



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 9690/2025

M/s Mdindia Health Insurance (TPA) Pvt. Ltd., Through its Authorized Representative- Mr. Anuj Tewari, Vice- President (Legal), C/o M/s Mdindia Health Insurance (TPA) Pvt. Ltd., Having its Registered Office At 46/1, E-Space, A-2 Building, 3rd Floor, Vadgaonsheri, Pune Nagar Road, Pune- 411014.



-----Petitioner

Versus

1. State of Rajasthan, through its Chief Secretary, Finance Department, Government Secretariat, Jaipur.
2. Chief Executive Officer, Rajasthan State Health Agency, Jaipur.
3. Secretary, Finance (Budget) Department, Government Secretariat, Jaipur.
4. Principal Secretary to Government, Medical, Health and Family Welfare Department, Government Secretariat, Jaipur
5. Government Secretary, Medical Education Department, Government Secretariat, Jaipur.
6. Government Secretary, Finance (Expenditure) Department, Government Secretariat, Jaipur.
7. Joint Government Secretary, Finance (Insurance) Department, Government Secretariat, Jaipur.

-----Respondents

For Petitioner(s)	:	Mr. Abhishek Malhotra- Sr. Advocate assisted by Mr. Adhiraj Bhandari, Mr. Rohit Khalia and Mr. Lokendra Singh
For Respondent(s)	:	Mr. Rajendra Prasad-AG assisted by Mr. Archit Bohra-AGC Mr. Sheetanshu Sharma Ms. Harshita Thakral Ms. Dhriti Laddha Mr. Tanay Goyal Mr. Prakhar Jain

JUSTICE ANOOP KUMAR DHAND



31/07/2025

1. The instant writ petition has been filed by the petitioner with the following prayer:-



"In view of the facts stated above and the grounds urged herein, the Petitioners most respectfully pray that this Hon'ble Court may be pleased to:

1. Issue a Writ of Certiorari or any other appropriate writ, order, or direction quashing and setting aside the impugned order dated 12/06/2025, passed by the Respondent No. 2, as being arbitrary, illegal, and in violation of the principles of natural justice. And;
2. Quash the unreasonable and illegal blacklisting/debarment and other incidental proceedings that have arisen due to the blacklisting of the instant petitioner for three years. And;
3. Issue directions, to the respondent no. 2 to act with fairness and decide the representation as sent by the instant petitioner on 17/06/2025, while affording a reasonable opportunity of being heard to present its defence. And;
4. Issue directions, to the respondent no. 2, to grant access to the instant petitioner to the online portal of RGHS and to provide all the findings of the QCPA to the instant petitioner along with all other documents related to Petitioner. And;
5. Issue directions, to restrain the concerned respondents, who have been marked and informed by the respondent no. 2 by office order bearing no. 125 dated 12/06/2025 (impugned order), to take requisite action against the instant petitioner. And/Or;
6. Pass any other such order as the Hon'ble High Court deems fit in the interest of justice and in favour of the petitioner.

2. By way of filing this writ petition, a challenge has been led to the impugned order dated 12.06.2025 issued by the respondent No.2 whereby the petitioner-Insurance Company (hereinafter referred to as "the petitioner") has been blacklisted from participating in other tender processes for a period of three years and a prayer has also been made in the writ petition to issue a direction to the respondent No. 2 to decide the representation



submitted by the petitioner on 17.06.2025, after affording the petitioner a reasonable opportunity of hearing to present his defence.

3. Learned counsel for the petitioner submits that the petitioner was appointed as a Third Party Administrator (TPA) for the Rajasthan Government Health Scheme (RGHS) for a period commencing from 21.06.2022, pursuant to an agreement dated 01.07.2022. Counsel submits that initially the aforesaid contract was awarded to the petitioner for a period of two years but on account of satisfactory performance/services of the petitioner, the contract was extended on three separate occasions. Counsel submits that the petitioner duly completed the assigned work until the contract ended on 04.02.2025. Counsel submits that a few months after completion of the work, a show cause notice dated 20.05.2025 was served upon the petitioner wherein certain allegations were levelled against him. The said notice was received by the petitioner on the next date and in response to the show cause notice, the petitioner submitted a reply on 23.05.2025. Counsel submits that the allegations levelled in the show cause notice were vague and lacked material particulars. Hence, the petitioner requested the respondents to provide access to the relevant portal so as to enable him to furnish a comprehensive and detailed reply. Counsel submits that without considering the petitioner's reply and without affording him any opportunity of hearing, the respondents straightaway proceeded to pass the order impugned dated 12.06.2025, whereby the petitioner has been debarred/blacklisted from participating in other tender





