IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF MAY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 1465 OF 2026 (GM-TEN)

BETWEEN:

M/S SRI BALAJI TRADING CORPORATION
A PROPRIETORSHIP CONCERN,
DOOR NO.389, 4TH CROSS, A BLOCK,
KUVEMPUNAGAR, BELLARY 583102.
REPRESENTED BY ITS SOLE PROPRIETOR
SRI C RAGHAVENDRA REDDY
S/O LATE C THIMMA REDDY,
AGED ABOUT 49 YEARS,

...PETITIONER

(BY SRI. KEMPE GOWDA.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. RESENTED BY ITS ADDITIONAL SECRETARY,
DEPARTMENT OF ENERGY,
VIDHANA SOUDHA,
DR B R AMBEDKAR VEEDHI
BANGALORE 560001.

2. MANAGING DIRECTOR
KARNATAKA POWER CORPORATION LIMITED,
NO.82, SHAKTHI BHAVAN,
RACE COURSE ROAD
BANGALORE 560001.

3. THE EXECUTIVE ENGINEER (FUELS)
KARNATAKA POWER CORPORATION LIMITED,
BELLARY THERMAL POWER STATION,

KUDUTHINI 583115,
BELLARY DISTRICT

...RESPONDENTS

(BY SMT. NAVYA SHEKAR, AGA FOR R1
SRI. VIKRAM S HULIGOL, SR. COUNSEL FOR
SRI. AJAY J NANDALIKE, ADVOCATE FOR R2 & R3
SRI. V MANJUNATH, ADVOCATE FOR IMPLEADING APPLICANT ON IA 3/2026)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SETTING ASIDE THE ORDER AT ANNEXURE-A, DATED 05.01.2026 PASSED BY THE RESPONDENT NO.2, BEARING NO.A1L1H(TC AND P)/283, AND ALL FURTHER AND CONSEQUENTIAL PROCEEDINGS THERE ON ISSUE A WRIT OF CERTLORARI, OR ANY OTHER KIND OF WRIT OR ORDER OR DIRECTION, SETTING ASIDE/QUASHING THE E-TENDER NOTIFICATION AT ANNEXURE-C, BEARING NO.KPCL/2025-26/PS/WORK_INDENT 3861, DATED 12.01.2026 ISSUED BY THE RESPONDENT NO.3 AND ALL FURTHER AND CONSEQUENTIAL PROCEEDINGS THEREON AND ETC.

THIS PETITION, COMING ON FOR DICTATING ORDRES, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

The captioned petition is filed seeking the following reliefs:

> "1. Issue a Writ of Certiorari, or any other kind of writ or order or direction, setting aside the Order at Annexure-A, dated 05.01.2026 passed by the Respondent No.2,

bearing No.A1L1H (TC&P)/283, and all further and consequential proceedings thereon;

2. Issue a Writ of Certiorari, or any other kind of writ or order or direction, setting aside/quashing the E-Tender Notification at Annexure-C, bearing No.KPCL/2025-26/PS/WORK_INDENT 3861, dated 12.01.2026 issued by the Respondent No.3 and all further and consequential proceedings thereon;

3. Issue a Writ of Mandamus, or any other kind of writ or order or direction, directing the Respondents to accept the bid submitted by the Petitioner pursuant to the -E-Tender Notification at Annexure-B, No.KPCL/2025-26/PS/WORK_INDENT 3699 dated 18.11.2025, and award the contract for executing the work i.e., lifting, transporting and disposing of the Mill Reject Waste Coal, at the Bellary Thermal Corporation Limited, Kudithini;

4. Award costs of the proceedings,

5. Grant such other and further reliefs as this Hon'ble Court deems fit and proper under the facts and circumstances of the case, in the interest of justice and equity."

2. The petitioner–Company claims to be engaged in the business of purchase and disposal of by-products of coal and asserts expertise in handling coal derivatives including dolochar and similar materials.

3. The respondent No.2 manages Bellary Thermal Power Station (BTPS). The respondents issued an e-tender notification dated 18.11.2025 inviting bids for sale of Mill

Reject Waste Coal (MRWC) for a period of two years, fixing a reserve price of Rs.763/- per MT.

4. The petitioner, asserting that it fulfilled the pre-qualification requirements (PQR), submitted its bid along with two other bidders. However, the petitioner came to be disqualified on the ground that its experience in handling dolochar does not qualify as experience in "waste coal".

5. Thereafter, by the impugned proceedings dated 05.01.2026, the respondents cancelled the earlier tender and re-floated a fresh tender with substantially modified PQR conditions, inter alia restricting experience specifically to "mill reject coal from thermal power stations" and doubling the turnover requirement from Rs.724.85 Lakhs to Rs.1449.70 Lakhs.

6. The petitioner is before this Court questioning the cancellation of the earlier tender; andthe modified tender notification, contending that the revised PQR

conditions are arbitrary, tailor-made and intended to eliminate competition.

7. Heard the learned counsel for the parties.

8. The following points arise for consideration:

(i) Whether the respondent–authority is justified in cancelling the earlier tender and re-floating the tender with modified PQR conditions?

(ii) Whether the revised pre-qualification conditions are arbitrary, irrational and violative of Article 14 of the Constitution of India?

(iii) What is the scope of judicial review in tender matters where arbitrariness and mala fides are alleged?

9. Learned counsel for the petitioner would contend that the petitioner was fully qualified under the original PQR; that disqualification on the ground of “dolochar” not being “waste coal” is hyper-technical and

unsustainable; that immediately thereafter, the respondents have modified the tender conditions to restrict participation and eliminate bidders; that the turnover condition has been arbitrarily doubled without any nexus to the object sought to be achieved; that other tenders floated by the same authority (Annexures-G and H) for higher reserve price prescribe substantially lower eligibility criteria, thereby exposing hostile discrimination; that the action defeats the very principle of securing highest price through competitive bidding.

10. Per contra, learned counsel for the respondents would submit that the tendering authority has absolute discretion to prescribe eligibility criteria; modification was undertaken to ensure wider participation and better price discovery; judicial review in tender matters is limited.

11. It is trite that the State and its instrumentalities enjoy freedom in contractual matters. However, such

freedom is not absolute and is subject to the mandate of Article 14 of the Constitution of India.

12. The Hon'ble Supreme Court in a catena of judgments has held that judicial review in tender matters is permissible on limited grounds, namely arbitrariness, irrationality, mala fides, bias, or where conditions are tailor-made to favour or exclude particular bidders.

13. While Courts ordinarily do not sit as appellate authorities over tender conditions, interference is warranted where the decision-making process is vitiated.

14. A tender condition must satisfy intelligible differentia, and rational nexus with the object sought to be achieved.

15. The record indicates that the petitioner and two others had participated in the original tender. The petitioner was disqualified on a narrow interpretation of

experience; immediately thereafter, the entire tender was cancelled and re-floated.

16. The reason assigned in the impugned order is "to ensure wider participation and competitive bids. However, the effect of the modified conditions is exactly the opposite, inasmuch as the experience criteria has been narrowed; the turnover requirement has been drastically enhanced.

17. Therefore, the stated object does not align with the actual consequences, rendering the decision prima facie irrational.

18. The following aspects merit serious consideration:

<u>(i) Artificial Restriction of Experience</u>

(a) Under the original tender, experience in handling "rejects/waste coal" was sufficient. The modified tender restricts eligibility only to those dealing with "mill reject coal from thermal power stations." This artificial classification excludes otherwise competent bidders without any demonstrated technical necessity. No material is placed to show that handling "dolochar" or similar coal by-products is materially different so as to justify exclusion.

(b) A meticulous examination of the original tender notification and the subsequent modified tender conditions would unmistakably indicate that the impugned action of the respondent–tendering authority is not founded on any rational or technical consideration, but is clearly structured in a manner so as to narrow the zone of participation. Under the original tender notification, wherein the reserve price was fixed at Rs.763/- per metric ton inclusive of GST at 18%, the pre-qualification requirement merely contemplated that the intending bidder should be a trader of rejects/waste coal of minimum quantity of 47,500 MT. The said condition was broad-based and permitted participation of all traders possessing experience in handling coal by-products and allied materials. However, under the modified notification, the respondent–authority has consciously narrowed the eligibility criteria by insisting that the bidder should specifically be a trader of "mill reject coal from thermal power stations", thereby artificially excluding other similarly situated and otherwise competent participants.

(c) What significantly weighs with this Court is the fact that the very same tendering authority, in an earlier bid notification of the year 2025 produced at Annexure–Q, where the reserve price was substantially higher at Rs.929/- per metric ton, had adopted a far more liberal and inclusive eligibility criteria. In the said notification, the intending bidder was permitted to be a manufacturer of cement/bricks or trader of rejects/waste coal/coal/bricks/stones & shale/fly ash of minimum quantity of 16,000 MT. Therefore, when the respondent–authority itself had previously recognized the technical and commercial competence of traders dealing with allied coal derivatives and industrial by-products, the abrupt deviation in the present tender by restricting eligibility only to traders of mill reject waste coal from thermal power stations remains wholly unexplained and unsupported by any technical material.

(d) If the earlier tender notifications are juxtaposed with the stand now taken in the statement of objections, particularly at paragraph–21, this Court would find a patent inconsistency in the approach of the respondent–authority. In the statement of objections, the respondents have categorically admitted that mill reject waste coal generated on a daily basis is non-hazardous in nature and that only prolonged storage may result in environmental or occupational concerns. Therefore, when the material itself is admitted to be non-hazardous and akin to other coal by-products, no intelligible basis is forthcoming as to why the field of eligibility has been deliberately narrowed by excluding traders dealing in analogous products such as dolochar, coal rejects and other allied industrial by-products. The respondents have not placed any scientific, technical or operational material to demonstrate that handling of mill reject waste coal requires any special expertise distinct from handling of rejects/waste coal or similar coal derivatives.

(e) The impugned tender notification, insofar as it prescribes that the intending bidder must necessarily be a trader of “mill reject coal from thermal power stations”, appears to have been deliberately structured so as to exclude the present petitioner and another similarly situated participant from the zone of consideration. The material placed on record would prima facie indicate that the restrictive eligibility condition has the direct effect of substantially narrowing competition while simultaneously conferring a distinct advantage upon one particular participant possessing higher financial turnover and prior dealings specifically relatable to mill reject coal from thermal power stations. In the absence of any cogent technical justification necessitating such restrictive classification, this Court is constrained to observe that the impugned condition does not appear to be founded upon any bona fide objective of ensuring efficiency or securing better price discovery, but rather appears designed to tailor the tender process in a manner beneficial to a select bidder. Such an action, which has the effect of eliminating otherwise competent participants and skewing the level playing field, falls foul of the constitutional mandate of fairness and non-arbitrariness embodied under Article 14 of the Constitution of India.

(f) This Court is therefore of the considered opinion that the deliberate incorporation of a restrictive clause confining eligibility only to traders dealing with mill reject waste coal from thermal power stations is not a bona fide prescription intended to secure efficiency or technical competence, but is an artificial classification introduced with the clear effect of eliminating substantial competition. The restrictive condition has the direct consequence of excluding a large section of otherwise eligible participants who were permitted to participate in earlier tenders floated by the very same authority. Such selective exclusion, particularly in the absence of any demonstrable technical necessity, cannot withstand the scrutiny of Article 14 of the Constitution of India. The action of the respondent–authority, viewed in the entirety of the circumstances, clearly indicates a colourable exercise of power and lends credence to the allegation of mala fides. Consequently, this Court holds that the impugned pre-qualification conditions imposing restrictive experience criteria are arbitrary, irrational and tainted with mala fides, being intended not to broaden competition, but rather to curtail and minimize participation in the impugned tender process.

(g) Equally arbitrary is the drastic enhancement of the financial turnover requirement incorporated under the impugned tender notification. Under the original tender notification dated 18.11.2025, the respondent–authority had prescribed that the bidder should possess a minimum annual financial turnover of Rs.724.85 Lakhs during any two years in the preceding five financial years. However, under the modified tender notification, the said requirement has been abruptly enhanced to Rs.1449.70 Lakhs, which is virtually double the earlier threshold. What is of considerable significance is that this substantial enhancement is not preceded by any corresponding increase either in the reserve price, scope of work, operational obligations, or contractual responsibilities attached to the tender. The respondents have not placed any material before this Court to demonstrate that there was any escalation in the scale of the project, any heightened financial exposure, or any additional technical or operational complexity warranting such a steep increase in turnover requirements.

(h) On the contrary, the records placed before this Court would indicate that in earlier tender notifications floated by the very same authority, even where the reserve price was substantially higher, the prescribed turnover requirements were considerably lower. Annexure–G reveals that for a tender having a reserve price of Rs.929/- per metric ton, the minimum turnover requirement prescribed was only Rs.594.56 Lakhs. Likewise, Annexure–H indicates that for a tender where the reserve price was fixed at Rs.1386/- per metric ton, the minimum turnover requirement was prescribed at Rs.554.40 Lakhs. Therefore, the sudden enhancement of turnover to Rs.1449.70 Lakhs in the present tender, despite the reserve price being only Rs.763/- per metric ton, is wholly disproportionate and ex facie inconsistent with the standards previously adopted by the respondent–authority itself.

(i) The glaring inconsistency in prescribing disproportionately high turnover requirements, without any rational basis or discernible nexus to the object sought to be achieved, clearly demonstrates that the impugned condition is not intended to ensure financial capability or execution efficiency, but is structured in a manner that would effectively eliminate a substantial segment of otherwise eligible participants from the tender process. A pre-qualification condition relating to turnover must necessarily bear a reasonable nexus with the nature and magnitude of the contract. The financial eligibility criteria cannot be inflated arbitrarily so as to create artificial barriers to participation. In the present case, the respondents have utterly failed to justify the sudden doubling of turnover requirements, particularly when comparable tenders floated by the same authority for higher-value transactions contained significantly relaxed financial criteria.

(j) This Court is therefore of the considered opinion that the impugned enhancement of turnover requirement from Rs.724.85 Lakhs to Rs.1449.70 Lakhs is manifestly arbitrary, disproportionate and lacking in transparency. The condition has the inevitable effect of excluding otherwise competent bidders and restricting competition, thereby defeating the very objective of securing competitive bids and maximizing revenue in a public tender process. Such an unreasonable and unexplained financial threshold cannot withstand constitutional scrutiny under Article 14 of the Constitution of India and is liable to be struck down as arbitrary and discriminatory.

(ii) Hostile Discrimination vis-à-vis Other Tenders:

The petitioner has produced material showing thatfor tenders with higher reserve price (Rs.929/- and Rs.1386/- per MT),the eligibility conditions are far less stringent, both in terms of experience and turnover. This creates a glaring inconsistency, demonstrating that the criteria are not based on rational classification and similarly situated transactions are treated differently. Such inconsistency strikes at the root of Article 14 of the Constitution of India.

(iii) Defeat of Competitive Bidding:

The tender document itself envisages acceptance of the highest price among responsive bidders. By narrowing the field of eligibility, competition is stifled and price discovery is adversely affected. Therefore, the revised PQR defeats the very object of the tender process.

19. It is no doubt true that allegations of mala fides are serious in nature and ordinarily require cogent material. Equally, it is a settled principle of law that direct evidence of mala fides would seldom be available, as decisions affecting tender processes are generally taken behind official channels and within administrative corridors. Therefore, the Court is entitled to infer mala fides from the attending circumstances, the sequence of events, the conduct of the authority and the apparent absence of rational justification for the impugned action. If the surrounding facts cumulatively disclose that the exercise of power is intended not to advance public interest but to achieve a collateral purpose, the Court would be justified in drawing an inference of colourable exercise of power.

20. In the present case, the chronology of events assumes considerable significance. Initially, the respondent–authority floated the tender notification dated 18.11.2025 prescribing comparatively broader eligibility conditions, wherein traders dealing with rejects/waste coal were permitted to participate, coupled with a turnover requirement of Rs.724.85 Lakhs. Pursuant thereto, the petitioner along with two other participants submitted bids. The petitioner claims to possess substantial experience in handling coal by-products and allied materials including dolochar. However, immediately upon the petitioner being found eligible to participate under the broader eligibility framework, the respondents proceeded to disqualify the petitioner on a hyper-technical interpretation that experience in dolochar would not qualify as experience in waste coal. Significantly, instead of proceeding with the tender process amongst the remaining qualified bidders, the respondents abruptly cancelled the earlier tender notification itself.

