



2026:CGHC:3794-DB



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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPC No. 3164 of 2022**

M/s Mayons Pharmaceuticals Pvt. Ltd. Company Registered Under The Relevant Provision Of Companies Act 1956, Having Its Head Office At Behind Octori No. 4, Old Kamptee Road, Kalamna, Nagpur (Maharashtra), Through Its Director Namely Yusuf Chimthanawala, S/o Hamzabhai Chimthanawala, Aged About 47 Years, R/o 576, Quaemi Bagh, Near Itwari Railway Station, Nagpur (Maharashtra).

... Petitioner(s)**versus**

1. Chhattisgarh Medical Service Corporation Limited (A Government Of Chhattisgarh Undertaking), Through The Managing Director, Chhattisgarh Medical Service Corporation Limited, Chhattisgarh Housing Board Commercial Complex (North West Corner), Sector 27, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. Deputy Manager (Sales And Operation) Chhattisgarh Medical Service Corporation Limited (A Government Of Chhattisgarh Undertaking) Chhattisgarh Housing Board Commercial Complex (North West Corner), Sector 27, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh



3. Managing Director Chhattisgarh Medical Services Corporation
Limited, Naya Raipur, Atal Nagar, Raipur, District : Raipur,
Chhattisgarh
4. Deputy Manager Quality Control, Chhattisgarh Medical Services
Corporation Limited, Naya Raipur, Atal Nagar, Raipur, District :
Raipur, Chhattisgarh

...Respondent(s)

(Cause-title taken from Case Information System)

For Petitioner	:	Mr. Avinash Gharote, Senior Advocate, assisted by Mr. Arpan Verma, Advocate.
For Respondents	:	Mr. Raghvendra Pradhan, Advocate.

Hon'ble Shri Ramesh Sinha, Chief Justice

Hon'ble Shri Ravindra Kumar Agrawal, Judge

Order on Board

Per Ramesh Sinha, Chief Justice

22.01.2026

1. Heard Mr. Avinash Gharote, learned Senior Advocate, assisted by Mr. Arpan Verma, learned counsel for the petitioner. Also heard Mr. Raghvendra Pradhan, learned counsel, appearing for the respondents.
2. The present writ petition has been filed by the petitioner with the following prayers:

*"1. That, this Hon'ble Court may kindly be pleased
to issue a writ/writs, direction/directions,
order/orders quashing the impugned order dated
06.06.2022 (Annex.P/1), passed by Managing*



Director, Chhattisgarh Medical Service Corporation Limited, Raipur and the respondent authorities may further be directed to consider the case of the petitioner company in light of condition No. 9(E)(iv) of the tender document, which provides the replacement of the consignment.

2. That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case."

3. Learned Senior Advocate for the petitioner submits that the petitioner Company is a Micro, Small and Medium Enterprise (Micro category) engaged in the manufacture and supply of Homoeopathic medicines. The petitioner Company was incorporated on 16.11.2004 under the Companies Act, 1956 and has been carrying on its business lawfully for more than a decade, supplying medicines to various institutions, including government bodies.

4. Learned Senior Advocate further submits that the respondent, Chhattisgarh Medical Services Corporation Limited (CGMSC), is a Government of Chhattisgarh undertaking and is a "State" within the meaning of Article 12 of the Constitution of India. Consequently, all actions of the respondent are required to conform to the constitutional mandate of fairness, non-arbitrariness, and reasonableness under Articles 14 and 19(1)(g) of the Constitution of India. It is further



submitted that the respondent issued a tender for rate contract for supply of AYUSH drugs and medicines, pursuant to which the petitioner participated in the tender process, was found technically and financially eligible, declared the lowest bidder, and was awarded the contract for supply of Homoeopathic medicines. An agreement was thereafter executed between the parties, and both parties are governed strictly by the terms and conditions of the tender document and the agreement.