processes for a period of three years. Counsel submits that the impugned order, which runs into several pages, clearly sets out the grounds and reasons that go beyond the scope of the show cause notice. Counsel submits that the blacklisting order travels beyond the show cause notice and the same is not sustainable in the eyes of law and is liable to be quashed and set-aside. Counsel submits that the respondents have failed to consider the petitioner's reply before passing the impugned order, which has resulted in violation of the principles of natural justice. Hence, it is prayed that interference of this court is warranted.

4. Per-contra, learned counsel for the respondents opposed the submissions made by learned counsel for the petitioner and submitted that several deficiencies were found in the work of the petitioner when a detailed audit was conducted. Counsel submits that on account of the aforesaid act of the petitioner, the respondents suffered a huge loss amounting to several crores of rupees and, therefore, a show cause notice was issued to the petitioner wherein certain allegations were leveled against him. Counsel submits that instead of denying the allegations or submitting a detailed reply, the petitioner merely sought to provide him further information/details, despite the fact that such information/details were already within the knowledge and possession of the petitioner. Counsel submits that sufficient material was available with the petitioner and the petitioner could have submitted the reply to show cause notice thereby take his defence but instead of doing so, he chose to ask for further details. Counsel submits that after thorough examination by the





competent authorities, certain additional deficiencies were discovered in the performance/working of the petitioner and as a result thereof, the order impugned was passed, debarring the petitioner for a period of three years. Counsel submits that a prayer has been made by the petitioner for issuing direction to the respondent to decide the representation of the petitioner against the impugned order dated 12.06.2025, however, in such eventuality, if liberty, as prayed for, is granted to the petitioner, the respondents will consider the petitioner's representation, in accordance with law, after affording an opportunity of hearing to the petitioner.

5. Heard and considered the submissions made at the Bar and perused the material available on record.

6. A perusal of the record reveals that the petitioner was appointed as TPA for the Rajasthan Government Health Scheme for a period of two years, which was subsequently extended by the respondents for second and third time and in the meantime, the petitioner completed the assigned work. Subsequently, a show cause notice was issued to the petitioner with certain allegations on 20.05.2025. The documents annexed to the writ petition indicate that the petitioner submitted a reply to the aforesaid show cause notice on 23.05.2025, asking the respondents to provide him certain details so as to enable him to submit a comprehensive and detailed response to the show cause notice. It appears that no heed to the aforesaid reply was paid by the respondents did not consider his request and straightaway passed the order impugned dated 12.06.2025 whereby the petitioner has





been debarred/black listed from participating in other tender processes for a period of three years.

7. Now, the question for consideration before this Court is whether the order of debarring and blacklisting the petitioner can travel beyond the scope of the show cause notice?

8. A perusal of the show cause notice dated 20.05.2025 indicates that certain allegations were levelled against the petitioner. However, a bare reading of the impugned order dated 12.06.2025 reveals that the impugned order has travelled beyond the allegations spell out in the show cause notice. The Hon'ble Apex Court in the case of **M/s Techno Prints Vs. Chhattisgarh Textbook Corporation and Anr.** while deciding SLP(C) No. 10042/2023 vide order dated 12.02.2025 has held that the black listing order cannot go beyond the scope of the show cause notice and if the blacklisting order has exceeded the grounds which are mentioned in the show cause notice, the same will not be tenable. In the instant case also, the allegations levelled in the blacklisting order are exceeding the grounds for which the show cause notice was served upon the petitioner.

