clause 43.0 of the GPC applies where the supplier fails to supply material of acceptable quality within the scheduled delivery period, in which event the employer may procure the material from another source at the supplier's risk and cost and may also forfeit the CPG.

25. Clause 24(c) of the GPC specifically provides that failure to submit the CPG constitutes sufficient ground for annulment of the award and forfeiture of the Bid Security. The record shows that the Respondent annulled the NOAs and encashed the Bid Security.

26. The plea of *force majeure* raised by the Petitioner cannot be accepted. The Petitioner had admittedly failed to execute the contract agreement and furnish the CPG prior to issuance of the Force Majeure OM. The record indicates that the difficulty projected was, in substance, commercial hardship arising from market conditions, which does not absolve the Petitioner of its obligations under the NOAs.



27. In the present case, the default attributed to the Petitioner is confined to non-execution of the contract agreement and non-submission of the CPG. The stage contemplated under Clause 43.0 of the GPC, namely failure to supply material within the scheduled delivery period and consequential forfeiture of the CPG, had not arisen.

28. As regards Clause 42.0 of the GPC, Clause 24(c) of the GPC and Clause 34.0 of the SPC specifically prescribe the consequences of failure to execute the contract agreement and furnish the CPG, namely annulment of the award and forfeiture of the Bid Security. Clause 45.0 of the SPC further provides that the SPC shall prevail over the GPC.

29. It is settled law that where a specific provision governs a particular default, recourse must be had to such provision in preference to a general provision. The Respondent, therefore, could not have invoked Clause 42.0 of the GPC for a default for which specific consequences are prescribed under Clause 24(c) of the GPC and Clause 34.0 of the SPC.

30. In view of the aforesaid, this Court is of the considered view that the consequences of the Petitioner's failure to execute the contract agreement and submit the CPG are governed by Clause 24(c) of the GPC and Clause 34.0 of the SPC. The Termination Notice, insofar as it invokes Clauses 42.0 and 43.0 of the GPC, is accordingly liable to be set aside. This shall, however, not affect the Respondent's action of annulling the NOAs and encashing the Bid Security under Clause 24(c) of the GPC and Clause 34.0 of the SPC.

31. As regards Retender Notice, the principal contention of the Petitioner is that it was issued in derogation of the List II Exemption OM. According



to the Petitioner, since the last date for submission of bids under Retender Notice was after the cut-off date of 31.08.2025 prescribed by the MNRE *vide* office memorandum dated 31.07.2025, the Respondent ought to have required compliance with the ALMM Lists. Instead, Retender Notice required compliance only with List I.

32. It is further contended by the Petitioner that the List II Exemption OM identifies the circumstances in which exemption from ALMM List II compliance may be granted, and that Retender Notice satisfied none of those conditions. The Petitioner also submits that, for sustaining a risk-purchase claim, substitute procurement must be undertaken on substantially similar conditions.

33. Having considered the submissions, and in view of the finding that Clause 43.0 of the GPC could not have been invoked in the facts of the present case, this Court does not consider it necessary to examine the challenge to the Retender Notice founded on List II Exemption OM. The Retender Notice, therefore, does not warrant interference.

34. However, all questions concerning the applicability and interpretation of List II Exemption OM are left open.

35. As regards the Suspension Order, the Petitioner contends that it is in the nature of debarment and was issued without affording an opportunity of hearing. The relevant extract from the Suspension Order is reproduced hereinbelow:

“5. Accordingly, in line with Clause No-6.1 (b) and 6.3.3 of the Policy & Procedure for Debarment from Business Dealings, this Suspension Order is served upon you to inform that Business Dealings with your firm, GREW ENERGY PRIVATE LIMITED (PAN



NO- AAJCG6063H) have been put on suspension for a period of six (06) months from the date of issuance of this order.

The effect of suspension shall be as per para 6.4 of the Policy & Procedure for Debarment of from Business Dealings. Accordingly, during this period:

- Your firm shall not be allowed to participate in any future tender enquiry by NTPC/ its Subsidiaries and JVs (if adopted).*
- If your firm has already participated in another tender process and the price bids are not opened, your firm's techno-commercial bid will be rejected and price bid will not be opened.*
- Where price bid of your firm has been opened prior to issuance of this Suspension Order, your firm's price bid shall be rejected.*
- No award shall be placed on your firm by NTPC/ its Subsidiaries and JVs (if adopted)*

6. Further, in line with Clause No 6.3.3 of the Policy & Procedure for Debarment from Business Dealings, in case you commit aforesaid transgression/ default again in another tender as enumerated in abovementioned Clause 6.3.3 within three (03) years from the date of issuance of this suspension order, you shall be liable to be banned from business dealings with NTPC including its Subsidiaries and JVs (if adopted)) for a period of two (02) years effective from the date of issuance of speaking order for such banning.

7. Suspension of your firm shall be automatically revoked on the expiry of the period of suspension.”

36. The Petitioner submits that Clause 2.2 of the Debarment Policy expressly provides that the expressions “withholding”, “suspension” and “banning” convey the same meaning as debarment. It is, therefore, contended that the Suspension Order is, in substance, an order of debarment. Reliance has been placed on *M/s Techno Prints (supra)*, *Blue Dreamz (supra)* and *Gorkha Securities (supra)* to submit that an order of debarment



or blacklisting, having serious civil consequences, cannot be passed without compliance with the principles of natural justice.

37. It is further submitted by the Petitioner that no show cause notice was issued to the Petitioner, and no opportunity of hearing was afforded prior to issuance of the Suspension Order. On this ground, the Petitioner seeks setting aside of the Suspension Order.

38. The aforesaid submission merits acceptance. By virtue of the Suspension Order, the Petitioner is disentitled, during the period of suspension, from participating in future tender enquiries floated by the Respondent and its subsidiaries; its bids in pending tender processes are liable to be rejected; and no award can be placed in its favour. The Suspension Order, therefore, entails serious civil and commercial consequences.

39. The decisions in *M/s Techno Prints (supra)*, *Blue Dreamz (supra)* and *Gorkha Securities (supra)* reiterate that orders of debarment or blacklisting ordinarily cannot be passed without adherence to the principles of natural justice. They further caution against readily resorting to debarment in ordinary cases of contractual breach, particularly where a *bona fide* dispute exists. The introduction to the Debarment Policy also records that, since banning of business dealings entails civil consequences for the concerned agency, adequate opportunity of hearing must be afforded and any explanation tendered must be considered before an order is passed, having regard to the facts and circumstances of the case.

40. As Clause 2.2 of the Debarment Policy equates suspension with debarment, the Respondent cannot contend that procedural safeguards are



inapplicable merely because the impugned action is styled as suspension of business dealings and not as banning of business dealings.

41. This Court is, therefore, of the view that the Suspension Order was issued in violation of the principles of natural justice and cannot be sustained.

CONCLUSION:

42. This Court finds no ground to interfere with the Respondent's decision to treat the Petitioner as being in default of its obligations concerning execution of the contract agreement and submission of the Contract Performance Guarantee. However, the reliance upon Clauses 42.0 and 43.0 of the GPC for issuance of the Termination Notice dated 08.04.2026 by the Respondent was not justified. The Termination Notice dated 08.04.2026 is, accordingly, set aside to the extent it is founded upon, or seeks to give effect to, Clauses 42.0 and 43.0 of the GPC. The Suspension Order dated 01.06.2026 is also set aside for violation of principles of natural justice.

43. It is held that Retender Notice dated 10.04.2026 does not warrant interference, however it is clarified that no action against the Petitioner can be sustained on the basis of Clause 43.0 of the GPC or on the premise that Retender Notice dated 10.04.2026 constitutes a valid risk-purchase procurement against the Petitioner.

44. The present Petition is allowed in the aforesaid terms. The Petition, along with all pending Applications, stands disposed of.



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45. It is clarified that this Court has not adjudicated upon any claim that may be available to either Party in relation to termination of the contract or award of damages. All rights and contentions of the Parties in that regard are expressly reserved, to be agitated in appropriate proceedings in accordance with law.

TEJAS KARIA, J
(VACATION JUDGE)

MADHU JAIN, J
(VACATION JUDGE)

JUNE 22, 2026

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