



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT  
JODHPUR**

S.B. Civil Writ Petition No. 22645/2025

M/s Rajputana Freight Carrier, Plot No. 40, ZSB-BJS Colony, Jodhpur (Raj.)- Through Its Partner - Gopal Singh Chauhan S/o Late Shri Kan Singh Chauhan, Aged 65 Years. Resident Of Plot No. 40, ZSB-BJS Colony, Jodhpur (Raj.).

----Petitioner

Versus

1. Indian Oil Corporation Limited, Through Its Chairman And Managing Director, Indian Oil Bhawan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharashtra.
2. Executive Director (Operations), Indian Oil Corporation Limited, Indian Oil Bhawan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharashtra.
3. Chief General Manager (Operations), Rajasthan State Officer, Indian Oil Corporation Limited, Ashok Chowk, Adarsh Nagar, Jaipur (Raj.).

----Respondents

For Petitioner(s) : Mr. Sunil Joshi.  
Mr. Ritu Raj Singh Rathore.  
For Respondent(s) : Mr. Nishant Bora.  
Ms. Abhilasha Bora.  
Mr. Dheeraj Jangid

**HON'BLE MR. JUSTICE SUNIL BENIWAL**

**REPORTABLE**

**Order**

**Conclusion of Arguments &**

**Reserved on : 15/01/2026**

**Pronounced on : 30/01/2026**

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

*"In view of the foregoing facts and circumstances, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to :*

*i. issue a writ or certiorari or any other appropriate writ, order or direction calling for the records of the impugned guidelines version 4.0 issued by the respondent corporation*



*and to quash portion of the clause 8.2.2 of the ITDG (Annx 8) which states that 'complicity of the carrier shall be deemed to be existent in case of Duplicate Dip Rod' the same being illegal, arbitrary ultra vires constitution of India and void in law.*

*ii. Call for the entire record of the case and by an appropriate writ, order or direction, quash and set aside the impugned show cause notice dated 28.08.2024 (Annx.2) and the impugned order dated 16.10.2025 (An.1) passed by the Chief General Manager (Operations), Rajasthan State Office, Jaipur;*

*iii. Direct the respondents to restore the petitioner firm's transport contract and security deposit forthwith;*

*iv. Direct the respondents further to remove the name of the petitioner firm and its tank trucks from the blacklist maintained by the Corporation;*

*v. Declare that the impugned action of the respondents is arbitrary, illegal and violative of Article 14 and 19(1)(g) of the Constitution of India;*

*vi. Pass such other and further writ(s), order(s), or direction(s) as may be deemed just, proper and expedient in the facts and circumstances of the case, in favour of the petitioner firm; and*

*vii. Allow this writ petition throughout with exemplary costs, in the interest of justice."*

2. The facts, as narrated in the present writ petition, are that the petitioner is indulged in transportation of petroleum products. The petitioner was awarded a contract by the respondent – Corporation on 15.09.2021. As per the terms and conditions of the contract, the petitioner was required to abide by the Industry Transport Discipline Guidelines ('ITD Guidelines'). It is submitted that the contract was executed on 17.05.2022 and same was valid upto 15.05.2027. In terms of the said contract, the petitioner deployed fleet of ten Tank Trucks ('TT'). It is submitted that a sudden inspection was carried out on 04.05.2024 by Location In-charge and Safety officer and during such sudden inspection, it was found that one TT bearing No. RJ-19-GD-8064 was found to be having a Duplicate Dip Rod ('DDR'). During inspection, it was noted that the DDR was not matching with the calibration chart.





The respondent-Corporation, while taking note of such incident, proceeded to take action in terms of the ITD Guidelines and issued a show cause notice to the petitioner on 21.08.2024 while alleging that the petitioner-firm has violated Clause 8.2.2 of ITD Guidelines (Version 4.0).

2.1 The petitioner submitted its reply to the said show cause notice on 23.11.2024, wherein it was categorically stated that dip rod was not kept intentionally in the TT. It was further stated that dip rod was not kept for any undue advantage or any malefic intention and might have been retained in the TT cabin mistakenly by the crew. The TT in question never reported shortage and therefore, requested that the reply may be considered sympathetically and condone the inadvertent error.

2.2 The petitioner was later called for personal hearing on 03.02.2025 and thereafter the impugned order dated 16.10.2025 was passed, wherein the entire fleet including the disputed TT was blacklisted for a period of two years. The blacklisting of TT bearing No.RJ-19-GD-8064 was w.e.f. the date of suspension i.e. from 04.05.2024 till 03.05.2026 and the blacklisting of rest nine TTs were made effective from 17.10.2025 and till 16.10.2027. Being aggrieved by the impugned order dated 16.10.2025, the present writ petition has been filed.

