



Coromandel Law

Striding Forward Together

**Techno Prints v. Chhattisgarh Textbook Corporation & Anr. –
The Supreme Court lays down the principles behind blacklisting**

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Techno Prints v. Chhattisgarh Textbook Corporation & Anr. – The Supreme Court lays down the principles behind blacklisting

Executive Summary

1. The Supreme Court of India, in its recent decision in *Techno Prints v. Chhattisgarh Textbook Corporation Ltd.*¹, has reiterated the law on blacklisting of contractors from tenders by public corporations. It has also made a valuable addition to the law through an important clarification on circumstances when a show cause notice on blacklisting may be challenged by invoking the writ jurisdiction of a superior Court.
2. Some important takeaways from this decision of the Supreme Court of India, are that:
 - (a) Blacklisting by a public corporation has a drastic financial and reputational impact on the business of the contractor.
 - (b) The penalty of blacklisting may be imposed only in cases where the action of the contractor is equally grave and warrants the harsh penalty.
 - (c) In certain fact situations, a show cause notice on blacklisting whose issuance might amount to an empty formality may be challenged.

Introduction

3. Blacklisting, in the context of government tenders, is understood to mean the exclusion of a party from an ongoing and/or future tenders issued by the government body.
4. The Constitution of India recognises the Union and State Governments' right to carry on any trade or business². This is usually done through

¹ Techno Prints v. Chhattisgarh Textbook Corporation Ltd. | 2025 0 INSC 236 | decision dated 12 February 2025 in SLP (C) No. 10042/2023

² Article 298 of the Constitution of India

Public Sector Undertakings (“PSU”), where a controlling stake in the company / firm is held by the government.

5. In India, public procurement of goods and services constitutes a significant portion of the country’s GDP, with estimates placing the figures at between 20 – 30% of GDP³.
6. This makes the Indian state and its state-run corporations the largest buyer of goods and services in the country.
7. Indian Courts have long recognised that blacklisting from public procurement can do significant financial and reputational damage to a business⁴. Indian jurisprudence on the issue has focussed on limiting arbitrariness and ensuring natural justice in the process of blacklisting.
8. In its recent decision in *Techno Prints v. Chhattisgarh Textbook Corporation and Anr.*⁵, the Supreme Court of India reiterated guidelines that a PSU must follow when resorting to blacklisting as a punitive measure against any of its vendors.
9. The Supreme Court made some pertinent observations on the relevance and effect of a show-cause notice issued by a PSU has in light of the law on blacklisting in public tenders and contracts.

Factual Matrix

10. The Supreme Court was approached through a Special Leave Petition arising from a dismissal of a Writ Appeal by the High Court of Chhattisgarh which in turn arose from a rejection of a Writ Petition filed by the Appellant before the Supreme Court, Techno Prints.

³ The World Bank estimates Public Procurement at 20-25% of GDP while the OECD estimates it at around 30% of GDP.

⁴ Eurasian Equipent & Chemicals Ltd. v. State of West Bengal | (1975) 1 SCC 70

⁵ Techno Prints v. Chhattisgarh Textbook Corporation & Anr. | 2025 0 INSC 236

11. Techno Prints, a printing firm was one of the vendors that the Chhattisgarh Textbook Corporation relied on for its printing contracts.
12. The Appellant won a tender to print textbooks for the Respondent on 23 December 2019 as the lowest bidder in the tender process. Orders were placed under the contract on 8 January 2020, 17 January 2020 and 18 February 2020. The books were to be printed within 60 days of the respective orders.
13. The tender contained a provision that stated:

“16.9. If the tenderer is awarded to the lowest rate printer on the bases of L-2 rate of group/groups and Nigam allots the printing works to the tenderer on the basis of his L-1 rate (lowest tenderer) of group/groups then also if tenderer refuse to do the printing work or work not completed. In this condition Nigam has right to put the tenderer in Blacklist for 3 (three) years and security deposit and EMD will be forfeited.”
14. The Respondent had issued a show-cause notice to the Appellant on 13 April 2020 followed by an order blacklisting the Appellant on 2 January 2021. This blacklisting order was however set aside by the High Court of Chhattisgarh in a Writ Petition filed by the Appellant, inter alia on the basis that the blacklisting order was bad in law and contrary to the show cause notice dated 13 April 2020.
15. The Respondent then issued a subsequent show cause notice on the basis of Clause 16.9 of its tender, to the Appellant on 14 December 2022 seeking reasons why the penalty of blacklisting prescribed in the clause should not be levied on the Appellant.
16. The Appellant challenged the subsequent show cause notice dated 14 December 2022 in a Writ Petition before the High Court of Chhattisgarh.