21. What follows thereafter is even more revealing. By the impugned order dated 05.01.2026, the respondents introduced substantially modified pre-qualification requirements by specifically restricting eligibility only to traders of "mill reject coal from thermal power stations" and simultaneously enhancing the annual turnover requirement from Rs.724.85 Lakhs to Rs.1449.70 Lakhs, virtually doubling the financial threshold. These revised conditions had the direct and inevitable effect of excluding the petitioner and at least one other participant from the zone of consideration, while correspondingly conferring a clear advantage upon a limited class of bidders possessing prior dealings specifically relatable to mill reject coal from thermal power stations and possessing significantly higher turnover credentials.

22. This Court also cannot lose sight of the fact that earlier tender notifications issued by the very same respondent–authority, including the tenders produced at Annexures–G and H reveal a wholly inconsistent approach.

Even in tenders where the reserve price was substantially higher, the respondent–authority had adopted broader eligibility criteria permitting participation of manufacturers of cement/bricks and traders dealing with rejects/waste coal/coal/fly ash and other allied materials, coupled with significantly lower turnover requirements. Therefore, the abrupt departure in the present tender process from the previously adopted standards remains wholly unexplained. No material is placed before this Court to establish any change in operational complexity, technical requirement, environmental concern or financial exposure necessitating such restrictive qualifications.

23. On the contrary, the stand taken by the respondents in the statement of objections itself indicates that mill reject waste coal is non-hazardous in nature and only prolonged storage may create environmental concerns. Therefore, the respondents' own pleadings substantially weaken the justification sought to be projected for introducing restrictive eligibility conditions.

Viewed cumulatively, the sequence consisting of disqualification of the petitioner on a narrow interpretation; immediate cancellation of the earlier tender; re-floating of the tender with substantially restrictive experience criteria; drastic enhancement of turnover requirements and inconsistency with earlier tender notifications floated by the same authority, collectively gives rise to a strong inference that the impugned modifications are not founded on bona fide administrative considerations, but are arbitrary in nature and border upon mala fide exercise of power intended to restrict competition and tailor the tender process in favour of a select class of participants. Such action cannot withstand judicial scrutiny under Article 14 of the Constitution of India.

24. In view of the above discussion, this Court answers the points as under:

Point No.(i): The cancellation and re-floating of the tender is not justified in the facts of the case.

Point No.(ii): The revised PQR conditions are arbitrary, irrational and violative of Article 14.

Point No.(iii): Judicial review is permissible and warranted in the present case, as the decision-making process is vitiated by arbitrariness.

25. Before parting, this Court deems it necessary to observe that State instrumentalities, while dealing with public resources, act as trustees of public interest. Any attempt to dilute competition through artificial eligibility criteria not only violates constitutional guarantees but also undermines public confidence in transparent governance.

26. Accordingly, this Court proceeds to pass the following:

ORDER

(i) The writ petition is allowed in part.

(ii) The impugned proceedings/order dated 05.01.2026 passed by respondent No.2, insofar as it modifies the pre-qualification requirements relating to:

(a) the condition mandating that the intending bidder should necessarily be a trader of "mill reject coal from thermal power stations"; and

(b) the condition prescribing minimum annual financial turnover of Rs.1449.70 Lakhs, are hereby quashed.

(iii) Consequently, the corresponding clauses incorporated in the impugned e-tender notification pursuant to the modified PQR conditions also stand set aside.

(iv) The respondent–authorities are directed either:

(a) to proceed with the tender process by withdrawing the aforesaid impugned restrictive conditions relating to eligibility and annual financial turnover;

or in the alternative,

(b) to re-initiate the tender process by issuing a fresh tender notification with fair, reasonable and non-discriminatory pre-qualification conditions, by deleting the restrictive clause confining eligibility only to traders of mill reject coal from thermal power stations and by prescribing a rational turnover requirement having nexus to the nature and scope of the tender.

(v) While undertaking any fresh tender process, the respondents shall ensure that the eligibility criteria are framed in a manner that promotes fair competition, wider participation and transparency, consistent with the mandate of Article 14 of the Constitution of India.

(vi) All other terms and conditions of the tender notification, which are not inconsistent with the findings recorded in this order, shall remain undisturbed.

(vii) No order as to costs.

(viii) All pending interlocutory applications, if any, stand disposed of.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE

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List No.: 1 Sl No.: 3