9. A further perusal of the show cause notice, reveals that it did not contain sufficient details justifying blacklisting of the petitioner, however, the respondents have passed the blacklisting order exceeding beyond the charges mentioned in the show cause notice. Show cause notice disclosing allegations, adverse material and proposed penalty is foremost fundamental requirement of principles of law. Penalty of blacklisting without detailed show cause notice is contrary to rule of law. Every action which is





contrary to rule of law is arbitrary and violative of Article 14 of the Constitution of India. Apart from principles of natural justice, it is further settled principle of law that an Adjudicating Authority cannot travel beyond the show cause notice. In **Commissioner of Central Excise Versus Gas Authority of India Limited** reported in **(2007) 15 SCC 91**, a two Judge Bench of Hon'ble Supreme Court has categorically held that Adjudicating Authority cannot travel beyond the show cause notice.



10. In the absence of proposal in the show cause notice, there was no question of making submissions on the part of petitioner. The Adjudicating Authority having travelled beyond the scope of the show cause notice, proceeded to pass the blacklisting order, thus, the order of blacklisting is not only contrary to the principles of natural justice but also exceeds the scope and ambit of show cause notice. Such blacklisting amounts to denial of opportunity to the petitioner to participate in the future tender processes, which directly affects right of business of the petitioner. Thus, the impugned order not only entails civil consequences but also denies the petitioner's right to carry on its business.

11. The instant case is a clear case of violation of the principles of natural justice wherein the petitioner received the show cause notice and duly submitted a reply on 23.05.2025, asking the respondents to provide certain documents and access to the portal. However, without paying any heed to the aforesaid reply and without providing the petitioner due opportunity of hearing, straightaway the order impugned has been passed by the respondents.



12. A five Judge Constitution Bench of the Hon'ble Supreme Court in **Olga Tellis and Others Versus Bombay Municipal Corporation** reported in **(1985) 3 SCC 545** considered the question of opportunity of personal hearing and held that no order can be passed without granting an opportunity of personal hearing. It has been further held that opportunity of personal hearing cannot be denied merely on the ground that no prejudice would be caused to the aggrieved person. The relevant extracts of the judgment read as:-

"48. Any discussion of this topic would be incomplete without reference to an important decision of this Court in *S.L. Kapoor v. Jagmohan* [(1980) 4 SCC 379, 395. In that case, the supersession of the New Delhi Municipal Committee was challenged on the ground that it was in violation of the principles of natural justice since, no show cause notice was issued before the order of supersession was passed. Linked with that question was the question whether the failure to observe the principles of natural justice matters at all, if such observance would have made no difference, the admitted or indisputable facts speaking for themselves. After referring to the decision in *Ridge v. Baldwin* [(1964) AC40,68; *John v. Rees* [1970 Ch345, 402]; *Annamunthodo v. Oilfields Workers' Trade Union* [(1961) 3 All ER 621, 625 (HL)] ; *Margarita Fuentes et al v. Tobert L. Shevin* [32 L Ed 2d 556, 574]; *Chintapalli Agency Taluk Arrack Sales Cooperative Society Ltd. v. Secretary (Food and Agriculture) Government of A.P.* [(1977) 4 SCC 337, 341, 343-44 : (1978) 1 SCR 563, 567, 569-70] and to an interesting discussion of the subject in *Jackson's Natural Justice* (1980 Edn.), the Court, speaking through one of us, Chinnappa Reddy, J. said: (SCC p. 395, para 24)

"In our view the principles of natural justice know of no exclusionary rule



dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. It ill comes from a person who has denied justice that the person who has been denied justice is not prejudiced."

These observations sum up the true legal position regarding the purport and implications of the right of hearing."

13. In **Khem Chand Versus Union of India** reported in **1958 SCR 1080** while dealing with question of compliance of principles of natural justice, in a case of an inquiry against civil servant, in terms of Article 311 of the Constitution of India, the Hon'ble Supreme Court has concluded:

"18. In our judgment neither of the two views can be accepted as a completely correct exposition of the intendment of the provisions of Section 240(3) of the Government of India Act, 1935, now embodied in Article 311(2) of the Constitution. Indeed the learned Solicitor- General does not contend that this provision is confined to guaranteeing to the government servant an opportunity to be given to him only at the later stage of showing cause against the punishment proposed to be imposed on him. We think that the learned Solicitor-General is entirely right in not pressing for such a limited construction of the provisions under consideration. It is true that the provision does not, in terms, refer to different stages at which opportunity is to be given to the officer concerned. All that it says is that the government servant must be given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. He must not only be given an opportunity but such opportunity must be a reasonable one. In order that the opportunity to show cause against the