5. Learned Senior Advocate for the petitioner submits that as per the tender conditions, the petitioner was required to supply the medicines within a stipulated period of 45 days. In compliance thereof, the petitioner duly supplied 56 Homoeopathic medicines during the period from 15.09.2021 to 30.09.2021, i.e., during the Covid-19 pandemic. At the time of delivery and acceptance, no objection whatsoever was raised by the respondent with regard to quality, packaging, leakage, or any alleged non-compliance of tender conditions. On the contrary, the respondent's own records reflected that medicines of standard quality had been received and accepted. It is further contended that the tender conditions themselves provide a complete mechanism for dealing with cases where supplied material is found to be "Not of Standard Quality (NSQ)". In particular, Clause 9(E)(iv) and Clause 9(ix) of the tender mandate that if a sample fails quality testing and is certified as NSQ, the supplier must be informed within a reasonable time and granted an opportunity to replace the consignment within 30 days. The tender also mandates issuance of a show-cause notice and adherence to principles of natural justice before passing any order of blacklisting.



6. Learned Senior Advocate submits that in the present case, admittedly, no intimation, notice, or demand for replacement was issued to the petitioner within the stipulated time or even within a reasonable period after supply. The medicines remained in the custody and control of the respondent for nearly six months. Only thereafter, on 03.03.2022, a show-cause notice was issued alleging that the medicines supplied by the petitioner were of sub-standard quality. The petitioner submitted a detailed reply denying the allegations and specifically asserting that the medicines were found to be in order at the time of supply and acceptance. The petitioner also expressed its readiness and willingness to replace the medicines, even after expiry of six months, purely to demonstrate its bona fides and without admitting any liability.

7. It is further submitted that raising allegations of NSQ after an unexplained delay of nearly six months is wholly arbitrary, unreasonable, and contrary to the express tender conditions. Had the medicines been sub-standard at the time of supply, the respondent was duty-bound to inform the petitioner immediately and invoke the replacement clause. Having failed to do so, the respondent cannot now shift the burden upon the petitioner for alleged deterioration or defects noticed after prolonged storage while the goods were under the respondent's custody and control. Learned Senior Advocate further submits that the impugned action suffers from gross violation of principles of natural justice, inasmuch as no quality testing was conducted at the time of supply in the presence of the petitioner's representative. The alleged testing reports were neither furnished along



with the show-cause notice nor supplied prior to passing the impugned order. The show-cause notice itself did not clearly spell out the proposed action of blacklisting, thereby depriving the petitioner of an effective, meaningful, and informed opportunity to defend itself. It is submitted that blacklisting is not merely a contractual consequence but entails serious civil and economic ramifications, including loss of reputation and deprivation of the right to participate in government contracts; hence, strict compliance with principles of natural justice is mandatory.

8. Learned Senior Advocate places reliance upon the judgment of the Hon'ble Supreme Court in ***Erusian Equipment and Chemicals Ltd. v. State of West Bengal***, reported in ***AIR 1975 SC 266***, wherein it has been held that blacklisting has the effect of depriving a person of equality of opportunity in the matter of public contracts and cannot be resorted to without affording a fair opportunity of hearing.

9. Reliance is also placed upon ***Patel Engineering Ltd. v. Union of India***, reported in ***(2012) 11 SCC 257***, wherein the Hon'ble Supreme Court reiterated that blacklisting entails serious civil consequences and must necessarily be preceded by strict adherence to the principles of natural justice, including adequate notice and fair hearing.

10. Learned Senior Advocate further relies upon ***Gorkha Security Services v. Government (NCT of Delhi)***, reported in ***(2014) 9 SCC 105***, wherein the Hon'ble Supreme Court categorically held that a show-cause notice must specifically indicate the intention to blacklist, failing



which any order of blacklisting passed pursuant thereto would be vitiated in law. The legal position has been further crystallized by the Hon'ble Supreme Court in ***UMC Technologies Pvt. Ltd. v. Food Corporation of India***, reported in ***(2021) 2 SCC 551***, wherein it has been held that the mere existence of a clause in the bid or tender document providing for blacklisting does not satisfy the mandatory requirement of law; the show-cause notice must clearly, specifically, and unambiguously indicate the proposed action of blacklisting, and any blacklisting order which travels beyond the scope of the show-cause notice is impermissible and liable to be set aside.

