



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Reserved on: 07.08.2025

Pronounced on: 28.08.2025

+ **W.P.(C) 9906/2024, CM APPL. 40658/2024, CM APPL.74012/2024, CM APPL. 609/2025, CM APPL. 37227/2025**

DEFSYS SOLUTIONS PRIVATE LIMITEDPetitioners

Through: Mr.Neeraj Kishan Kaul,
Sr.Adv. with Mr.Rishi Agarwal,
Mr.Pawan Sharma, Mr.Nirvikar
Singh, Ms.Devika Mohan,
Mr.Parminder Singh,
Mr.Tejasvi Chaudhry,
Ms.Pritha Suri, Mr.Ankit
Banati, Mr.Aditya Chatterjee,
Adv.

versus

UNION OF INDIARespondent

Through: Mr.Ruchir Mishra, Mr.Mukesh
Kr. Tiwari, Ms.Reba Jena
Mishra and Ms.Poonam Shukia,
Adv.

**CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN**

J U D G M E N T

NAVIN CHAWLA, J.

1. This petition has been filed by the petitioners praying for the following reliefs:



“(I) Pass a Writ of Certiorari or any other writ/order/direction of like nature setting aside the MoD ID No. 31013/1/2016-D dated 21.11.2016 being the “Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities” along with Paragraphs 8 and 9 of the “Procedure for Penal Action under the Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities” promulgated by the Respondent under Rule 142 of the General Financial Rules 2017 as being ultra-vires Article 14, 19(1)(g), 19(6), 21, 77 and 300A of the Constitution of India and the “Defence Procurement Manual, 2009;

(II) Pass a Writ of Certiorari or any other writ/order/direction of like nature setting aside the Suspension Orders dated 05.07.2024, 01.01.2025 and Suspension Order dated 24.06.2025 and further prohibit the Respondent from passing any such similar Suspension Orders; and thereby direct the Respondent to remove the Petitioner’s name from the communication titled “Details of firms debarred/put on hold/suspended etc. from doing business with MoD-reg.” dated 24.06.2025 issued by the Respondent and/or any other similar list published on the internet or otherwise, within a period of 24 hours of such direction;”

Brief Facts:

2. It is the case of the petitioners that the petitioner No.1 is a Company engaged in the business of designing, manufacturing, and integration of complicated air borne and land systems used by on-board military platforms. It is also engaged in the production of various defence supplies like external fuel tanks, missile launchers, and bomb racks for certain aircrafts, being delivered to the Government of India. The petitioner No.2 is a director of the petitioner



No.1 Company.

3. It is averred that since 2007, the petitioner No.1 Company has been a regular supplier of the Government of India for its requirements in the Armed Forces, conducting its entire business with the respondent, or with buyers approved by the respondent.

4. It is the case of the petitioners that the Central Bureau of Investigation (in short, 'CBI') launched an investigation in the AgustaWestland case in 2013 and, thereafter, three charge-sheets dated 06.09.2017, 17.09.2020 and 15.03.2022, have been filed by the CBI in the said case. However, neither in the FIR nor in the three charge-sheets filed by the CBI, there is any mention of the petitioner No.1 company or any of its employees or affiliates.

5. It is averred that despite there being no pending investigation/case against the petitioner No.1, the respondent has sought to suspend the petitioner under the Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities having MoD ID No. 31013/1/2016-D (hereinafter referred to as the 'Impugned Guidelines'), merely on the basis of an intimation by CBI that there is an "Ongoing Investigation" against the petitioners in the AgustaWestland Case.

6. It is the case of the petitioners that the respondent, without giving any Show Cause Notice to the petitioners, issued a Suspension Order dated 09.12.2022 (hereinafter referred to as the 'First Suspension Order'), whereby the petitioner No.1 had been suspended for one year from all business dealings with the respondent in terms of the parameters set forth in Paragraph C and Paragraph D of the



Impugned Guidelines.

7. It is contended that the petitioner No.1 filed a Writ Petition, being W.P.(C) No. 17456/2022, before this Court, challenging the First Suspension Order issued by the respondent.

8. During the pendency of the said Writ Petition, the CBI issued two notices to the petitioner No.1 Company, dated 13.01.2023 and 16.01.2023, under Section 160 and Section 91 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') respectively. By way of the said notices only some information regarding the names of the Directors and Shareholders and foreign remittances received by the petitioner No.1, was sought by the CBI. The petitioner claims to have replied to the same *vide* letter dated 18.01.2023, stating that it has had no transaction with AgustaWestland group of companies. The petitioners claim to have received no further notice from CBI thereafter.