3. Learned counsel for the petitioner while arguing the writ petition made the following submissions :-

(i) The Counsel started the line of arguments by bringing the attention of the Court towards the fact that as per the





communication dated 16.10.2025 (Annex.1) entire fleet of tank trucks belonging to the petitioner has been blacklisted for two years, on account of a duplicate dip rod, found in one of the tank trucks.

(ii) On 28.08.2024 (Annex.2), a show cause notice was issued to the petitioner on the ground that on 04.05.2024, Location In-charge and safety officer on surprise inspection, found that, out of the two, one truck bearing No.RJ-19-GD-8064 was found with duplicate dip rod. It was found that dip line was not matching with the calibration chart. The said TT was unloaded and challan was cancelled.

(iii) On 02.06.2024, the petitioner sent an email clarifying that it was not aware about the duplicate dip rod.

(iv) If at all action for blacklisting was required to be taken, the same ought to have been done qua the TT in which DDR was found and not qua the complete fleet.

(v) There has been blatant violation of ITD Guidelines. As per the guidelines, only the TT which was found to be tampering with standard fittings including 'calibration' shall be blacklisted. It does not mention that entire fleet will be blacklisted.

(vi) Proper investigation was not carried out by the respondents. The investigation should have been conducted by the Weight & Measurement Department but the same was not carried out.

(vii) There is no justification or damage or quantifiable loss portrayed by the respondents in order to take such a harsh action.





(viii) It was pointed out that after almost 110 days of issuing show cause notice, the hearing was conducted and the impugned order dated 16.10.2025 was passed after 531 days from the date of incident. The petitioner's TT was released after 385 days from the date of incident. No action was taken for 8 months from the date of issuing show cause notice.

(ix) The manner in which the Corporation proceeded clearly shows the malafide intent to punish the present petitioner. The incident is alleged to have occurred on 04.05.2024 and the Corporation took almost three months to issue show cause notice on 28.08.2024. Thereafter, the petitioner was called upon for personal hearing after another six months on 03.02.2025 despite the fact that the petitioner submitted its reply on 10.11.2024. The petitioner was called for hearing on 03.02.2025 and thereafter, the Corporation took another eight months to finally pass the impugned order. The conduct of the Corporation, while dealing with the present issue, speaks volumes about the fairness of the Corporation in treating the present case. The malafides of the respondent - Corporation is writ large and therefore, the impugned order deserves to be quashed and set-aside. At this stage, learned counsel for the petitioner fairly conceded that if at all the Corporation had observed any such unauthorised dip rod in a particular TT, as in the present case, the Corporation could have blacklisted that particular TT. However, under the garb of such an action, blacklisting the entire fleet cannot be said to be justified or reasonable.



Learned counsel for the petitioner has relied on a circular dated 31.12.2024, which provides timeline for taking action in case any malpractices is noted pertaining to any TT or contractor. While referring to the manner in which the Corporation has proceeded, it is submitted that the Corporation has breached the apparent timeline as indicated in the said circular and therefore, the impugned action deserves to be quashed and set-aside.

(x) Learned counsel for the petitioner has also placed on record additional affidavit. Along with the additional affidavit, the minutes of the proceedings dated 03.02.2025 has been placed on record to indicate that there was no evidence of any wrongful use of DDR.

Based on the above submissions, learned counsel for the petitioner contended that the action taken against the present petitioner is highly disproportionate to the alleged incident. It is submitted that even assuming, without admitting that a DDR was found in one of the TT, the respondent-Corporation was not justified in blacklisting the entire fleet, more particularly in view of the fact that there was no material before the Corporation to establish that the DDR was used which resulted in loss to the Corporation or to any other party. In absence of any evidence of misuse, the penalty imposed is highly disproportionate.

(xi) Learned counsel for the petitioner has given a proposal stating that the petitioner is willing to accept the order of blacklisting qua TT No. RJ-19-GD-8064 i.e. the vehicle from which the DDR was recovered, provided the Corporation agrees to allow the other nine TTs to operate.





In support of the arguments raised by learned counsel for the petitioner, reliance has been placed on the following judgments :-

**(1)- UMC Technologies Pvt. Ltd. Vs. Good Corporation of India & Anr. : SLP (Civil) No.14228/2019, decided on 16.11.2020.**

**(2)- M/s Atts Associates Vs. Bharat Petroleum Corporation Ltd. & Ors. : Writ-C No.16713/2022, decided on 11.10.2022 (Allahabad HC).**

**(3)- Gyanendra Kumar Vs. Union of India & Ors. : Writ-C No.28993/2024, decided on 10.02.2025 (Allahabad HC).**

**(4)- M/s Radhika Logistics Vs. Union of India & Ors. : Writ Petition No.7144/2023, decided on 03.06.2024 (Telangana HC).**

**(5)- M/s. Laxmi Petroleum Vs. Indian Oil Corporation Ltd. & Ors. : SBCWP No.826/2015, decided on 18.02.2015 (Rajasthan HC).**

4. Per contra, learned counsel appearing for the respondents made following submissions :-

(i) The sudden inspection was carried out on 04.05.2024 and the DDR was found in one of the TT of the petitioner bearing No. RJ-19-GD-8064. On reporting of the said incident, a show cause notice was issued. While referring to the show cause notice, it is submitted that the reasons were very clearly spelled out in the notice, wherein it was indicated that there was shortage found on the compartment of TT and secondly, the DDR was also found at the time of inspection. While referring to ITD Guidelines, it is submitted that there is a deeming clause, which provides that if a





DDR or calibration chart is found, the complicity of the carrier should be deemed to be existent and the whole contract comprising of all TTs can be terminated. It is submitted that the petitioner was fully aware about the guidelines and therefore, the Corporation was fully justified in invoking the said clause.

(ii) While referring to Clause 9(b) of the Contract Agreement, it is submitted that the petitioner has agreed to comply with and give full cooperation to the Company in meeting the requirements of prevailing 'Marketing Discipline Guidelines' as applicable to them. In view of the said clause, the petitioner has accepted the decisions taken under the ITD Guidelines and therefore, on account of the alleged incident, the petitioner is estopped from questioning the decision taken by the Corporation in invoking ITD Guidelines.

(iii) While referring to the conditions of the Guidelines, as is available on Pg.85, more particularly Clause (8), it is submitted that the entire fleet would be blacklisted in the case of three major contingencies and one of it being DDR / Calibration chart.

(iv) Learned counsel for the respondents while responding to the issue of delay caused in passing the impugned order, submitted that after the sudden inspection was carried out in the month of May, 2024, the matter was investigated and after the investigation was concluded, a show cause notice was issued in August, 2024.

Reply was received from the petitioner on 10.11.2024 and thereafter, he was called for hearing on 03.02.2025. Before the decision could finally be taken, two of the officers came to be





transferred and therefore, the proceedings were started afresh and the petitioner was given fresh notice on 01.10.2025 and 07.10.2025. However, the petitioner did not choose to appear and thereafter decision was made on 16.10.2025 after considering the reply filed by the petitioner as well as after considering the statement of representative of the petitioner made on 03.02.2025.

(v) While responding to the arguments with regard to the breach of timeline as indicated in the Circular dated 31.12.2024, learned counsel for the respondents submitted that the circular is not applicable in the present case as the alleged incident occurred on 04.05.2024, whereas the circular came to be issued on 31.12.2024. It is submitted that the circular would be applicable only in relation to the incident, which occurred after the issuance of the said circular and therefore, the petitioner cannot take any assistance of the said circular.

(vi) It is submitted that the petitioner has completely failed to provide any proper explanation as to why two dip rods were found in the TT in question. The explanation as submitted by the petitioner in its reply dated 10.11.2024 simply states that a DDR, as a useless iron rod, was found, however, he was not aware of the source from which such rod was obtained. The reply further indicated that the said iron rod does not fall in the category of a dip rod, as the markings on it are in positive numbers and that if such rod was used, excess product would be required to be delivered and no person would be using it as this would result in direct loss to the transporter or driver.





(vii) While referring to such contents it is argued by learned counsel for the respondents that as a matter of fact, the petitioner has admitted that such dip rod was recovered at the time of inspection, which was carried out on 04.05.2024. It is submitted that in view of such specific admission, the only issue which requires consideration of this Court is as to whether on noticing such act, the action of the Corporation is justified or not.

(viii) In support of such submissions, learned counsel for the respondents has placed reliance on following judgments :-

**(1)- The Empire Jute Co. Ltd. & Ors. vs. The Jute Corporation of India Ltd. & Ors., reported in (2007) 14 SCC 680.**

**(2)- State of U.P. & Ors. Vs. Bridge & Roof Co. (India) Ltd., reported in (1996) 6 SCC 22.**

**(3)- Surajpur Indane Gas Sewa vs. Indian Oil Corporation Ltd. & Ors. : Writ-C No.13636/2025, decided on 02.05.2025 (Allahabad HC)**

**(4)- M/S Saini Cargo Vs. Indian Oil Corporation Ltd. & Anr. : W.P.(C) No.4753/2020, decided on 02.11.2023 (Delhi High Court)**

5. Learned counsel for the respondents has raised preliminary objection with regard to maintainability of the present writ petition on the ground of having alternative remedy of approaching the arbitrator. While referring to the Clause 18 of the contract agreement, it is contended that the present writ petition is not maintainable, which specifically provides for appointment of Arbitrator.





6. While responding to the arguments advanced by learned counsel for the respondents, learned counsel for the petitioner submitted that the question of alternative remedy would not arise in the present writ petition as the petitioner in the present writ petition has sought quashing of Clause 8.2.2 of ITD Guidelines and therefore, the objection with regard to maintainability of the writ petition is required to be rejected.

6.1 The circular dated 31.12.2024 was issued to safeguard the interest of the contractors and further provides the procedure for fair, transparent and time-bound adjudication of the dispute and therefore, the same is required to be adhered even in cases where the incident has occurred prior to issuance of the circular.

6.2 The respondents have not placed any material on record or established the fact that there was any misuse of the DDR, which resulted in loss to the respondent – Corporation or to any third person.

6.3 The guidelines, more particularly Clause 8.2.2 is sought to be applied in a wrong manner and as a matter of fact, the correct interpretation would indicate that only the TT from which a DDR is recovered is to be blacklisted and not the entire fleet.

7. Heard learned counsel for the parties and perused the material available on record.

8. It would be appropriate to first deal with the preliminary objection raised with regard to the maintainability of the present writ petition. Learned counsel appearing on behalf of the Corporation has raised objection with regard to maintainability of





the present writ petition on the ground of alternative remedy of raising dispute before the arbitrator in terms of Clause 18 of the contract agreement.

8.1 Learned counsel for the petitioner while replying to the said objection has referred to prayer No.1 of the writ petition, wherein the petitioner has challenged Clause 8.2.2 of the ITD Guidelines.

8.2 Considering the fact that the petitioner has prayed for quashing of Clause 8.2.2 of the ITD Guidelines so also considering the grounds raised in support of such prayer, this Court is not inclined to dismiss the writ petition on the preliminary objection raised by learned counsel for the respondent-Corporation. This Court deems it appropriate to decide the writ petition on merits.

8.3 So far as judgments cited by the respondents in the case of **Bridge & Roof Co.** (supra), **Surajpur Indane Gas Sewa** (supra) and **The Empire Jure Co. Ltd.** (supra) are concerned, the same would not be applicable to the present case since, as discussed in the preceding paras, the existence of arbitration clause does not bar the present writ petition, more so when the clause 8.2.2 of the ITD Guidelines is under challenge.

9. The undisputed facts in the present writ petition are that a contract for transportation of petroleum product was executed between the petitioner and the respondent-Corporation. In terms of the said contract, the petitioner deployed as many as ten TTs. A sudden inspection was carried out on 04.05.2024 and in one TT out of the fleet of ten TTs, more particularly, TT No. RJ-19-GD-8064, a DDR was recovered. The petitioner in its reply has though





termed the DDR as an unwanted iron bar, however, the factum of recovery of such rod is not disputed. As a matter of fact, learned counsel for the petitioner has submitted that even if it is treated as a DDR then too he has no objection to the blacklisting of that particular TT bearing No.RJ-19-GD-8064. However, under the garb of that, the entire fleet could not have been blacklisted. That apart, the arguments as advanced by learned counsel for the petitioner that no loss was caused to the Corporation on account of such DDR, further indicates that there is no serious quarrel amongst the parties with regard to recovery of said DDR.

9.1 Learned counsel for the respondents while referring to the show cause notice have though alleged that there was some shortage in one of the compartment of the TT, however, they have not emphasized much on the said issue. The additional affidavit filed by the petitioner along with the minutes of the proceedings dated 03.02.2025 also indicate that there was no evidence or any final adjudication made in order to establish the fact that the DDR was misused and any shortage in the petroleum product was noted by the Corporation.

9.2 Considering the above facts, this Court does not find any material to accept the contention of learned counsel for the respondent that there was a loss caused to the Corporation on account of using the DDR.

10. The only question, therefore, requires consideration of this Court is as to whether the recovery of DDR in one of the TT would result in blacklisting of the entire fleet of the contractor or not.





10.1 In order to appreciate this issue, it would be appropriate to reproduce clause 8.2 of the Oil Industry Transport Discipline Guidelines (Version 4.0) (Annex.8) :-

"8.2 Penalties for malpractices / irregularities

**8.2.1 Malpractices / irregularities will cover any of the following:**

- a. Unauthorized deviation from specified route / unauthorized delay / unauthorized en-route stoppage / not reaching destination / over speeding / en-route switching off VMU/ unauthorized removal of VMU / use of VMU on other vehicles.
- b. TT crew found in intoxicated state while on duty.
- c. Irregular reporting of TT at loading location without permission of the location.
- d. Refusal to carry loads allocated by the location.
- e. Reported case of non-wearing of retractable seat belt while driving.
- f. Driving vehicle without cleaner/helper.
- g. Non-functioning of Fire Extinguisher carried by TT.
- h. Polluting environment due to product spillage from tilting or leaky vehicles on road, in case of accident / unsafe driving.
- i. Accident involving injury or damages to the facilities at the work place.
- j. Fatal accident at the work place.
- k. Tampering with standard fittings of TT including the sealing, security locks, security locking system, calibration, Vehicle Mounted Unit or its fittings/fixture
- l. Unauthorized use of TT for products other than the petroleum products for which it has been engaged.
- m. Entering into contract based on forged documents / false information.
- n. Entering into an agreement for the same TT with other oil companies
- o. Irregularities under W&M Act.
- p. Not lodging FIR with the Police in case of accident, not informing / submitting accident report to the Oil Company about the accident.
- q. Pilferage / short delivery of product.
- r. Any act of the carrier / carrier's representative that may be harmful to the good name / image of the Oil Company, its' products or its services.

**8.2.2 Penalties upon detection of malpractice / irregularities**

The carrier shall attract penalties for the malpractice / irregularities as given below and the TT mentioned in the following instances shall be suspended / blacklisted along with TT crew. However, an investigation, wherever required, shall be conducted





and if the malpractice / irregularity is established then penal actions stipulated as under shall be taken, including blacklisting :

Clause No.	Type of malpractice / irregularity	Penalty against number of instance		
		First	Second	Third
8.2.2.1	(a) Reported non-wearing of retractable seat belt while driving. (b) Repetitive / Habitual Over speeding. (c) Driving Without cleaner/ helper	TT shall be suspended for one week.	TT shall be suspended for six months.	TT shall be blacklisted.
8.2.2.2	(a) Established repetitive unauthorized stoppage en route. (b) Established repetitive unauthorized diversion from specified route. (c) Refusal to carry loads allocated by the location. (d) Irregular reporting of TT at loading permission of the location.	TT shall be suspended for six months.	TT shall be blacklisted.	
8.2.2.3	Short delivery of product for established malpractice.	TT shall be blacklisted.		
8.2.2.4	(a) Non-availability/non-functioning of TT fire extinguisher. (b) TT crew found in intoxicated state while on duty. (c) Not wearing uniform. (d) Not wearing PPEs at loading/unloading locations.	TT shall be suspended for one week.	TT shall be suspended for six months.	TT shall be blacklisted.
8.2.2.5	(a) Established tampering / damaging of VMU. (b) Established disconnection of power / cable of VMU enroute. (c) Removal of VMU from original mounting.	TT shall be blacklisted.		
8.2.2.6	Accident at the location leading to injury of persons or damages to the facilities.	TT shall be suspended for six months.	TT shall be blacklisted.	
8.2.2.7	Polluting environment due to product spillage from TT.	TT shall be suspended for six months.	TT shall be blacklisted.	
8.2.2.8	Established case of pilferage/non-delivery of product.	TT shall be blacklisted.		
8.2.2.9	Fatal accident at the work place.	TT shall be blacklisted.		
8.2.2.10	Irregularities under W&M Act.	TT shall be blacklisted.		





8.2.2.11	Tampering with standard fittings of TT including the sealing, security locks, security locking system, Calibration.	TT shall be blacklisted.		
8.2.2.12	Unauthorized use of TT outside the contract.	TT shall be blacklisted.		
8.2.2.13	Entering into contract based on forged documents / false information.	TT shall be blacklisted.		
8.2.2.14	Entering into an agreement for the same TT with other oil companies.	TT shall be blacklisted.		
8.2.2.15	Not lodging FIR with the Police in case of accident, not informing / submitting accident report to the Oil Company about the accident.	TT shall be blacklisted.		
	of the Oil Company, its' products or its services.			
8.2.2.16	Any act of the carrier / carrier's representative that may be harmful to the good name / image	As decided by the company		

During the validity of transportation contract, in the first instance of blacklisting for a transporter, as per the above provisions, damage of Rs.1 Lakh will be imposed on the Transporter apart from blacklisting of the involved TT. In second instance of blacklisting, a damage of Rs.3 Lakhs will be imposed and the involved TT will be blacklisted. In third instance of blacklisting, a damage of Rs 5 Lakhs will be imposed and 25% of the remaining TTs will be blacklisted along with the involved TT. In fourth instance, a penalty of Rs. 8 Lakhs will be imposed and 50% of remaining TTs will be blacklisted along with involved TT. In case of any further incident of malpractice, the entire fleet will be blacklisted and the SD will be forfeited and the transportation contract will be terminated. The percentage of TT blacklisted will be in proportion of own & attached offered and will be rounded off to the higher numerical.

Above damages imposed are in addition to the recovery of the product quantity found short or recovery due to contaminated product involving the cost of product, expenses and losses incurred as determined by the company.

**However, in case, complicity of the transporter is established even in first instance of malpractice, the entire fleet will be blacklisted, contract terminated & carrier blacklisted along with forfeiture of SD.**

**The blacklisting of TTs shall be on Industry basis.**

**In the following irregularities, the complicity of the carrier shall be deemed to be existent and the whole contract comprising of all the TTs belonging to the concerned carrier shall be terminated, security deposit forfeited and the concerned carrier & their all TTs shall be blacklisted on Industry basis :**





- 1. False/hidden compartment, unauthorized fittings or alteration in standard fittings affecting Quality and Quantity.**
- 2. Illegal/un-authorized duplicate keys of security locks.**
- 3. Duplicate dip rod / calibration chart, the guidelines provide for strict action."**

Clause 8.2 deals with the malpractices / irregularities. Clause 8.2.1(o) deals with 'irregularities under W&M Act'; Clause 8.2.1(q) deals with 'Pilferage / short delivery of product; and Clause 8.2.1(r) deals with 'any act of the carrier / carrier's representative that may be harmful to the good name / image of the Oil Company, its' products or its services.'

Clause 8.2.2.11 provides for blacklisting of the TT (Transport TT) in case of tampering with standard fittings of TT including the sealing, security locks, security locking system, calibration. Clause 8.2.2 further provides for certain penalties including blacklisting of TT in case of first instance, second instance, third instance, fourth instance and also for blacklisting of entire fleet. It also provides that in case, complicity of the transporter is established even in the first instance of the malpractices, entire fleet will be blacklisted, contract terminated and carrier blacklisted along with forfeiture of SD.

10.2 In addition to the above provision, blacklisting of TTs is proposed on industry basis and there is a deeming clause, which provides that in case of certain irregularities, the complicity of the carrier shall be deemed to be existent and the whole contract comprising of all the TTs belonging to the concerned carrier shall be terminated, security deposit forfeited and the concerned carrier and their all TTs shall be blacklisted on industry basis. The three





contingencies, on which such deeming clause has been made applicable includes DDR / Calibration chart.

10.3 Learned counsel for the petitioner has emphasized that action of blacklisting of entire fleet could be taken after the complicity is established. It is submitted that in the present case, the complicity has not been established and in absence thereof, the respondent – Corporation was not justified in blacklisting the entire fleet.

10.4 Learned counsel for the respondent–Corporation submitted that, in the present case, a deeming clause is applicable and, once a DDR is recovered from a TT, the question of establishing complicity does not arise. Therefore, the action taken by the respondent–Corporation is fully justified. It is to be noted that, in the present case, the recovery of a DDR is not disputed. Although, in the reply filed by the petitioner to the show-cause notice, it has been stated that only an unwanted iron rod was recovered and not a DDR, such an explanation is not acceptable. This is more so because the petitioner, in its reply, stated that the said iron rod contained positive markings and that, if such a dip rod were used, it would result in the delivery of excess petroleum product. It was further stated that no transporter would use such a rod, as it would directly result in losses to the transporter. This assertion, by itself, is sufficient to indicate that the rod recovered was, in fact, a DDR containing specific markings. The relevant part of the reply dated 10.11.2024 is reproduced as under :-

“ ..... नापतोल विभाग से जानकारी करने पर बताया कि DIP नंबर एक DIP नहीं है यह केवल नष्ट करने योग्य छड है कैलिब्रेशन के समय चार-पांच गाड़ियों के चार्ट के अनुसार निशान साथ लगाये जाते





हैं उसे समय इस गाड़ी की DIP पर गलत निशान लग गया था जिसको नष्ट करने के लिए ड्राइवर को बताया गया था कि विभाग ने DIP नंबर दो चार्ट के अनुसार सत्यापित करके दिया तथा उसी से सप्लाई दी जा रही है।

इससे साफ जाहिर है कि यह एक केवल अनुपयोगि छड़ है न की कोई दूसरी DIP नापतोल विभाग द्वारा इसकी जांच रिपोर्ट आने पर व गाड़ी में पानी भरकर चेक करने पर ही सही जानकारी मिलेगी।

मेरे फर्म में लगभग 30 परिवारों का रोजगार है कमेटी द्वारा गाड़ी को चेक करने पर कोई भी कमी नहीं पाई गई थी गाड़ी का हर चेंबर व E लॉकिंग सिस्टम बिल्कुल सही पाया गया ऐसी स्थिति में उस छड़ को इस गाड़ी के लिए कोई उपयोग नहीं है गाड़ी के साथ कंपनी का प्रतिनिधि भेज कर वर्कशॉप में गाड़ी का इंजन ठीक करवा कर चेक करने पर ही पता चलेगा कि इस छड़ का कोई उपयोग है या नहीं है।

यह है कि जब तक गाड़ी को पानी भरकर चेक नहीं किया जाता तब तक यह गलत है कि dip नापतोल विभाग द्वारा जारी की जाती हैं तो छड़ के बारे में सही जानकारी नापतोल विभाग देगा

इतना बड़ा निर्णय पूर्ण जांच किए बगैर करना प्राकृतिक न्याय के विरुद्ध है यह है कि गाड़ी को ठीक करवा कर नापतोल विभाग के अधिकारियों द्वारा कैलिब्रेशन टावर पर चेक करने की कृपा करें जिससे मुझे न्याय मिल सके मुझे पूर्ण विश्वास है कि आप मुझे न्याय से वंचित नहीं रखेंगे। मैं मेडिकल परिस्थितियों के कारण व्यस्त रहा मेरी फर्म MSME स्टार्टअप फर्म है जो कंपनी द्वारा जारी किए गए नियमों के अनुसार कार्य करने में विश्वास रखती हैं मेरे ट्रांसपोर्ट की कभी कोई शिकायत नहीं आई

अतः आपसे निवेदन है कि जब तक गाड़ी में पानी भरकर चेक नहीं किया जाता है व नापतोल विभाग द्वारा सत्यापित नहीं किया जाता तब तक शो केस नोटिस को निरस्त करवाने की कृपा करें।”

Learned counsel for the petitioner also raised an issue regarding the fact that the DDR was not counter-checked by the Weight and Measurement Department and that, in the absence of





such verification, the Corporation could not have arrived at the impugned conclusion.

10.5 The arguments as advanced by learned counsel for the petitioner appear to be attractive on first count. However, a close scrutiny would indicate that such requirement would arise only if there were some manipulation in the reading of dip record which requires reconfirmation from the Weight and Measurement Department. In the present case, the recovery of two DDR and one not matching with the calibration chart was sufficient in itself to establish the fact that a manipulated dip rod was recovered in one of the TT owned by the contractor. The recovery of one such DDR automatically attracted Clause 8.2.2 of the ITD Guidelines.

10.6 Learned counsel for the petitioner has submitted that Clause 8.2.2 more particularly the provision, which provides for blacklisting of entire fleet is required to be declared as an invalid on the ground of being irrational, which permits the Corporation to blacklist the entire fleet. Such condition is highly disproportionate to the irregularities committed.

10.7 It is to be noted that Clause 8.2.2 specifically provides different types of penalties in case of different irregularities. There are certain eventualities when a particular TT can be blacklisted. As many as 16 different eventualities, which would invite blacklisting of TTs are mentioned in Clause 8.2.2, from 8.2.2.1 to 8.2.2.16.

10.8 Considering the gravity of three different malpractices namely (i) False/hidden compartment, unauthorized fittings or alteration in standard fittings affecting Quality and Quantity; (ii)





Illegal/un-authorized duplicate keys of security locks; (iii) Duplicate dip rod / calibration chart, the guidelines provide for strict action.

A perusal of these three eventualities would indicate that the framers of the guidelines have considered these three malpractices of such a grave nature, for which deeming provision has been added. These conditions appear to have been introduced to ensure that there is no adulteration in petroleum products so also to ensure that the transporters do not indulge in malpractices which directly effect the image and reputation of all these OMCs. This Court finds no reason to treat the guidelines to be unreasonable or irrational in any manner.

11. Learned counsel for the petitioner has placed heavy reliance on the judgment passed by the Division Bench of Allahabad High Court in the case of **M/s. Atts Associates** (supra), in support of his submission that the respondent authorities could not proceed without adhering to Clause 8.2.2 so also without completing its investigation and could not invoke deeming clause. Learned counsel for the petitioner has relied on para 17 & 18 of the said judgment. On perusal of the same, it is to be noted that the said case is clearly distinguishable on fact. In the said case, show cause notice was issued, however, nothing was indicated as to what penalty the Corporation was intending to propose. On account of this patent flaw in the show-cause notice, the action itself was found to be unreasonable and against basic principles of fairness. In the present case, show cause notice dated 28.08.2024 clearly indicates that the petitioner was made





aware of the irregularities noted during sudden inspection on 04.05.2024 and the provision itself was quoted in the show cause notice so also the consequence of entire fleet being blacklisted was specifically mentioned.

Considering the above fact, the judgment cited by learned counsel for the petitioner is clearly distinguishable on facts.

11.1 In the case of **UMC Technologies Private Limited** (supra), the Apex Court quashed the order of blacklisting on the ground that SCN issued did not convey the intent of blacklisting which is against the position of law that if the penalty to be imposed is blacklisting then the SCN must clearly stipulate so, in order to provide sufficient opportunity of hearing to the party.

So far as present matter is concerned, the guidelines clearly mention about blacklisting as a penalty/punishment whereas in the case of UMC Technologies Private Limited (supra), there was no condition in the tender which provided blacklisting as a consequence of breach nor the SCN issued was clear in proposing the action of blacklisting. The petitioner herein has been given sufficient opportunity of hearing as not only SCN was issued but a personal hearing was also held after clearly stipulating the clause of guidelines applicable so also the consequence of blacklisting.

11.2 In the case of **Gyanendra Kumar** (supra) the SCN was set aside on the count that it was issued beyond the timeline provided in the guidelines applicable therein.

In the present case, learned counsel for the petitioner has relied upon circular dated 31.12.2024 which provides for time frame to complete the entire process. This Court notes that the





said circular came to be published after the cause of action arose in the present case therefore, the said circular is not applicable in the present case. Even upon non-applicability of the said circular, this Court does not deny that process must be completed within a reasonable time however, in the present case the respondent has proceeded following the applicable guidelines so also the procedure, therefore, this Court is of the opinion that the time taken to pass the impugned order cannot be a ground to set aside the same.

11.3 In the case of **M/S Laxmi Petroleum** (supra) the order of blacklisting was set aside on the ground that the petitioner therein was not provided fair opportunity of hearing as the allegation on basis of which the petitioner was blacklisted was never put to its notice therefore, it could not produce its stand/submission qua the same.

This Court is of the opinion that the said judgment is not applicable to the present matter as the petitioner herein was very well informed about the allegations through the SCN. Moreover, the petitioner was provided fair opportunity of hearing as well by providing personal hearing.

11.4 In the case of **M/S Radhika Logistics** (supra), the Telangana High Court while applying the doctrine of proportionality quashed the blacklisting order on the count that the impugned order therein was passed without any reasoning and justification which shocked the conscience of the Court. It was observed that there was no finding or reasoning with regard to complicity on the part of the petitioner on basis of which the entire fleet and crew





was blacklisted despite the recovery of non-standard rod been made from only one TT.

This Court is of the opinion that the findings of the said judgment cannot be applied to the present set of circumstances as herein the impugned order is not only well-reasoned but has been passed after dealing with the stand of the petitioner so also the relevant applicable clause. Moreover, the Telangana High Court in aforesaid case, remanded the for fresh decision after affording opportunity of hearing whereas in the present matter, in the considered opinion of this Court, the petitioner has been given fair opportunity to put forth its stand before the authorities. So far as the principle of proportionality is concerned, as discussed in the preceding paras, the authors of the guidelines have provided different penalties for as many as 16 situations, thus, it cannot be said the penalty stipulated in guidelines is without application of mind or irrational or not-proportional. It is only in certain circumstances that the complicity of the contractor is deemed to exist and a perusal of the said circumstances reflect that they are grave in nature thus, in the opinion of this Court, the doctrine of proportionality would not help the petitioner in the present case.

11.5 In the case of **M/S Saini Cargo** (supra), the Delhi High Court while dealing with identical issue declined to interfere with the blacklisting order as firstly, the Courts cannot sit as an appellate authority over the decisions taken by the authority unless the same is extremely perverse, secondly, author of the agreement is best person to interpret the contract and thirdly, the





petitioner therein could not rebut the presumption provided under the guidelines regarding complicity of the carrier.

This Court is in agreement with the observations made by the Delhi High Court. It is noted that in the present case too, nothing has been placed on record by the petitioner to rebut the presumption of complicity.

12. In view of the discussion made above, this Court does not find any infirmity in the decision to blacklist the entire fleet of TT, as the same is in line with the ITD Guidelines. Accordingly, the present writ petition is dismissed.

13. Pending application(s), if any, stand(s) disposed of.

**(SUNIL BENIWAL),J**

Rmathur/-