11. Applying the aforesaid settled legal principles to the facts of the present case, it is evident that the impugned order of blacklisting is unsustainable. The show-cause notice did not clearly propose blacklisting, no contemporaneous quality testing at the time of supply was established, and the petitioner was denied a meaningful opportunity to defend itself against the extreme penalty imposed. The petitioner being a small-scale industry, the consequences of blacklisting are catastrophic. Though the impugned order is formally confined to the State of Chhattisgarh, in practice such orders are relied upon by other government authorities, leading to a cascading or domino effect that may result in complete closure of the petitioner's business.

12. Learned Senior Advocate further submits that the earlier order of blacklisting was already set aside by this Hon'ble Court in WPC No.2072 of 2022, with a direction to the respondent to reconsider the matter after granting proper opportunity of hearing. Despite such



directions, the respondent failed to objectively consider the petitioner's reply and proposal for replacement and proceeded to pass the impugned order in a mechanical and predetermined manner. He also placed reliance of the order dated 28.08.2025 passed by this Court in WPC No. 1135 of 2025, wherein this Court allowed the said petition and quashed the order of blacklisting.

13. It is also submitted that the respondent has failed to distinguish between inherent sub-standard quality at the time of supply and alleged damage or deterioration due to storage, handling, leakage, or evaporation during the period the goods remained in the respondent's custody. Once the goods were accepted without objection, the petitioner cannot be penalized for subsequent events beyond its control.

14. It is, therefore, respectfully submitted that the impugned order of blacklisting is arbitrary, disproportionate, violative of Articles 14 and 19(1)(g) of the Constitution of India, contrary to Clauses 9(E)(iv), 9(ix), and 9(G)(i) of the tender conditions, and passed in clear breach of settled law governing blacklisting.

15. In view of the aforesaid facts, circumstances, contractual provisions, and settled legal position, learned Senior Advocate for the petitioner prays that this Hon'ble Court may be pleased to set aside the impugned order of blacklisting and grant all consequential reliefs in favour of the petitioner.

16. *Per contra*, learned counsel for the respondents submits that although, in terms of Clause 9(iv) of the Tender Documents, the bidder



is required to submit complete test and analysis reports for every batch of drugs along with the invoice at the time of supply, the said requirement is expressly made subject to further and subsequent quality testing under the tender conditions. The Clause 9(E)(i) of the Tender Documents categorically provides that each and every batch of drugs or medicines supplied by the bidder shall be subject to quality testing by empanelled laboratories. Further, Clause 9(E)(vi) clearly stipulates that even those batches which may have earlier been declared as quality-passed shall again be subjected to testing if received after declaration of results of earlier supplies, and in such a case, the latest test report of that particular batch shall prevail over the earlier report and shall be binding on the entire quantity of the batch supplied, irrespective of the date of purchase order or date of supply. Any recovery, if required, shall be applicable to the entire batch.

17. Learned counsel for the respondents further contended that Clause 9(G)(i) of the Tender Documents unequivocally provides that *“if total five batches of a particular tender for any product or combination of products of a firm are found Not of Standard Quality (NSQ) for any reason, then the firm may be blacklisted for a period of three years.”* In the present case, out of 56 batches supplied by the petitioner, as many as 51 batches were found to be NSQ, thereby squarely attracting the aforesaid clause. He further stated that as per Clause 10(A) of the Tender Documents, samples of supplies in each batch may be drawn at the point of supply or from distribution or storage points for the purpose of testing. Such samples are required to be sent to different empanelled



laboratories, including Government Drugs Testing Laboratories, as decided by CGMSC Ltd. Thus, the respondent is fully empowered under the tender conditions to conduct testing even after supply and acceptance of the medicines.

18. It is further stated by the learned counsel for the respondents that the petitioner has attempted to mislead this Hon'ble Court by filing documents as Annexures P/16 and P/17. Annexure P/16 merely pertains to documents which the petitioner was obligated to submit at the time of supply under Clause 9(iv) of the Tender Documents. Submission of such documents does not, in any manner, curtail or extinguish the respondent's authority to conduct subsequent quality testing as expressly provided under Clauses 9(E)(i) and 9(E)(vi). Once subsequent testing was conducted by the respondent through empanelled laboratories, 51 out of 56 batches supplied by the petitioner were found to be NSQ. Therefore, Annexure P/16 does not advance the petitioner's case in any manner.