proposed action may be regarded as a reasonable one, it is quite obviously necessary that the government servant should have the opportunity, to say, if that be his case, that he has not been guilty of any misconduct to merit any punishment at all and also that the particular punishment proposed to be given is much more drastic and severe than he deserves. Both these pleas have a direct bearing on the question of punishment and may well be put forward in showing cause against the proposed punishment. If this is the correct meaning of the clause, as we think it is, what consequences follow? If it is open to the government servant under this provision to contend, if that be the fact, that he is not guilty of any misconduct then how can he take that plea unless he is told what misconduct is alleged against him? If the opportunity to show cause is to be a reasonable one it is clear that he should be informed about the charge or charges levelled against him and the evidence by which it is sought to be established, for it is only then that he will be able to put forward his defence. If the purpose of this provision is to give the government servant an opportunity to exonerate himself from the charge and if this opportunity is to be a reasonable one he should be allowed to show that the evidence against him is not worthy of credence or consideration and that he can only do if he is given a chance to cross-examine the witnesses called against him and to examine himself or any other witness in support of his defence. All this appears to us to be implicit in the language used in the clause, but this does not exhaust his rights. In addition to showing that he has not been guilty of any misconduct so as to merit any punishment, it is reasonable that he should also have an opportunity to contend that the charges proved against him do not necessarily require the particular punishment proposed to be meted out to him. He may say, for instance, that although he has been guilty of some misconduct it is not of such a character as to merit the extreme punishment of dismissal or even of removal or reduction in rank and that any of the lesser punishments ought to be sufficient in his case.



19. To summarise : the reasonable opportunity envisaged by the provision under consideration includes--

- (a) An opportunity to deny his guilt and establish his innocence, which he can only do if he is told what the charges levelled against him are and the allegations on which such charges are based;
- (b) An opportunity to defend himself by cross-examining the witnesses produced against him and by examining himself or any other witnesses in support of his defence; and finally
- (c) An opportunity to make his representation as to why the proposed punishment should not be inflicted on him, which he can only do if the competent authority, after the enquiry is over and after applying his mind to the gravity or otherwise of the charges proved against the government servant tentatively proposes to inflict one of the three punishments and communicates the same to the government servant."

14. There is a clear violation of the principles of natural justice in the instant case, as the petitioner was not afforded a proper opportunity of hearing. The petitioner was served with a brief show cause notice levelling certain charges against him. The petitioner subsequently, asked for certain additional details and sought time to submit the reply. However, without considering the request of the petitioner and even without taking into account the contents of the petitioner's response in the form of reply to show cause notice and without considering the contents of the petitioner's brief reply, straightaway the impugned order has been passed by the respondents.



15. The underlying principle of natural justice, evolved under common law, is designed to check and prevent arbitrary exercise of powers by the State or its functionaries. Therefore, these principles impose a duty to act fairly, ensuring fair play in administrative action. The fundamental maxim of natural justice i.e. *audi alteram partem* has several facets, two of them being (a) notice of the case to be issued and (b) opportunity to explain.

In the instant case, the first requirement was duly complied with by the respondents by issuing a shown cause notice to the petitioner but they failed to comply with the second requirement as they did not grant the petitioner any opportunity to explain before passing the impugned order, which has resulted in a gross violation of the principles of natural justice, and thereby barred/blacklisted the petitioner from participating in future bidding and tender process for a period of three years.

16 Hence, the order impugned amounts to a clear violation of the principles of natural justice, having been passed without affording the petitioner a due opportunity of hearing. Thus, on both counts, the order impugned dated 12.06.2025 is not sustainable in the eyes of law and is liable to be set-aside. The respondents shall be at liberty to issue a fresh show cause notice clearly specifying the allegations levelled against the petitioner. In the event, such a notice is issued by the respondents to the petitioner, it is expected from the respondents to consider the reply, so filed by the petitioner pursuant thereto and pass appropriate orders, strictly in accordance with law, after providing due opportunity of hearing to the petitioner.



17. With the aforesaid observations and directions, the present writ petition stands disposed of. Stay application and all pending application (s) if any, also stand disposed of.



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(ANOOP KUMAR DHAND),J