



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-8155-2025 (O&M)
Reserved on: 18.08.2025
Pronounced on: 29.08.2025**

Raj Kumar

....Petitioner

versus

**Postgraduate Institute of Medical Education and Research and
another**

...Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MS. JUSTICE LAPITA BANERJI**

**Present: Mr. Rahul Sharma-1, Advocate
for the petitioner.**

**Mr. Abhishek Kumar Premi, Advocate and
Mr. Arjun Singh, Advocate,
for the respondents-PGIMER.**

**Mr. Ravi Sodhi, Amicus Curiae
assisted by Mr. Umesh Pandey, Advocate.**

Deepak Sibal, J.

1. Through the instant petition the petitioner seeks quashing of the order dated 04.02.2025, passed by the Director, Post Graduate Institute of Medical Education and Research, Chandigarh (for short - the Institute), debarring the petitioner from participating in the tendering process of all commercial sites in the Institute for a period of 02 years.



THE FACTS

2. In response to a notice inviting tenders, the petitioner submitted his bid and having emerged as the highest bidder, was granted, by the Institute, on 10.12.2022, a licence to run a built-up Cafeteria in the new Outdoor Patient Department Block of the Institute for a period of 02 years.

3. A licence deed dated 10.12.2022 was entered into between the parties which contained the terms and conditions for the grant of the aforesaid licence to the petitioner. As per clause 5 of the licence deed, if at any stage, it was found that the licensee had submitted fake/ forged documents, his earnest money/ performance bank guarantee, security amount was to be forfeited and the licensee was to be debarred for a period of 02 years from dealing with the Institute as also that his licence was liable to be terminated. As per clause 20(e) of the licence deed, in case the licensee failed to implement the directions regarding conditions and specifications of the licence deed, a fine to the tune of 5%, 7% and 10% of the monthly licence fee was to be imposed upon him for the 1st, 2nd and 3rd violation respectively and if the violation(s) still persisted, his licence was liable to be terminated by the Institute. Clause 28 of the licence deed provided that the licence could be terminated by the licensee by giving 60 days clear notice without assigning any reason but in the case of the licensor, the licence could be terminated by giving notice of 30 days. However, if the licensee was to terminate the licence, he would be debarred from participating in the tendering process of all the commercial sites of the Institute for a period of one year and 50% of one month's licence fee would also be deducted from the security deposit which would



be subject to the minimum of Rs.20,000/- and maximum of Rs.5 lakhs. Clause 36 of the licence deed was to the effect that the Director of the Institute could modify, impose or relax any term and condition of the licence deed and as per clause 37 of the licence deed, in case of breach of any of the terms of the licence, the Institute could revoke the licence and forfeit the deposited security/ earnest money and the licensee would thereupon also forfeit all his rights and would further remain liable for any sum to be found due from him as also for any damage/ loss which may be caused to the licensor on account of such default.

4. As per the Institute, on account of the 1st violation by the petitioner of the terms of the licence deed, through order dated 02.09.2023, a penalty of Rs.72,057/- was imposed on him which was challenged by the petitioner before this Court through filing of a writ petition being CWP-2277-2024 - Raj Kumar v. Postgraduate Institute of Medical Education and Research and others. In such petition this Court has issued notice and granted interim stay with regard to recovery of the imposed penalty. The petition remains pending.

5. Through orders dated 19.01.2024 and 01.05.2024, the Institute was of the opinion that the petitioner had violated the terms and conditions of the licence for the 2nd and 3rd time respectively and therefore, two further penalties were imposed upon the petitioner. Both these orders were disputed by the petitioner before the Disputes Resolution Committee set up by the Institute. These disputes are yet to be resolved.

6. Through letter dated 26.09.2024 the Institute sought the petitioner's explanation with regard to the adverse report submitted by an



inspection committee which had inspected the Cafeteria being run by the petitioner to which the petitioner submitted his response.

7. In the meanwhile, the petitioner's licence expired and on 30.01.2024, he vacated the licensed premises.

8. Thereafter, through the impugned order dated 04.02.2025, the Institute debarred the petitioner from participating in the tendering processes of all commercial sites of the Institute for a period of 02 years. A fine of Rs.5000/- was also imposed.

9. Through the instant petition legality of the order dated 04.02.2025, to the extent of debarring the petitioner from participating in the tendering process of all commercial sites of the Institute for a period of 02 years, is put to question.

THE SUBMISSIONS

10. Learned counsel for the petitioner submitted that before debarment of the petitioner he had received a letter dated 26.09.2024, from the Institute through which an explanation was sought from him with regard to certain violations on his part; through the aforesaid letter dated 26.09.2024, the petitioner was asked to offer his explanation within 02 days and in case he failed to do so, the Institute would presume that he had nothing to say in the matter and that action would be taken against him as per the provisions of the licence deed; in the afore letter there was no mention of any clause of the licence deed which the petitioner had allegedly violated; no clause of the licence deed pertaining to imposition of penalty/ debarment was also referred to; such letter also did not specifically put the petitioner to notice that there was a proposal to debar him for a period of 02 years from participating in the tendering process of



all the commercial sites in the Institute; before debaring the petitioner no opportunity of hearing was also granted to him; the debarment of the petitioner was on account of certain violations which were already either sub-judice before this Court or pending resolution before the Dispute Resolution Committee of the Institute and therefore, the petitioner's debarment was pre-mature and in the light of the afore facts the petitioner's debarment is legally unsustainable.

11. In support of his contentions, learned counsel for the petitioner placed reliance on the following two judgments of the Supreme Court:-

- (i) *Gorkha Security Services vs. Government (NCT of Delhi) and others - (2014) 9 SCC 105.*
- (ii) *UMC Technologies Private Limited vs. Food Corporation of India and another – (2021) 2 SCC 551.*

12. Learned counsel for the respondent-Institute very fairly admitted before us that before debaring the petitioner, no specific notice in this regard was ever served upon him but nonetheless, the action impugned by the petitioner was sought to be justified on the ground that same had been taken strictly in terms of the licence deed which, in the absence of any challenge to the same, bound the parties to such deed.

DISCUSSION AND FINDINGS

13. We have heard learned counsel for the parties and with their able assistance we have also perused the record of this case.

14. Before considering the respective submissions of the parties, it would be useful to extract the relevant provisions of the licence deed dated 10.12.2022:-



“Licence Deed

* * *

5. *If at any stage, it is found that the tenderer/ authorized person has submitted/ produced fake/ forged/ manipulated documents, his/ her EMD/ PBG, Security amount will be forfeited, he/ she will be debarred for two years for dealing with PGIMER and his/ her licence will also be terminated.*

* * *

20. (e) *In case of failure to implement the directions regarding conditions and specifications mentioned, **a fine to the tune of 5%, 7% and 10% of the monthly license fee will be imposed upon the licensee for 1st, 2nd and 3rd violations respectively.** If the violation still persists, the tender shall be terminated by the Director, PGI. The decision of the Director, PGI, Chandigarh, in this case shall be final and binding.*

* * *

28. *Notwithstanding anything contained in condition **03** above, the licensor shall be at liberty to terminate this licence by giving **30 days** clear notice ending with the expiry of that month of licence without assigning any reason whatsoever. However, the licensee may terminate this licence by giving **60 days** clear notice ending with the expiry of the month of licence. In this case he/ she will be debarred for participating in the tender process of all the commercial sites for 1 year and 50% of the one month licence fee will be charged/ deducted from the licensee and the same will be deducted from his/ her security deposit subject to minimum of Rs.20,000/- and maximum of Rs.5 Lacs (including the cost of re-tendering).*

However, the Director, PGI reserves the right to allot the licence to the 2nd or 3rd highest bidder, in case the initial



licensee opts to terminate the licence any time during the period of initial allotment of the licence.

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36. The Director, PGIMER, may modify, impose or relax any clause in the terms and conditions.

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37. In case of breach of any of the terms and conditions of this licence, the Director, PGI may revoke this licence and forfeit the security/ EMD and the licensee shall thereupon forfeit all the rights hereunder, and shall remain liable for any sum then due, from him/ her and also for any damage or loss which may be caused to the licensor by reason of such default or for making any alternative arrangement for running the said premises.”

15. A harmonious reading of the afore extracted provisions of the licence deed unambiguously reveal that debarment of the licensee for 02 years from dealing with the Institute, along with termination of his licence and forfeiture of earnest money is only provided under Clause 5 of the licence deed and that such action is to be resorted to only if the licensee is found to have submitted fake/ forged/ manipulated documents.

16. Penalty for repeated violations of the terms of the licence deed is provided under Clause 20(e) as per which in case the licensee is found to have persistently violated the terms of the licence deed, his license is liable to be terminated. For such lapse debarment is not prescribed as a penalty.

17. Clause 37 of the licence deed, which apparently is a residuary clause, grants wide powers to the Institute to revoke the licence and forfeit the licensee's security/ earnest money deposit as also require



him to pay damages if he is found to breach any of the terms of the licence deed.

18. A perusal of the order dated 04.02.2025 reveals that the petitioner's debarment for 02 years is on account of persistent violations on his part. For repeated violations by the licensee there is no specific provision in the licence deed leading to his debarment. Apparently, to impose such a penalty on the petitioner, the Director of the Institute has resorted to Clause 36 of the licence deed which grants him inherent powers to modify, impose or relax any term and condition of the licence deed.

19. It is undisputed that before resorting to debar the petitioner from participating in the tendering process of all the commercial sites of the Institute for 02 years he was not put to notice with regard to the Institute's proposal to impose such penalty. Prior to imposition of the impugned penalty all that the petitioner received was the letter dated 26.09.2024 through which his explanation had been sought with regard to certain violations. While responding to such letter, the petitioner could have never imagined that the consequence of non-acceptance of his explanation would result in the harsh penalty of debarring him for a period of 02 years from participating in the tendering process of all commercial sites of the Institute, especially in the absence of any specific provision in the licence deed providing for the imposition of such penalty for repeated violations of the terms of the licence deed.

20. The penalty of debarment or as it is commonly referred to as blacklisting, results in civil death of an entrepreneur. It has a huge adverse impact on the person's or entity's reputation. Not only the present



but also the future business prospects are adversely affected. Therefore, such penalty cannot be sustained if the imposition thereof is not preceded through a specific notice in this regard to the concerned person or entity.

21. The afore view of ours finds support from the following observations by the Supreme Court in UMC Technologies Private Limited's case (supra):-

*“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. Assistant Custodian General, Evacuee Property, Lucknow and Anr., (1980) 3 SCC 1** 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, particularized and unambiguous show cause notice is particularly crucial due to the severe consequences of blacklisting and the stigmatization 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 takes 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.

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.

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19. In light of the above decisions, it is clear that a prior show cause notice granting a reasonable opportunity of being heard is an essential element of all administrative decision-making and particularly so in decisions pertaining to blacklisting which entail grave consequences for the entity being blacklisted. In these cases, furnishing of a valid show



cause notice is critical and a failure to do so would be fatal to any order of blacklisting pursuant thereto.”

(emphasis supplied)

22. To the same effect are the following observations by the Supreme Court in the case of Gorkha Security Services (supra):-

“21. The Central issue, however, pertains to the requirement of stating the action which is proposed to be taken. The fundamental purpose behind the serving of Show Cause Notice is to make the noticee understand the precise case set up against him which he has to meet. This would require the statement of imputations detailing out the alleged breaches and defaults he has committed, so that he gets an opportunity to rebut the same. Another requirement, according to us, is the nature of action which is proposed to be taken for such a breach. That should also be stated so that the noticee is able to point out that proposed action is not warranted in the given case, even if the defaults/ breaches complained of are not satisfactorily explained. When it comes to blacklisting, this requirement becomes all the more imperative, having regard to the fact that it is harshest possible action.

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33. When we apply the ratio of the aforesaid judgment to the facts of the present case, it becomes difficult to accept the argument of the learned Additional Solicitor General. In the first instance, we may point out that no such case was set up by the respondents that by omitting to state the proposed action of blacklisting the appellant in the show-cause notice has not caused any prejudice to the appellant. Moreover, had the action of blacklisting being specifically proposed in the show-cause notice, the appellant could have mentioned as to why such extreme penalty is not justified. It could have come out with extenuating circumstances defending such an action even if the defaults were there and the Department was not satisfied with the explanation qua the defaults. It could have



even pleaded with the Department not to blacklist the appellant or do it for a lesser period in case the Department still wanted to blacklist the appellant. Therefore, it is not at all acceptable that non mentioning of proposed blacklisting in the show cause notice has not caused any prejudice to the appellant. This apart, the extreme nature of such a harsh penalty like blacklisting with severe consequences, would itself amount to causing prejudice to the appellant.”

23. In the light of the above discussion and the law laid down by the Supreme Court, the impugned order dated 04.02.2025, passed by the Director of the Institute, only to the extent of debarring the petitioner from participating in the tendering process of all commercial sites in the Institute for a period of 02 years, is set aside.

24. The matter is remitted to the Institute for fresh consideration, in accordance with law.

25. The petition is allowed in the afore terms.

(Deepak Sibal)
Judge

29.08.2025
gk

(Lapita Banerji)
Judge

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No