19. Learned counsel for the respondents would submit that Annexure P/17, being a chart prepared by the petitioner, is also misleading and factually incorrect. The petitioner has deliberately used the term "Net Content", whereas the correct parameter in the present case is "Net Volume". Volume denotes the quantity of medicine contained in the bottle, whereas content refers to the quantity or percentage of active ingredients present in the medicine. These are distinct parameters having different meanings and regulatory implications.



20. By way of illustration, in Serial No. 1 of the chart relied upon by the petitioner, what has been described as “net content” is, in fact, a case of short volume, where bottles meant to contain 30 ml of medicine were found to contain only 18 ml. Similar discrepancies were noticed in several other batches. To clarify the factual position, the respondents prepared a detailed chart by incorporating additional columns explaining the deficiencies, and the same has been filed as Annexure R/10. The said chart clearly demonstrates that the failures were not isolated but systematic and affected a majority of the batches supplied by the petitioner. That it is reiterated that out of 56 batches supplied by the petitioner, 51 batches were found to be Not of Standard Quality, while only 5 batches were found to be of Standard Quality, as reflected in Serial Nos. 3 to 7 of the respondent’s chart.

21. That the petitioner’s reliance upon Clause F of the Tender Documents, as referred to at page 23 of the tender, is wholly misconceived. The said clause applies only to cases where samples are drawn by the Drugs Inspector under statutory provisions. The present case does not arise out of sampling by a Drugs Inspector but pertains to quality testing conducted by CGMSC Ltd. through empanelled laboratories in accordance with the tender conditions. Moreover, the deficiencies noted relate primarily to net volume and other parameters and not merely to assay or net content. The samples in the present case failed on more than one parameter, rendering Clause F inapplicable. That all averments, allegations, and contentions made in the writ petition which are contrary to or inconsistent with the present



submissions and which have not been specifically admitted herein are hereby denied.

22. In view of the aforesaid facts, tender provisions, and the overwhelming material on record demonstrating supply of NSQ medicines by the petitioner, the respondent has acted strictly in accordance with the terms and conditions of the tender and the principles of natural justice. The impugned action of blacklisting is fully justified and does not call for interference under Article 226 of the Constitution of India. That the writ petition, being devoid of merit, is liable to be dismissed.

23. We have heard learned counsel for the parties at length and have carefully perused the pleadings, documents placed on record, and the tender conditions governing the field.

24. At the outset, there is no dispute with regard to the legal position that the respondent–Corporation, being an instrumentality of the State within the meaning of Article 12 of the Constitution of India, is empowered under the tender conditions to subject the medicines supplied by the petitioner to quality testing even after supply and acceptance. Clauses 9(E)(i), 9(E)(vi), and 10(A) of the Tender Documents clearly authorize the respondent to draw samples from storage or distribution points and to rely upon the latest quality test report, even if an earlier report had declared the batch to be of standard quality. Equally, Clause 9(G)(i) contemplates blacklisting of a firm if five or more batches are found to be Not of Standard Quality.



25. However, the existence of such contractual power does not, by itself, justify the exercise thereof in an arbitrary or mechanical manner. It is well settled that blacklisting is not a mere contractual consequence but a measure having serious civil and economic ramifications. An order of blacklisting results in loss of reputation, exclusion from future government contracts, and impairment of the fundamental right to carry on trade and business under Article 19(1)(g) of the Constitution of India. Consequently, such an action must satisfy the twin requirements of substantive fairness and procedural propriety.

26. In the present case, it is an admitted position that the petitioner supplied 56 batches of Homoeopathic medicines during September 2021 and that the supplies were accepted by the respondent without any contemporaneous objection as to quality, leakage, packaging, or volume. It is also not in dispute that no intimation of alleged non-standard quality, no demand for replacement, and no communication invoking Clauses 9(E)(iv) or 9(ix) of the Tender Documents was issued to the petitioner within a reasonable time after supply. The medicines admittedly remained in the custody and control of the respondent for nearly six months.