17. The Appellant's Writ Petition and subsequent Writ Appeal came to be dismissed inter alia on the basis that while the previous decision of the High Court of Chhattisgarh quashed the Respondent's blacklisting order, it did not prevent the Respondent from issuing a subsequent show cause notice alleging breach of the contractual period for completion.
18. The Appellant approached the Supreme Court in a Special Leave Petition.

Analysis

19. The Supreme Court of India examined the issues of whether it should entertain an appeal arising from a challenge to a show cause notice and the nature of the Appellant's violation to examine whether calling upon it to show cause as to why they ought not be blacklisted.
20. The issue of whether the show cause notice that threatened to culminate in blacklisting was justified in light of the Appellant's breach was examined first.
21. The Supreme Court referred to its decision in *Kulja Industries v. Chief General Manager, Western Telecom Project BSNL and Ors.*⁶ ("Kulja Industries").
22. In the Kulja Industries decision the Supreme Court held that a public corporation should have to show that:
 - (a) The supplier habitually failed to supply the equipment on time;
 - (b) The equipment supplied did not perform satisfactorily or were not of a particular standard; or
 - (c) Failed to honour the bid without sufficient grounds.

⁶ Kulja Industries v. Chief General Manager, Western Telecom Project BSNL and Ors AIR 2014 SC 9

23. The Supreme Court also observed that blacklisting had a permanent effect on the business of the contractor, and through the above identified the limits of punitive action by a public corporation.
24. The decision of the Supreme Court in *Blue Dreamz Advertising Pvt. Ltd. & Anr. V. Kolkata Municipal Corporation and Ors.*⁷ was also referred. The Supreme Court while quashing a blacklisting order had pertinently observed that:
- (a) In case there exists a genuine dispute between the parties based on the terms of the contract, blacklisting as a penalty cannot be imposed.
 - (b) The penalty of blacklisting may only be imposed when it is necessary to safeguard the public interest from irresponsible or dishonest contractors, and
 - (c) The corporation being a statutory body, have a higher threshold to satisfy before passing such blacklisting order and therefore, the measures undertaken by it should be reasonable.
25. The Supreme Court then observed that blacklisting was a drastic step that inevitably led to further litigation. It referred to its decision in *Erusian Equipment & Chemicals Ltd. vs. State of West Bengal*⁸ where it had held that it would be unreasonable and arbitrary to visit every contractor who is in breach of his contractual obligations with the consequence of blacklisting.
26. Noting the gravity of the penalty of blacklisting, the Supreme Court held that it must follow in the wake of an action that was equally grave.
27. Answering the second issue of whether it could hear an appeal arising from a challenge to a show cause notice, the Supreme Court noted, with

⁷ Blue Dreamz Advertising Pvt. Ltd. & Anr. V. Kolkata Municipal Corporation & Ors. | 2024 INSC 589

⁸ Eurasian Equipment & Chemicals Ltd. vs. State of West Bengal | (1975) 1 SCC 70

the caveat that this applied in the peculiar facts of this case, that show cause notices are usually empty formalities and tend to be issued with a pre-determined mind.

28. The Supreme Court, with the above reasoning, struck down the show cause notice to the extent that it sought the Appellant's reasons for why the penalty of blacklisting must not be imposed on him.
29. The law on blacklisting has received an interesting addition with the Supreme Court's observation that show cause notices in certain fact situations can be empty formalities.
30. It follows therefore that public corporations should resort to the penalty of blacklisting only in cases of breach of contract serious enough to warrant the penalty. Further, that the process of imposing the penalty must accord the contractor a fair hearing and must be free from arbitrariness.