9. The learned Single Judge of this Court, disposed of the above Writ Petition filed by the petitioner No.1, *vide* its Judgment dated 05.09.2023, by directing as under:

“79. Accordingly, in the facts of this case after perusing the original records and analysing the aforementioned decisions, the following directions are issued:

- i) A show cause notice shall be issued to the Petitioner within a period of 2 weeks from today setting out the reasons for suspension.*
- ii) Any relevant material in respect of allegations against the Petitioner shall be put to the Petitioner along with the show cause notice.*
- iii) An opportunity to reply shall be afforded to the Petitioner and if a hearing is sought, the same shall be granted.*



iv) After affording a hearing, a reasoned order shall be passed within 3 months.
v) Insofar as the existing contracts are concerned, the interim arrangement made vide order dated 23rd December, 2022 shall continue. vi) All remedies of the Petitioner are left open to be availed of in accordance with law.”

10. The said Judgment dated 05.09.2023 of the learned Single Judge was challenged by both, the petitioner No.1 and the respondent herein, by way of their respective appeals, being LPA No. 672/2023 and LPA No. 682/2023.

11. The Division Bench of this Court, *vide* its common Judgment dated 06.12.2023, disposed of the said appeals, observing and directing as under:

“34. Thus the peculiar facts of this case where FIR against Augusta Westland viz. the prime accused was lodged in the year 2013 and the investigation is still not complete and in view of the positive assertion viz. the directors and shareholders of the appellant company are not an accused coupled with the fact in 2021 the prime accused Augusta Westland itself was removed from the suspended list and the appellant being a domestic manufacturer having stated on oath that it had never supplied/purchased anything from Augusta Westland and is selling its produce only to the Government of India and all its exports are being regulated by the Government of India and we see no infirmity in the impugned order of the learned single Judge when it says the order of suspension cannot continue indefinitely and a show cause notice ought to have been issued and such show cause notice must relate to the grounds enumerated in clauses 1(a) to 1(f) and the material which may form the basis of such show cause notice



be communicated to the petitioner and if the show cause notice is not to be given, proper reasons ought to be recorded for justifying the same that national security concern exists and review would be conducted by the committee to determine as to whether the grounds in clauses 1(a) to (f) are made out and if the suspension is to be extended for a longer period, the procedure prescribed for the purpose of extension need to be resorted to.

35. Since now the period of one year of suspension is nearing completion and the suspension is to be reviewed, hence in view of circumstances narrated by us above, we direct the compliance of the impugned order dated 05.09.2023 passed by the learned Single Judge, more specifically its para No.79 except the time period as given in clauses (i) and (iv) of para 79(supra) is reduced to one week and one month respectively. In case of noncompliance, the suspension order shall automatically stand revoked after one month. We are of the considered view that order passed by the learned Single Judge is in consonance with the preamble of Guidelines which ensure fairness, impartiality, rigour and correctness in dealings.”

12. It is averred that the respondent issued a Show Cause Notice dated 13.12.2023 (hereinafter referred to as the ‘Show Cause Notice’) to the petitioner No. 1, without giving reference to any cause in Clause ‘C’ of the Impugned Guidelines, and without providing any material and details about the “latest inputs” received from the CBI, which formed the premise of the said Show Cause Notice. The petitioner No.1 filed a detailed reply dated 20.12.2023 to the Show Cause Notice.

13. The respondent issued a fresh Suspension Order dated



05.01.2024 (hereinafter referred to as the ‘Second Suspension Order’), extending the suspension of the petitioner No.1 for a further period of six months.

14. In the meantime, the respondent herein filed a Special Leave Petition, being SLP(C) 1158-59/2024, challenging the Judgment dated 06.12.2023 passed by the Division Bench of this Court in LPA No. 672/2023 and LPA No. 682/2023.

15. The Supreme Court, *vide* its Order dated 29.01.2024, disposed of the said SLP, by observing as under:

“1 Following the impugned judgment of the Delhi High Court dated 06 December 2023, a notice to show cause was issued by the petitioners on 13 December 2023 following which a final order has been passed on 05 January 2024 which is the subject matter of an independent challenge before the High Court.

2 In that view of the matter, we consider it inappropriate to entertain the Special Leave Petitions against the impugned order of the High Court dated 06 December 2023 which affirmed the judgment of the Single Judge requiring a show cause notice to be issued and compliance with the principles of natural justice to be effected.

3 Since the impugned order of the High Court is confined to this aspect, it will not be construed as amounting to the expression of any opinion on broader questions of law which were not involved in the appeal before the High Court.

4 The Special Leave Petition is accordingly disposed of subject to the above clarification.”

16. The petitioner No.1 herein challenged the First Suspension Order, the Show Cause Notice, the Second Suspension Order, and Clauses D.2 and D.3 of the Impugned Guidelines, by way of a Writ



Petition, bearing W.P. (C) No. 431/2024.

17. The Division Bench of this Court, *vide* its Judgment dated 31.05.2024, allowed the said Writ Petition filed by the respondent, by holding as under:

“27. The question, therefore, that arises for consideration is whether the suspension of Defsys can continue ad infinitum. The answer to this has to be in the negative for the reasons peculiar to the instant case. As noticed above, although investigations qua Agusta Westland have been completed and a charge sheet has been filed, the suspension order qua the said entity was revoked on 12.11.2021. Defsys, which was being investigated, according to the UOI, concerning the very same case, was issued a suspension order after Westland's suspension order was revoked. The suspension order was issued nearly one (1) year after UOI received CBI's intimation that Defsys was under investigation. As indicated above, this intimation was received on 21.12.2021, whereas the suspension order was passed on 09.12.2022. Since then, the circumstances have remained the same. UOI, based on "latest inputs", has, via the impugned order dated 05.01.2024, extended the suspension for another six (6) months, in consonance with the provisions of paragraph D.3 of the MOD Guidelines. As to what inputs UOI has received from CBI were not put before the Court. The only input that UOI has received from CBI is that there is an "ongoing investigation" against Defsys.

28. In our opinion, such a stand of UOI is akin to being confronted with [metaphorically speaking], the "inscrutable face of a sphinx". We would have, perhaps, accepted this position as well, having regard to the fact that GOI should have complete freedom in choosing who they wish to procure defence equipment from, had not GOI lifted the revocation order against Agusta Westland



even after a charge sheet was filed against the said entity.

29. Furthermore, the suspension of Defsys is even more tenuous if one considers that Defsys continues to supply defence equipment to GOI under subsisting contracts.

30. Insofar as the argument advanced on behalf of UOI that it can take recourse to the provisions contained in Clause D.2 dehors the grounds contained in Clause C.1 (a) to (f) is concerned, it is untenable. The reason why we say so is that this submission received closure with the observations made by the coordinate bench in paragraph 26 of the judgment dated 06.12.2023. For convenience, paragraph 26 of the judgment dated 06.12.2023 is extracted hereafter:

“26. Under Clause C.1 of the MOD guidelines, six specific causes have been provided which may lead to suspension and then final banning under Clause F. Emergent suspension, however, can be ordered under Clause D.2. However, D.2 can be exercised only if causes under Clause C.1 exists. The UOI has contended that power to suspend under Clause D.2 is independent of Clause C.1. This contention is patently wrong on the reading of the two clauses. In any case, the power to suspend under Clause D.2 does not lead to banning under Clause F. Under Clauses F.1 to F.3, there are specific time periods provided for banning. The suspension period must relate to banning, otherwise it is causeless. Neither of Clauses F.1 to F.3 refer to Clause D as a cause for banning. An intimation by CBI of a pending investigation is not a cause for banning, only a chargesheet is. In the present case, there is neither a chargesheet nor any other cause mentioned in Clause C.1. The above factors demonstrate the MoD violates the MoD's own Guidelines which requires it to be "satisfied that such action [such as suspension] is appropriate and necessary in



the circumstances of the case".”

[Emphasis is ours]

31. *We need to, however, emphasize that our view is not just based on the approach adopted by the coordinate bench, which is that the power of suspension of business dealings under Clause D.2 cannot be exercised independent of Clause C.1 (a) to (f) of the MOD Guidelines, but is also founded on the incongruent manner in which UOI has dealt with Defsys and Agusta Westland. While Agusta Westland's suspension has been lifted; opening doors for it to do business with UOI despite facing a criminal trial, Defsys, against whom no ground is made out for suspending "businessdealings" [save and except that investigations concerning its involvement in the Agusta Westland case are continuing], is put in a situation where it would be driven out of business given the fact that GOI is, practically, its only customer.*

32. *Lastly, the assertion made in the written submissions on behalf of UOI, that under Section 8(1)(h) of the RTI Act, it is exempt from making any disclosure concerning pending investigation is misconceived as the record shown to the learned Single Judge during adjudication of WP (C) 17456/2022 revealed that apart from a laconic input received from CBI, that Defsys was being investigated, there was nothing on record which would justify, at least for the present, the sustainability of suspension order dated 09.12.2022. Therefore, as is evident, since the professed stand of UOI is that it had no information available with it except that an investigation was ongoing against Defsys, its reliance on provisions of Section 8(1) of the RTI Act seems meaningless. Moreover, exemption from disclosure to an RTI applicant concerning material gathered during the investigation does not extend to placing the material before the Court unless privilege is claimed by the State in accordance with Sections 123 and 124 of the Indian Evidence*



Act, 1872 [in short, "Evidence Act"] and the Court, after inspecting the material, satisfies itself that such disclosure is injurious to public interest.

32.1 In any event, since UOI placed the material before the learned Single Judge while adjudication of WP (C) 17456/2022 was on, and, according to it, the only input it had received was that investigation was on, the inference we can draw is that it had no material available on record which would, atleast, prima facie, support its contention that the suspension should continue to operate for another six (6) months.

33. As far as the relief sought in the writ petition concerning striking down Clauses D.2 and D.34 of the MOD Guidelines is concerned, no arguments were advanced on behalf of the petitioners, possibly, for two reasons.

34. Thus, for the foregoing reasons, we are inclined to dispose of the writ petition with the following directions:

- i) The impugned suspension order dated 09.12.2022, the show cause notice dated 13.12.2023, and the impugned order dated 05.01.2024 are set aside.*
- ii) The UOI/MOD will have the liberty to take recourse to the MOD Guidelines for suspending/banning Defsys if, during investigation, it gathers material that discloses its involvement with the Agusta Westland case, albeit, as per law."*

18. It is important to here itself note that neither party challenged the above judgment and the same gained finality.

19. However, taking advantage of the liberty granted, the respondent herein passed a fresh Suspension Order dated 05.07.2024 (hereinafter referred to as the 'Third Suspension Order'), whereby the



respondent had again suspended business dealings with the petitioner No.1 for a period of six months, with retrospective effect, that is, from 09.06.2024.

20. It is averred that the Third Suspension Order was again issued without any show cause notice; without giving an opportunity to be heard to the petitioner No. 1; and merely on the basis of the vague use of term-“new inputs” from CBI in the ongoing investigation of petitioner No.1 in the AgustaWestland case.

21. The petitioner No.1 filed the present petition challenging the Third Suspension Order and the Impugned Guidelines along with Paragraphs 8 and 9 of the Procedure for Penal Action under the Guidelines of the Ministry of Defence for Penalties in Business Dealings with Entities (hereinafter referred to as the ‘Procedure Guidelines’).

22. During the pendency of the present petition, the respondent has further extended the suspension of the petitioner No1., *vide* Suspension Order dated 01.01.2025 (hereinafter referred to as the ‘Fourth Suspension Order’), and the Suspension Order dated 24.06.2025 (hereinafter referred to as the ‘Fifth Suspension Order’). This Court, *vide* its Orders dated 08.01.2025 and 01.07.2025, had allowed the amendment applications filed by the petitioners, challenging the subsequent Suspension Orders.

23. By an *ad-interim* Order dated 22.08.2024, this Court also directed the respondent to consider the bids that the petitioner No. 1 would submit against the fresh tenders that the respondent would issue, *albeit* subject to the outcome of the instant Writ Petition. It was



directed that the same position will obtain *vis-a-vis* the public sector undertakings which are under the sway of the respondent.

Submissions of the learned senior counsel for the petitioners:

24. The learned senior counsel for the petitioners has placed extensive reliance on the Judgment dated 05.09.2023 passed by the learned Single Judge of this Court in W.P. (C)17456/2022; Judgment dated 06.12.2023 passed by the Division Bench of this Court in LPA No.672/2023 and LPA No. 682/2023; and, the Judgement dated 31.05.2024 passed by the Division Bench of this Court in W.P. (C) 431/2024, to submit that the Third, Fourth, and the Fifth Suspension Orders, challenged in this Writ Petition, are identically worded to the Suspension Orders already set aside by this Court *vide* its above Judgments and, therefore, have been passed in abuse of the powers vested in the respondent under the Impugned Guidelines.

25. He further submits that no new material has been gathered/disclosed by the respondent in the fresh impugned Suspension Orders passed by it against the petitioners. There are no details of allegations or cause for suspension enumerated in these Suspension Orders. Further, no Show Cause Notice or hearing has been provided to the petitioners, thereby, violating the principles of natural justice. In support, he places reliance on the Judgment of the Supreme Court in *Madhyamam Broadcasting Ltd. v. Union of India*, (2023)13 SCC 401.

26. He further submits that the petitioner No.1 is, in no way, associated with or is even named in the multiple chargesheets filed by



the CBI in the AgustaWestland Case. In fact, the Suspension Order against M/s AgustaWestland, the main accused in the said case, also stands revoked since 12.11.2021. He submits that, therefore, there is no justification with the respondent for passing the impugned Suspension Orders against the petitioner No.1.

27. He submits that Clause D of the Impugned Guidelines cannot be invoked in absence of a ground falling under Clause C.1 (a) to (f) of the Impugned Guidelines. He submits that in the present case, the circumstances mentioned in Clause C.1 (a) to (f) are not attracted. He submits that due to repeated misuse of the power vested in the respondent under Clause D of the Impugned Guidelines, the Clause itself is liable to be declared unconstitutional as being in direct contravention of Article 19 (6) of the Constitution of India. In support, he places reliance on the Judgments of the Supreme Court in ***Cellular Operators Assn. of India v. TRAI***, (2016) 7 SCC 703 and ***A. K. Kraipak v. Union of India***, (1969) 2 SCC 262.

Submissions of the learned counsel for the respondent:

28. The learned counsel for the respondent, on the other hand, submits that as far as the challenge to the Impugned Guidelines is concerned, the same is not maintainable in view of the Judgment dated 31.05.2024 of this Court passed in W.P.(C) 431/2024, wherein a similar challenge was made by the petitioner, however, no submissions in support of such challenge was made by the petitioners and, therefore, this Court refused to rule on the same. The challenge of the petitioner is, therefore, barred by the principles of *res judicata*.



29. He submits that even in the course of the submissions in the present petition, no specific ground to challenge the Impugned Guidelines has been urged by the learned senior counsel appearing for the petitioners.

30. On merits, he submits that Mr.Sushen Gupta, one of the founders of the petitioner No.1 had been arrested by the Enforcement Directorate in March 2019 on allegations of money laundering in connection with the AgustaWestland Scam. He submits that further inputs have been received from the CBI regarding the investigations being carried on by the CBI against the petitioner No.1 and, therefore, the Impugned Suspension Orders are fully justified under Clause D of the Impugned Guidelines. In support, he places reliance on the Judgments in *Digi Cable Network (India) Private Limited v. Union of India & Ors.*, (2019) 4 SCC 451, *Manohar Lal Sharma v. Narendra Damodardas Modi & Ors.*, (2019) 3 SCC 25, *Ex-Army men's Protection Services Private Limited v. Union of India & Ors.*, (2014) 5 SCC 409, *Siemens Public Communication Networks Private Limited & Anr. v. Union of India & Ors.*, (2008) 16 SCC 215, *A. K. Nambiar v. Union of India & Anr.*, (1969) 3 SCC 864, *Trident Infosol Pvt. Ltd. v. Union of India & Ors.*, (2022) SCC OnLine Del 2314, *M/s. Add Lounge Services Private Limited v. Union of India & Ors.*, (2016) SCC OnLine Del 5176, *SCOD 18 Networking Pvt. Ltd. v. Ministry of Information & Broadcasting & Ors.*, (2015) SCC OnlineBom 6570, and *Mohan Kumar v. Union of India & Ors.*, (2020) SCC OnLine Jhar 1762.



Analysis and findings:

31. We have considered the submissions made by the learned counsels for the parties.

32. The First Suspension Order dated 09.12.2022, which stands set aside by this Court *vide* its Judgment dated 31.05.2024 passed in W.P.(C) 431/2024, reads as under:

“Subject: Suspension of Business Dealings with M/s DEFSYS Solutions Pvt. Ltd.

WHEREAS, Ministry of Defence. (MoD), Govt. of India has received intimation from the CBI regarding ongoing investigation against M/s DEFSYS Solutions Pvt. Ltd. in relation to the AugustaWestland VVIP Helicopter case.

2. WHEREAS, Ministry of Defence had circulated detailed Guidelines for Penalties in Business Dealings with Entities vide ID Note No. 31013/1/2016-D(Vig.) dated 21.11.2016.

3. WHEREAS, the Competent Authority may take a decision to suspend business dealings with an entity based on the parameters set forth in Paragraph C and Paragraph D of the Guidelines dated 21.11.2016.

4. NOW, THEREFORE, in accordance with these Guidelines, the Competent Authority has decided that business dealings with M/s DEFSYS Solutions Pvt. Ltd. will remain suspended for a period of one year from the issue of such order or until further orders.

5. It is requested that strict compliance of the above decision may be ensured by all Wings in this Ministry and Service Headquarters.”

33. A reading of the above would show that the First Suspension Order had been passed based on an intimation received from the CBI regarding ongoing investigation against the petitioner No.1 in relation



to the AgustaWestland VVIP Helicopter Case, and by placing reliance on Clause C and Clause D of the Impugned Guidelines.

34. The Second Suspension Order dated 05.01.2024, which again has been set aside by the Judgment dated 31.05.2024 of this Court, so far as is relevant, reads as under:

“9. Whereas, in accordance with the judgement of Hon’ble High Court of Delhi, M/s Defsys Solutions Pvt. Ltd. was also granted an opportunity of hearing held on 27.12.2023 at 03:00 pm in South Block, New Delhi. Further, during the hearing authorized representatives of M/s Defsys Solutions Pvt. Ltd were specifically informed that their matter is covered under Clause D.2 of the MoD guidelines dated 21.12.2016.

10. Whereas, as per the latest inputs received from CBI, it is observed that M/s Defsys Solutions Pvt Ltd is still under investigation.

11. Whereas, clause D.2 of the MoD guidelines dated 21.11.2016 stipulates that the competent authority may suspend business dealings with an entity when it refers any complaint against the entity to CBI or any investigating agency or when intimation is received regarding initiation of criminal investigation or enquiry against any entity.

12. Whereas the matter of ongoing suspension of business dealing with M/s Defsys Solutions Pvt Ltd has been examined in the light of the latest inputs received from the CBI regarding ongoing investigation against M/s Defsys Solutions Pvt Ltd in relation to the AgustaWestland VVIP Helicopter case and the submissions made by M/s Defsys Solutions Pvt Ltd.

13. Whereas, Para D.3 of the MoD guidelines dated 21.11.2016 stipulates that the suspension of an entity may be extended beyond the period of one year, on the order of the Competent Authority for subsequent



periods of six months each.

14. Now therefore, in accordance with the MoD guidelines and facts and circumstances of the case, the competent authority has decided that business dealings with M/s Defsvs Solutions Pvt Ltd shall remain suspended for a further period of six months with effect from 09.12.2023 or until further orders.”

35. This Court, in its Judgment dated 31.05.2024, while setting aside the above two Suspension Orders, had specifically observed that the petitioner No.1 has been in existence since 2007, and has been supplying defence equipment for nearly 17 years to the Government of India and foreign buyers approved by the Government of India. It was observed that though a PE was registered against AgustaWestland and three chargesheets have also been filed against it, the suspension against AgustaWestland, the main accused in the case, was lifted by an Order dated 12.11.2021. The Court further observed that, as against this, though the petitioner No.1 is being investigated in the F.I.R., it has not been named as an ‘accused’ till now. It was observed that apart from the intimation from the CBI that investigation against the petitioner No.1 is ongoing, no material has till date been found linking the petitioner No.1 with AgustaWestland, or to disprove the assertion of the petitioner No.1 that it had no business dealings with AgustaWestland Group of Companies.

36. Taking note of the above, this Court held that the suspension of the petitioner No.1 cannot continue *ad infinitum*. The Court also rejected the stand of the respondent that it can take recourse to the provisions contained in Clause D.2 *dehors* the grounds contained in



Clause C.1 (a) to (f) of the Impugned Guidelines.

37. Having noted the above, we shall now proceed to the Third Suspension Order, which has been impugned by the petitioners in the present Writ Petition. The said Impugned Order has been passed by the respondent taking advantage of the liberty granted by this Court in its Judgment dated 31.05.2024.

38. At the outset, we would note that the said Impugned Suspension Order is a gross abuse of the process, and the reasons for the same shall be evident from the following.

39. The Impugned Third Suspension Order reads as under:

“Subject: Suspension of Business Dealings with M/s DEFSYS Solutions Pvt. Ltd.

Whereas, Ministry of Defence had circulated detailed Guidelines for Penalties in Business Dealings with Entities vide ID Note No.C-31013/1/2016- D(Vig) dated 21.11.2016.

2. Whereas, clause D.2 of the MoD guidelines dated 21.11.2016 stipulates that the competent authority may suspend business dealings with an entity when it refers any complaint against the entity to CBI or any investigation agency or when intimation is received regarding initiation of criminal investigation or enquiry against any entity.

3. Whereas, Hon'ble High Court of Delhi in its judgment dated 31.05.2024 in Writ Petition No. 431/024 has ordered that "The UOI/MoD will have the liberty to take recourse to the MoD Guidelines for suspending/banning Defsys if, during investigation, it gathers material that disclose its involvement with the Agusta Westland case, albeit, as per law."

4. Whereas, Ministry of Defence has received further new inputs from the CBI in the ongoing investigation of M/s Defsys Solutions Pvt. Ltd. in the Agusta Westland



case.

5. *Now therefore, in accordance with these guidelines and in consonance with the judgment dated 31.05.2204 of Hon'ble High Court of Delhi, the competent authority has decided that business dealings with M/s Defsys Solutions Pvt Ltd is suspended for a period of six months with effect from 09.06.2024 or until further orders whichever is earlier.*

6. *It is requested that strict compliance of the above decision may be ensured by all wings in this Ministry and Service Headquarters."*

40. A reading of the above Impugned Suspension Order would show that the respondent has again, in a most cryptic manner, based the same on 'new inputs from the CBI' in the ongoing investigation of M/s Defsys Solutions Pvt. Ltd. in the AgustaWestland Case without even detailing what this so-called "new input" reveals, if not with complete details but at least sufficiently to give to the petitioners some indication of why it is being suspended from doing business with the Government of India.

41. Though the Impugned Suspension Order did not mention the so-called 'new inputs from the CBI', the learned counsel for the respondent has produced before us the Office File containing the relevant correspondence and the file noting. The 'new inputs from the CBI' is an intimation received from the CBI stating that further investigations regarding some dubious transactions of the petitioner No.1 with a company against whom chargesheet has been filed are under-way. This was the same position/input which had resulted in the first two Suspension Orders, which stand quashed by this Court.

42. The Fourth Suspension Order dated 01.01.2025, which was



passed during the pendency of the present Writ Petition and was allowed to be challenged in the present Writ Petition, so far as is relevant, reads as under:

“4. Whereas, in accordance with these Guidelines and in consonance with the judgement dated 31.05.2024 of Hon’ble High Court of Delhi and with the approval of the Competent Authority, business dealings with M/s Defsys Solutions Pvt. Ltd. were suspended for a period of six (6) months with effect from 09.06.2024 or until further orders whichever is earlier.

5. Whereas, as per the latest inputs received from CBI, it is observed that M/s Defsys Solutions Pvt. Ltd. is still under investigation.

6. Whereas, Para D.3 of the MOD guidelines dated 21.11.2016 stipulates that the suspension of an entity may be extended beyond the period of one year, on the order of the Competent Authority for subsequent period of six months each.

7. Now therefore, in accordance with MoD guidelines dated 21.11.2016, the Competent Authority has decided that business dealings with M/s Defsys Solutions Pvt. Ltd. shall remain suspended for a further period of six months with effect from 09.12.2024 or until further orders whichever is earlier.”

43. The learned counsel for the respondent has submitted that the same has again been passed based on a letter received from the CBI which is identically worded to the earlier letter received from the CBI on basis of which the Impugned Third Suspension Order had been passed. This Court has already held in the above referred Judgments that the mere fact that the CBI is investigating the petitioner No. 1 is not sufficient to suspend it under the Impugned Guidelines, given the



circumstances mentioned hereinabove and taken note of by this Court in its earlier judgments.

44. The Fifth Suspension Order dated 24.06.2025, which has again been passed during the pendency of the present Writ Petition and challenge to which has been allowed to be made by this Court, so far as is relevant, reads as under:

“6. Whereas, with the approval of competent authority, the Suspension of Business Dealings with M/s DEFSYS Solutions Pvt. Ltd was extended for period of six months (w.e.f. 09.12.2024) vide Order of even No. dated 01.01.2025.

7. Whereas, as per the latest inputs received from CBI, it is observed that M/s Defsys Solutions Pvt. Ltd. is still under investigation.

8. Now therefore, in accordance with MoD guidelines dated 21.11.2016, the Competent Authority has decided that business dealings with M/s Defsys Solutions Pvt. Ltd shall remain suspended for a further period of six months with effect from 09.06.2025 or until further orders whichever is earlier.”

45. The learned counsel for the respondent submits that the same is based on a letter received from the CBI which states that *“material/evidence collected so far brings our apprehension that M/s Defsys Solution Pvt. Ltd. is involved in the suspicious transaction, which surfaced in the money trail of kickbacks/bribe transferred by the AgustaWestland Company.... The further investigation with regard to role of M/s Defsys Solutions Pvt. Ltd. is continuing, thus in view as above the suspension of M/s Defsys Solutions Pvt. Ltd. may be extended.”*



46. Having perused the above correspondence exchanged between the respondent and the CBI, it is apparent that the circumstances which were mentioned by this Court in its Order dated 31.05.2024 while quashing the First and the Second Suspension Order still sustain, and have been ignored by the respondent while passing the Impugned Third, Fourth, and Fifth Suspension Orders. The petitioner No.1 is still not an accused in the AgustaWestland Case; the Suspension Order against AgustaWestland, which is the prime accused, stands withdrawn on 12.11.2021 itself; there is no mention of any evidence with the respondent or with the CBI against the petitioner No.1 involving the petitioner no.1 with the AgustaWestland Case apart from an '*apprehension*' that it may be so involved; the respondent has not given any Show Cause Notice or a hearing while passing the Third, Fourth, and the Fifth Suspension Order; and finally, the circumstances mentioned in Clause C.1 (a) to (f) of the Impugned Guidelines are still not satisfied; in fact, no attempt has also been made by the respondent in the Impugned Third, Fourth or the Fifth Suspension Orders to show their satisfaction to any of these Clauses.

47. We, therefore, reiterate that the Third, Fourth and the Fifth Suspension Orders are in abuse of the power vested in the respondent under the Impugned Guidelines. In spite of repeated Judgments of this Court in favour of the petitioner No.1, the petitioner No.1 continues to suffer the agony of suspension on almost identically worded orders and on almost similar inputs from the CBI. This shows the utter callousness in which the respondent is dealing with the petitioner No.1 and its utter disregard to the Judgment dated 31.05.2024 of this Court,



the findings of which have not been challenged by the respondent till date. In view of the said circumstances, we are of the opinion that the Judgments relied upon by the respondent cannot come to the aid of the respondent and we need not make a detailed study of them in this judgment.

48. As far as the challenge to the Impugned Guidelines is concerned, we agree with the submission of the learned counsel for the respondent that the same would be barred by the principles of constructive *res judicata*. The Guidelines had also been challenged by the petitioners in W.P.(C) 431/2024. This Court, in its Judgment dated 31.05.2024, as far as the said challenge was concerned, observed as under:

“33. As far as the relief sought in the writ petition concerning striking down Clauses D.2 and D.34 of the MOD Guidelines is concerned, no arguments were advanced on behalf of the petitioners, possibly, for two reasons.

33.1 First, possibly because of the submission advanced on behalf of the petitioners that Clause D.2 could not be read independently of Clause C.1 (a) to (f) of the MOD Guidelines.

33.2 Second, perhaps because of the connection between suspension and banning. Clause D.3 of the MOD Guidelines requires a review of the order of suspension within six (6) months of the issuance of the order. It also provides that suspension should, ordinarily, not exceed one (1) year. Extension beyond a year, as per the said Clause, can be made at a time for six (6) months with a caveat that the total period of suspension cannot exceed the maximum period of banning entities for the same cause of action. Therefore, quite clearly, there is an inter-linkage between the grounds



of suspension and banning inasmuch as the former is a pro tem measure while the latter is the final decision that UOI/MOD may take against an entity with which it has entered into business dealings.”

Conclusion:

49. In view of the above finding of this Court, the challenge to the Impugned Guidelines cannot be sustained. The prayer in that regard is, accordingly, rejected.

50. We, however, set aside the Third Suspension Order dated 05.07.2024, the Fourth Suspension Order dated 01.01.2025, and the Fifth Suspension Order dated 24.06.2025, passed by the respondent against the petitioners.

51. The Writ Petition, along with the pending applications, is disposed of in the above terms.

NAVIN CHAWLA, J.

MADHU JAIN, J.

AUGUST 28, 2025/VS

Click here to check corrigendum, if any