27. The show-cause notice alleging that the medicines were of Not of Standard Quality was issued only on 03.03.2022, after a considerable and unexplained delay. The record does not disclose any cogent explanation as to why quality testing, if mandated, was not conducted promptly after supply, or why the petitioner was not afforded an opportunity to replace the alleged defective batches as contemplated



under the tender conditions. This delay assumes significance, particularly in the context of medicines which are susceptible to deterioration on account of storage conditions, handling, evaporation, or leakage.

28. Further, upon perusal of the show-cause notice, it is evident that the same did not clearly, specifically, or unambiguously indicate that the respondent proposed to impose the extreme penalty of blacklisting. The notice merely referred to alleged deficiencies and sought an explanation. In light of the settled law laid down by the Hon'ble Supreme Court in ***Erusian Equipment*** (supra), ***Patel Engineering Ltd.*** (supra), ***Gorkha Security Services*** (supra) and ***UMC Technologies Pvt. Ltd.*** (supra), it is mandatory that a show-cause notice must expressly put the noticee to notice of the proposed action of blacklisting. The mere existence of a blacklisting clause in the tender does not cure this fundamental defect.

29. The respondent's reliance on Clause 9(G)(i) of the Tender Documents, though contractually permissible, cannot override the requirement of adherence to principles of natural justice. Even where tender conditions provide for blacklisting upon occurrence of certain contingencies, the authority is duty-bound to act fairly, proportionately, and after affording an effective opportunity of hearing. The impugned order, however, reflects a mechanical invocation of Clause 9(G)(i) solely on the basis of laboratory reports, without addressing the petitioner's explanation, its offer to replace the medicines, or the issue of delay and custody of goods.



30. This Court also finds substance in the contention of the petitioner that the impugned order fails to draw a clear distinction between inherent sub-standard quality at the time of supply and alleged deficiencies arising subsequently due to storage or handling. Once the supplies were accepted without objection, the burden lay heavily on the respondent to establish that the deficiencies were attributable solely to the petitioner and not to post-supply factors beyond its control.

31. The fact that an earlier order of blacklisting was already set aside by this Court in WPC No. 2072 of 2022 with a direction to reconsider the matter after granting proper opportunity further aggravates the arbitrariness of the impugned action. The record does not inspire confidence that the reconsideration was undertaken with the objectivity, openness, and fairness mandated by the earlier order of this Court.

32. Having regard to the totality of facts and circumstances, this Court is of the considered opinion that although the respondent–Corporation was contractually empowered to subject the medicines supplied by the petitioner to post-supply quality testing, the exercise of such power in the present case stands vitiated. The impugned order of blacklisting suffers from multiple incurable infirmities, namely: (i) violation of the principles of natural justice owing to the absence of a clear, specific, and unambiguous show-cause notice proposing blacklisting; (ii) unexplained and inordinate delay in initiating action after acceptance of supplies, rendering the attribution of alleged deficiencies to the petitioner legally unsafe; (iii) failure to consider the petitioner's explanation and its offer to replace the alleged defective batches in



terms of Clauses 9(E)(iv) and 9(ix) of the Tender Documents; and (iv) mechanical invocation of Clause 9(G)(i) without undertaking a proportionality analysis commensurate with the grave civil and economic consequences of blacklisting. The cumulative effect of these deficiencies renders the impugned action arbitrary and unsustainable in law.

33. Accordingly, the writ petition is **partly allowed**. The impugned order of blacklisting is hereby quashed and set aside. It is, however, made clear that this Court has not adjudicated upon the merits of the allegations relating to quality or volume of the medicines supplied. The respondent shall be at liberty to proceed afresh, strictly in accordance with law and the tender conditions, by issuing a proper show-cause notice explicitly indicating the proposed action, including blacklisting, if so contemplated, and by affording the petitioner a meaningful and effective opportunity of hearing. All other reliefs claimed in the writ petition are rejected, with liberty reserved to the petitioner to avail such remedies as may be available to it in law before the appropriate forum.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice