2025 INSC 1355

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No. _____/2025
(Arising out of SLP (C) No. 6531/2025)

State of Himachal Pradesh & Anr. …Appellants

versus

M/s OASYS Cybernatics Pvt. Ltd. …Respondent

J U D G M E N T

SURYA KANT, CJI.

Leave granted.

2. The instant appeal, emanating from a dispute concerning government tenders, brings into sharp focus the delicate balance between considerations of public interest and the constitutional prohibition on arbitrariness in State action.

3. To briefly explicate, the State of Himachal Pradesh (**Appellant-State**) is in appeal against a Division Bench judgment of the High Court of Himachal Pradesh at Shimla (**High Court**) dated 30.05.2024 (**Impugned Judgment**), whereby the cancellation of a Letter of Intent (**LoI**) issued to M/s OASYS Cybernetics Pvt. Ltd. (**Respondent-company**) in connection with a tender for the supply, installation, and maintenance of electronic Point-of-Sale

(**ePOS**) devices for use in the Appellant-State's Fair Price Shops, has been set aside with consequential restoration of contractual obligations.

A. FACTS

4. Prior to proceeding with charting out the competing submissions and the questions of law that arise for determination, it is necessary to first demarcate the relevant facts in some detail, as they form the quintessential setting against which the present controversy must be considered.

5. The dispute essentially emanates from the endeavour of the Appellant-State to modernise the functioning of its Public Distribution System (**PDS**). To that end, in 2017, the Appellant-State's Department of Food, Civil Supplies and Consumer Affairs (**the Department**)—which is the second Appellant before us—had engaged the Respondent-company for the supply and maintenance of ePoS devices at Fair Price Shops across the State. The said arrangement, being a rental model, continued in operation for several years and formed the technological base for the State's PDS till its expiry.

5.1. In the financial year 2021-22, the State Government resolved to upgrade this ostensibly obsolete system by introducing enhanced ePoS devices equipped with biometric and IRIS-scanning

facilities, making them *inter alia* capable of integration with electronic weighing scales. The reform was intended to allow an Aadhaar-enabled Public Distribution System (**AePDS**) to ensure transparency and better service to the beneficiaries. Pursuant thereto, the Department on 23.04.2021 invited an Expression of Interest from eligible manufacturers and system integrators to supply and maintain such upgraded devices. Several agencies participated in that process, one of which was the Respondent-company itself.

5.2. The Department thereafter initiated a series of tendering exercises throughout 2021 and 2022. Although the **first tender** was floated on 20.12.2021 and bids were opened on 21.01.2022, none of the bidders, including the Respondent-company, were deemed technically qualified. As a result, the process was cancelled.

5.3. A **second tender** was published on 28.01.2022, wherein five companies participated, but a technical evaluation again revealed deficiencies in documentation and non-conformity with the requisite specifications. This tender, too, was cancelled on 22.02.2022.

5.4. The process for the **third tender** commenced on 23.02.2022. Once again, the same set of five companies, including the Respondent-company and one M/s Linkwell Telesystems Pvt. Ltd. (brand name Visiontek) (**Linkwell Telesystems**), participated in the process. Upon evaluation, only the Respondent-company was found to have satisfied the technical criteria. The Department nonetheless elected to scrap the process yet again in order to afford equal opportunity to all bidders and to avoid a single-

vendor situation. The tender accordingly stood cancelled on 24.03.2022.

5.5. The Department consequently notified a **fourth tender** on 25.03.2022. Four conglomerates, including the Respondent-company and Linkwell Telesystems, again participated; and on evaluation, the Respondent-company was yet again the sole technical qualifier. However, on this occasion, in view of the pressing need to maintain continuity in ration distribution and given the repeated failure of earlier rounds, the Department sought and obtained Government approval on 24.05.2022 to consider and open the Respondent-company's financial bid. The same was opened on 07.06.2022, and negotiations ensued.

5.6. After discussions were held on 16.07.2022, the monthly rental rate for each ePoS device, inclusive of the IRIS scanner and related hardware, was settled at ₹1,050 per Fair Price Shop. In furtherance of this beleaguered process, an LoI was ultimately issued to the Respondent-company on 02.09.2022, for the supply, installation and maintenance of upgraded ePoS devices for five years. It is illuminating to note that the arrangement between the Appellant-State and the Respondent-company was a service contract premised on rental payments rather than outright purchase, similar to the arrangement that had subsisted before.

5.7. It may also be recorded, for the sake of completeness, that the LoI itself was not unconditional. Instead, it required the Respondent-company to fulfil several pre-requisites before any agreement could be executed or work formally awarded. These conditions *inter alia* pertained to certain technical benchmarks

and demonstrations, apart from the provision of landing costs. The mandate contemplated in the LoI is reproduced below:

> "*…your agency has been* ***selected to supply, install, maintain ePoS devices with IRIS integration and developing SLA/ePoS monitoring tool, etc. to implement Aadhaar enabled Public Distribution System in HP for five years*** *at Rs. 1050/- (Rupees One thousand fifty only) per FPS per month inclusive of all taxes as per the tender document (RFP) subject to fulfilment of pre-requisites and compatibility of proposed devices with the NIC software.*
>
> *It is further intimated that NIC HP is the technical partner of the department for the implementation of ePDS project in the State.* ***Therefore certain pre-requisite condition is required to be complied by your agency in coordination with NIC before onboarding upgraded ePDS project as discussed in the meeting held on 26.07.2022 in the Directorate.***
>
> *In view of above, you are requested to ensure following compliances immediately in co-ordination with NIC, HP.*
>
> *1. Testing compatibility test, etc. of proposed devices. preferably at Hyderabad in the office of NICSI, as discussed in the meeting held on 26.07.2022.*
>
> *2. After completing all codal formality at point No. 1, the live demo of the upgraded ePOS device with the software and application of NIC will be given by your agency at the Directorate of FCS&CA, HP.*
>
> *3.* ***After the successful demonstration of the upgraded ePOS devices as per the specification mentioned in the tender document, the agreement will be signed with your agency and final award letter will be issued.***
>
> *4. Also, as mentioned in the tender document, please indicate the MRP/Landing cost of the ePOS device and other major components.*
>
> ***Hence, in view of above, it is requested to co-ordinate with the NIC, HP for the requisite***

compliances on top priority so that the agreement is executed accordingly."

[Emphasis supplied]

5.8. The Respondent-company acknowledged the LoI on 07.09.2022, furnishing a broad cost estimate of the device. Meanwhile, *vide* a message dated 19.09.2022, the Department requested the Respondent-company to start providing new ePoS devices and impart training to Fair Price Shop dealers, so that it might smoothly transition to the upgraded system after December 2022 (when the previous contract would expire).

5.9. In reply to the same, the Respondent-company on 20.09.2022 stated that a pilot deployment of 250 devices was scheduled in Bilaspur District and also sought clarity on certain technical aspects of the LoI.

5.10. In the months that followed, correspondence between the Department and the Respondent-company continued with the former reiterating its request for the submission of a complete cost break-up of the devices on 28.09.2022 and 22.12.2022.

5.11. It merits noticing that during this period, the earlier 2017 contract remained in force, and the Respondent-company continued to receive rental payments for those machines from the Department.

5.12. That being the status, one of the unsuccessful bidders, Linkwell Telesystems, on 03.01.2023 addressed a complaint to the Department alleging that the Respondent-company had suppressed material facts which would render it unfit for participation in the tendering process. Specifically, they alleged that the Respondent-company and its predecessor entity had been blacklisted in the States of Andhra Pradesh and Madhya Pradesh for allegedly causing losses to the public exchequer due to poor performance. The complaint was received and placed before higher authorities for consideration. No formal inquiry or order was passed at that stage.

5.13. In the *interregnum*, due to mounting delay, the Department on 18.04.2023 asked the Respondent-company for an action plan within a week for the installation of new devices, and directed that the implementation be completed expeditiously in accordance with the directions from the Government of India.

5.14. The Respondent-company, by letter dated 25.04.2023, submitted a deployment schedule. It informed the Department on 12.05.2023 that the integration of weighing scales with ePoS devices had been successfully tested and demonstrated. On 23.05.2023, the Respondent-company reiterated that its entire stock of devices and accessories had been manufactured and

kept ready for dispatch, and that continuing delay on the part of the Department was causing it additional financial burden.

5.15. It is in this factual backdrop that on 06.06.2023, the Department sent the Respondent-company a letter cancelling the LoI with immediate effect, stating that a fresh tender would be invited. The operative part thereof stated as follows:

> "*…it is informed that the Government of HP has taken a decision to invite a new/fresh tender. Therefore, the 'Letter of Intent (LoI)' issued to your company vide this office letter no. eGS-FCS&CA-9984 dated 2nd September, 2022 is hereby cancelled with immediate effect.*
>
> *A new tender/bid in this regard will be published afresh shortly.*"

5.16. Notably, the Cancellation Letter precluded any reasons for issuance of the same. However, the Departmental record indicates that the cancellation was followed by internal noting dated 12.05.2023 wherein the Chief Minister of the State, being the Minister-in-Charge, directed that a new tender be called "*keeping in view of irregularities*".

5.17. In any case, within days of issuing the Cancellation Letter to the Respondent-company, an Expression of Interest was published afresh, inviting new bids.

5.18. Being aggrieved by the Cancellation Letter, the Respondent-company submitted a representation to the Department on

16.06.2023 seeking withdrawal of the same, which was not accepted. It thus approached the High Court on 21.06.2023, challenging the Cancellation Letter and seeking directions to the Appellant-State to implement the LoI.

5.19. The High Court issued notice on 27.06.2023 and permitted the Appellant-State to proceed with the fresh tendering, but directed that no final decision be taken without its leave.

5.20. As already iterated, the High Court *vide* the Impugned Judgment allowed the writ petition. It *inter alia* made the following observations:

i. The Respondent-company had cleared both the technical and financial stages of evaluation, and the LoI had subsisted for almost eight months, during which period the Department maintained active correspondence and issued instructions to the company for carrying out implementation;

ii. At no point during this period did the Department indicate that it was contemplating cancellation. The grounds now relied upon by the Appellant-State, concerning the receipt of a complaint about past blacklisting and the alleged non-fulfilment of LoI obligations, do not appear in the Cancellation

Letter dated 06.06.2023 and are contradicted by the Department's correspondence;

iii. The complaint from an unsuccessful bidder was received as early as 03.01.2023, yet the Department not only refrained from holding any inquiry but continued to direct the Respondent-company to proceed with integration and training. Moreover, if the authorities genuinely intended to act on the complaint, it ought to have been done promptly, and not after allowing the Respondent-company to expend its resources in furtherance of the LoI;

iv. Equally, the second ground of alleged non-performance was contradicted by letters showing that the Respondent-company had supplied pilot batches, developed integration software, and furnished MRP and cost details;

v. The two grounds cited by the Appellant-State were thus mutually irreconcilable—one imputing disqualification at inception and the other alleging breach during performance. In this context, the State appeared "*bent upon cancelling the Letter of Intent and cultivating reasons for it.*";

5.21. The Cancellation Letter was accordingly held to be arbitrary, devoid of reasons, and in violation of the principles of natural

justice, and consequently quashed. The Appellant-State was directed to proceed further in the matter on the basis of the LoI dated 02.09.2022. Considering the public interest involved in the project, which had already been tendered four times, both sides were expected to complete all necessary actions expeditiously, i.e. within six weeks.

5.22. Being aggrieved, the Appellant-State has preferred the instant appeal, wherein we had initially condoned the delay and issued notice on 03.03.2025. Subsequent *interim* orders dated 21.04.2025 and 13.05.2025 stayed the execution of the High Court's order pending final adjudication.

B. CONTENTIONS

6. Having adequately dealt with the contextual background, we now proceed to delineate the contentions advanced by the parties before us.

7. Mr. P. Chidambaram, learned Senior Counsel appearing on behalf of the Appellant-State, sought to negate the High Court's conclusions *vis-à-vis* alleged arbitrariness. In support thereof, he submitted the following:

a) The High Court erred in treating the LoI dated 02.09.2022 as a concluded contract. The LoI was, by its terms, a

conditional communication subject to the Respondent-company's fulfilment of specified pre-requisites, namely: (***i***) successful compatibility testing of the proposed ePoS devices with the National Informatics Centre (**NIC**) software at Hyderabad; (***ii***) live demonstration of the upgraded devices before the Directorate at Shimla; and (***iii***) execution of a formal agreement only after successful verification. These conditions remained unfulfilled, and the Respondent-company's inaction for over thirty-four weeks frustrated timely implementation of a project of considerable public importance.

b) The LoI could not by itself confer any contractual right. Under settled law, a Letter of Intent merely conveys the Government's intention to enter into an agreement and creates no enforceable obligation until a Letter of Acceptance (**LoA**) or contract is executed. The Department, therefore, retained complete discretion to cancel the LoI in the absence of compliance with its pre-conditions.

c) Despite repeated reminders dated 19.09.2022, 28.09.2022, and 22.12.2022, the Respondent-company failed to furnish the requisite MRP and cost break-up of the devices, did not complete testing at NIC Hyderabad, and did not produce a

live demonstration. This persistent default compelled the State to cancel the LoI on 06.06.2023.

d) Subsequent communications from NIC Hyderabad in November 2024 confirmed that the Respondent-company's Android-based ePoS devices were not compatible with the NIC application and failed to meet the updated technical specifications. Allowing the deployment of such devices would have compromised integration with the national Aadhaar-enabled PDS and exposed the State to avoidable financial risk.

e) The Respondent-company also suppressed material facts. A complaint received from another participant, Linkwell Telesystems, disclosed that the Respondent-company's predecessor entity, M/s Omneagate Systems Pvt. Ltd., had been blacklisted in Andhra Pradesh and Madhya Pradesh. This information was not revealed in the eligibility declaration, thereby violating Clause 5.13.1 of the tender document. Non-disclosure of such antecedents constituted misrepresentation sufficient to justify cancellation.

f) The Appellant-State's decision was taken after due consideration by the competent authority, including the

Chief Minister, and it reflected a conscious policy choice to re-tender the project in the interest of transparency, competition, and technological reliability.

g) Judicial interference in matters of public tender is circumscribed. Courts do not sit in appeal over administrative decisions unless they are patently arbitrary or *mala fide*. The High Court, in directing the enforcement of a provisional LoI, exceeded the limited scope of review recognised in ***Tata Cellular v. Union of India***,[1] and subsequent precedents.

h) The Respondent-company's claim of financial loss is misconceived. Any manufacturing or preparatory expenditure was undertaken at its own peril, before the formal award of contract. No compensation lies for self-assumed risks at the pre-contractual stage.

i) Public interest in ensuring uniformity with the national AePDS infrastructure and prudent utilisation of public funds must prevail over a bidder's private expectation. The Impugned Judgment, if sustained, would fetter the Appellant-State's discretion in executing welfare schemes and undermine established procurement discipline.

1 (1994) 6 SCC 651.

8. On the other hand, the Respondent-company represented by Mr. Sanjeev Bhushan, learned Senior Counsel, ardently urged that the High Court recognised the true form of the LoI. Additionally, he posited that the Respondent-company must be awarded the tender and consequent contract—given the advanced nature of its investment and expenditure. In this regard, he canvassed the following submissions:

a) The cancellation of the LoI was arbitrary, unreasoned, and violative of the principles of natural justice. The Respondent-company had emerged as the sole qualified bidder after four successive rounds of tendering and was issued the LoI following approval and financial negotiations. The Appellant-State itself thereafter directed the Respondent-company to commence phased deployment, thereby acknowledging that the contract had attained finality in substance.

b) All requirements enumerated in the LoI were complied with. The Respondent-company furnished its MRP and cost details, participated in technical meetings with NIC, developed integration software for electronic weighing scales, and organised training for Fair Price Shop owners. Correspondence from departmental officers and District

Controllers acknowledged receipt and testing of devices, contradicting the subsequent plea of non-performance.

c) After having repeatedly directed the Respondent-company, through letters dated 19.09.2022, 18.04.2023, and 16.05.2023, to supply machines and carry forward implementation, the Department cannot now be allowed to justify the sudden cancellation of the LoI. Having itself induced performance for eight months, the State's abrupt withdrawal without cause or notice was plainly arbitrary and devoid of fairness.

d) The complaint of blacklisting relied upon by the Appellant-State was both stale and irrelevant. The debarment concerned a separate entity—M/s Omneagate Systems Pvt. Ltd.—whose merger with the Respondent-company had taken place long after the period of debarment ended. The tender required disclosure of blacklisting "*as on the date of bid submission*"; the affidavit filed was therefore factually accurate. No inquiry was ever held into the complaint, which emanated from a rival bidder whose earlier challenge to the same tender had already been dismissed by the High Court.

e) The Respondent-company made substantial monetary investments, having relied upon the veracity of the LoI, manufacturing over five thousand ePoS devices, procuring SIM connectivity, and establishing logistic support infrastructure. The cancellation after such performance inflicted serious financial prejudice and disrupted the Appellant-State's own modernisation programme.

f) The communication dated 06.06.2023, cancelling the LoI "*with immediate effect*," was devoid of reasons and issued without any notice or opportunity of hearing. Such a non-speaking order issued by the Department offends Article 14 of the Constitution of India and the principles of natural justice.

g) The two grounds subsequently pleaded by the Appellant-State, i.e. blacklisting and non-compliance, were mutually destructive and belied by its own record. The complaint of 03.01.2023 was allowed to remain dormant while the Respondent-company was directed to continue work; and the charge of non-performance is contradicted by letters acknowledging progress. The sequence of events reveals that the cancellation was predetermined and possibly politically motivated.

h) The High Court's intervention was thus justified. It merely ensured that governmental power was exercised fairly and in accordance with law. The direction to proceed on the basis of the LoI did not amount to specific performance but only restored the legal equilibrium that existed before the arbitrary cancellation. Whereas the Appellant's State's invocation of "*public interest*" was an afterthought. The devices designed for Himachal Pradesh were of the same specification as those used in other States under NIC's supervision, and no technical deficiency was ever communicated at the relevant time. The plea of incompatibility surfaced only after litigation commenced.

i) Administrative fairness requires the Appellant-State not to act contrary to its own representations. Having consistently treated the LoI as operative and induced reliance, the Department was *estopped* from withdrawing it without justification. Upholding such action would erode confidence in public procurement processes.

9. In sum, the Appellant-State maintains that the LoI was a conditional, non-binding expression of intent that could be cancelled for non-compliance and in public interest. Whereas the Respondent-company asserts that the LoI represented the

culmination of a concluded process, which had been substantially acted upon under State supervision, and that its abrupt withdrawal was arbitrary and contrary to law.

C. ***ISSUES***

10. After perusing the rival contentions, the voluminous record, the statutory framework, and the factual environment colouring these appeals, we find that the twin issues that fall for our consideration are the following:

i. ***The Nature of the Letter of Intent***

Whether the Letter of Intent dated 02.09.2022 created any binding or enforceable rights in favour of the Respondent-company, or remained a conditional, pre-award communication subject to fulfilment of stipulated pre-requisites?

ii. ***The Legality of the Cancellation Letter***

Whether the Appellant-State's decision dated 06.06.2023, cancelling the Letter of Intent, was arbitrary, unreasoned, or violative of the principles of natural justice, thereby warranting interference?

D. ***ANALYSIS***

D.1. Issue No. I: Whether the LoI created enforceable rights in favour of the Respondent-company?

11. The first issue that falls for our determination concerns the legal character of the LoI dated 02.09.2022 and the nature of rights, if any, accrued to the Respondent-company thereunder.

12. This question goes to the root of the matter, and is not one of mere semantics, i.e. ascertaining whether the issuance of the LoI created a concluded contract capable of enforcement, or whether it remained a conditional and inchoate expression of intent, leaving the Government free to reassess its position prior to formal acceptance. The answer defines the legal threshold for the Appellant-State's power to cancel and the Respondent-company's entitlement to protection.

13. The jurisprudence on the subject is neither nascent nor unsettled. A catena of decisions starting from ***Rajasthan Cooperative Dairy Federation Ltd. v. Maha Laxmi Mingrate Marketing Service (P) Ltd.***,[2] through ***Dresser Rand S.A. v. Bindal Agro Chem Ltd.***,[3] to ***Level 9 Biz Pvt. Ltd. v. HP Housing & Urban Development Authority***,[4] this Court has

2 (1996) 10 SCC 405.

3 (2006) 1 SCC 751.

4 2024 SCC OnLine SC 480.

consistently held that an LoI is, in the ordinary course, a precursor to a contract and not the contract itself.

14. In ***Dresser Rand*** ***(supra)***, it was re-stated with clarity that "***a letter of intent merely indicates a party's intention to enter into a contract with the other party in future. A letter of intent is not intended to bind either party ultimately to enter into any contract.***" The same principle animated ***Rajasthan Cooperative Dairy Federation*** ***(supra)***, where this Court observed that until the offer is accepted unconditionally and the preconditions are satisfied, "***no binding legal relationship***" comes into existence. The rationale is thus simple but fundamental: the law of contract distinguishes between a promise to make a promise and a promise performed. The former is not legally binding until its contingencies are fulfilled.

15. These authorities collectively articulate a coherent doctrine: an LoI creates no vested right until it passes the threshold of final and unconditional acceptance. It is but a "*promise in embryo*," capable of maturing into a contract only upon the satisfaction of stipulated preconditions or upon the issue of an LoA. A bidder's expectation that such a contract will follow may be commercially genuine, but it is not a juridical entitlement. To hold otherwise would be to bind the State in contract before it has consciously

chosen to be bound—a proposition foreign to both contract law and public administration.

16. Turning then to the LoI before us, its conditionality is beyond doubt. As noticed heretofore in **para 5.7**, it required the Respondent-company to:

(i) undertake compatibility testing of its proposed ePoS devices at NICSI, Hyderabad;

(ii) provide a live demonstration of the devices with NIC's application before the Directorate at Shimla;

(iii) execute a formal agreement only after successful completion of the aforesaid steps; and

(iv) furnish a detailed MRP and landing cost of the devices and their major components.

17. Each requirement was framed as a condition precedent; the LoI itself stated that a "***final award letter***" would issue only after the successful completion of these tasks. This language admits of no ambiguity. The tender architecture was sequential: testing, demonstration, acceptance, then execution. It was never contemplated that the LoI would operate as the contract itself.

18. The cumulative effect of the foregoing analysis is that the LoI was no more than a provisional communication signifying the Appellant-State's intent to enter into a formal arrangement upon fulfilment of certain technical and procedural conditions. The acceptance of tender and the consequential formation of a binding contract were contingent upon satisfaction of these prerequisites. The Respondent-company's reliance upon the LoI as a source of vested contractual rights is, therefore, wholly misplaced.

19. As a result, the **First Issue is answered in the negative**. We have no difficulty in holding that the LoI did not give rise to any binding or enforceable rights in favour of the Respondent-company.

20. Be that as it may, even when contractual rights are absent, the State's administrative discretion in rescinding or cancelling an LoI is not unfettered. It remains subject to constitutional discipline, particularly the requirement that State action must not be arbitrary, unreasonable, or actuated by *mala fides*. In this respect, we deem it necessary to examine the **Second Issue** touching upon the legality and propriety of the Cancellation Letter.

D.2. Issue No. II: Whether the Cancellation Letter was arbitrary or procedurally unjust?

21. Having held that that the LoI did not create binding rights, the enquiry narrows to whether the decision of the State Government to cancel it, *vide* its communication dated 06.06.2023, suffered from arbitrariness, *mala fides*, or procedural unfairness so grave as to warrant intervention.

22. The contours of judicial review in contractual matters were defined nearly three decades ago in ***Tata Cellular (supra)***, where this Court held that the exercise of judicial power over administrative action in tenders is directed not at correcting the decision, but the decision-making process. The Court emphasised that the State must have the "***freedom of contract***," and that the scope of review is confined to testing administrative action against the touchstones of illegality, irrationality, *mala fides*, and procedural impropriety.

23. This framework was refined in ***Jagdish Mandal v. State of Orissa***,[5] which cautioned that a Writ Court should not interfere unless the action of the State is so arbitrary that "***no responsible authority acting reasonably and in accordance with relevant law could have reached it.***"

5 (2007) 14 SCC 517.

24. Since then, it has been reaffirmed that judicial review in contract matters operates only where the action is "***palpably unreasonable or absolutely irrational and bereft of any principle.***"[6]

25. These principles are neither ornamental nor abstract. They arise from the nuanced understanding that government contracting, unlike private commerce, is an instrument of governance. The Rule of Law demands that Executive discretion be rational and fair, but it equally demands that Courts respect the autonomy necessary for effective administration. Public interest requires not judicial micro-management but judicial assurance that power has been exercised within lawful bounds.

D.2.1. Prima facie arbitrariness & attached consequences

26. Turning then to the factual record, the Cancellation Letter at first blush appears to be laconic; as it does not list the grounds that weighed upon the Department while issuing the same.

27. That being said, it is equally true that this Court has consistently held that administrative orders must be read in light of the concomitant record, and that reasons need not be stated

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6 M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India Pvt. Ltd., (2023) 2 SCC 703; Subodh Kumar Singh Rathour v. Chief Executive Officer, 2024 SCC OnLine SC 1682.

in haec verba in the communication, so long as they can be discerned from the file and are not *post-hoc* justifications.

28. This Court has, however, cautioned against the practice of *post-facto* rationalisation, whereby authorities attempt to supplement or fabricate reasons after the decision has already been taken. Such afterthoughts cannot cure an inherently arbitrary action. The legitimacy of administrative reasoning must be tested with reference to the material that existed at the time the decision was made, not by subsequent embellishment. To simplify: what is permissible is elucidation of contemporaneous reasoning already traceable on record; what is impermissible is the invention of fresh grounds to retrospectively justify an otherwise unreasoned order.

29. That is to say that when such an exercise is found to be *prima facie* unreasonable, the correct course of action — which the High Court also employed — was to proceed to test the justifications subsequently offered by the Appellant-State in its pleadings. However, on a holistic reading of the Impugned Judgment before us, we find that the exercise undertaken by the High Court was somewhat hurried and limited.

30. We say so, as we find that the High Court treated the initial absence of reasons as fatal, and thereafter dismissed the explanations advanced by the Appellant-State on the basis of select factual contradictions, without engaging with the broader administrative context in which the decision was taken. The resulting analysis, though earnest, remained incomplete.

31. The more appropriate course, in our considered view, would have been to adopt a two-step approach: *first*, to hold the cancellation vitiated for want of reasoning; and *second*, to remit the matter to the Competent Authority to reconsider the question upon recording cogent reasons and affording due opportunity to the affected bidder. Such a calibrated remedy would have preserved both the evolving constitutional discipline of fair procedure and the administrative necessity of efficiency in public procurement.

32. However, the substantial passage of time now renders remand impracticable. Nearly two years have elapsed since the impugned cancellation, and over four years have passed since the Expression of Interest was initially invited by the Department. What is even more disconcerting is the admitted fact that the tender pertains to the deployment of ePoS devices integral to the functioning of the PDS—an exercise that directly touches the lives of economically weaker citizens. To prolong uncertainty

through further procedural cycles would defeat the very public purpose underlying the tender.

33. Consequently, in these peculiar circumstances, it is both necessary and appropriate for us to evaluate whether the Appellant-State's reasons tendered before the High Court and this Court withstand judicial enquiry.

34. The enquiry that follows is therefore confined not to the procedural lapse of the unreasoned cancellation, but to the substantive validity of the justifications subsequently advanced by the Appellant-State.

D.2.2. Appellant-State's proffered reasons for the Cancellation Letter

35. A thorough examination of the record reveals two broad strands of contemporaneous reasoning adopted by the Appellant-State: (***i***) receipt of complaints from competing bidders alleging suppression of prior blacklisting and concerns regarding vendor integrity; (***ii***) persistent non-compliance with the LoI's preconditions for over eight months, despite reminders. We shall now test each of these rationales on the anvil of the jurisprudence laid out above.

D.2.2.1. Black-listing complaint by Linkwell Telesystems

36. The first ground relied upon by the Appellant-State to justify the withdrawal of the LoI rests on a complaint dated 03.01.2023, addressed by Linkwell Telesystems, an unsuccessful bidder, alleging that the Respondent-company had previously operated under the name *M/s Omne Agate Systems Pvt. Ltd.* and had been blacklisted by certain State undertakings. This complaint was subsequently placed before the Chief Minister, who ultimately directed that a fresh tender be invited.

37. At the outset, this ground cannot sustain closer inspection. The record reveals that an identical contention raised by Linkwell Telesystems had already been considered and repelled by the High Court in CWP No. 5562 of 2022, decided on 12.12.2022. It is incontrovertible that the Appellant-State did not assail that judgment, which therefore attained finality. Having defended its tender process at that stage, the Appellant-State cannot take an inconsistent position before this Court and rely upon the very complaint that it had earlier contested.

38. The State, as a continuing juristic entity, is bound by its own representations in prior proceedings; its legal stance cannot oscillate with changes in political leadership.

39. Further, even on substance, the complaint does not withstand scrutiny when tested against the tender conditions themselves. Clause 5.13.1 required each bidder to declare that it was not blacklisted as on the date of bid submission. The Respondent-company's affidavit satisfied this stipulation, since the alleged blacklisting incidents, even if assumed to have occurred, related to an earlier period and had ceased to operate by the time the bid was submitted. In other words, the clause demanded a disclosure of subsisting disqualifications, not of past and exhausted ones.

40. Seen in this light, the tender condition could not be read as creating a perpetual bar for a bidder once blacklisted. To construe it in this manner would extend the disqualification beyond its textual and purposive limits. The Appellant-State's reliance on such a superseded event was therefore both factually misplaced and legally untenable.

41. We thus find no merit in this ground. The blacklisting complaint, by itself, could not constitute a valid basis for rescinding the LoI, and its invocation betrays a want of administrative consistency and adherence to due process.

D.2.2.2. Non-compliance with LoI preconditions

42. The second justification advanced by the Appellant-State is that the Respondent-company failed to comply with the pre-requisites stipulated in the LoI and exhibited inadequate performance during the months that followed. This contention requires closer examination, as it pertains to the Respondent-company's actual conduct and capacity in fulfilling the stipulated conditions.

43. As mentioned previously, the LoI explicitly required the Respondent-company to fulfil at least four conditions including: testing and compatibility assessment of its proposed ePoS devices with NIC software; live demonstration(s) at the Directorate; codal formalities, including disclosure of itemised cost details etc. It is abundantly clear that these were not perfunctory steps; they were preconditions designed to ensure technical integrity and fiscal transparency before the award of a public contract.

44. The factual record confirms that these preconditions remained unfulfilled. The Department repeatedly called upon the Respondent-company to furnish its depreciation policy and cost details, as evidenced by letters dated 28.09.2022 and 22.12.2022. However, no itemised cost breakup, as mandated by Clause 4.9(m) of the RFP, was provided. The compatibility testing at NIC Hyderabad was not shown to have been completed, nor

was the live demonstration certified. Despite these omissions, the Respondent-company purportedly proceeded to manufacture and stock more than five thousand devices, activate SIM cards, and commence preparatory training.

45. These actions, though industrious, were undertaken unilaterally and before the conditions of the LoI were satisfied. In our considered view, such actions exemplify commercial impatience rather than contractual compliance—an instance of putting the cart before the horse. Of course, there is no gainsaying that performance in anticipation cannot metamorphose into a legal right where the parties themselves have prescribed a structured order of steps.

46. It is equally important to note that the Department's conduct remained consistent with this understanding. Its letters were replete with reminders and verifications; no LoA was issued; no agreement was executed; and nor were payments released. The Government's record therefore never departed from its position that the LoI was conditional.

47. In arriving at its contrary view, the High Court appears to have proceeded on an erroneous conflation of 'taking steps' with 'taking the right steps'. The Respondent-company's diligence in

producing hardware or training personnel was taken as evidence of compliance, though these were not the steps demanded by the LoI. Compliance in law must be with the document that governs the relationship, not with the bidder's self-chosen course of conduct. To equate unilateral readiness with contractual fulfilment is to disregard the essential discipline of tender law, which binds both sides to the terms they themselves framed.

48. The High Court also overlooked a second infirmity in the Respondent-company's case. Having accepted the LoI and acted upon it, the Respondent cannot now disclaim the very conditions that the LoI imposed. It cannot approbate and reprobate—seeking to hold the Appellant-State to the document's benefits while denying its burdens. In simpler terms, where a bidder has agreed that testing, demonstration, and cost disclosure are preconditions to finalisation, it cannot later assert that the LoI was already complete, notwithstanding the absence of those acts.

D.2.3. Whether the Cancellation Letter suffers from arbitrariness?

49. Having found some weight in one of the twin grounds relied upon by the Appellant-State, we must now examine the charge of arbitrariness against its actions.

50. The test for arbitrariness under Article 14 is whether the decision is uninformed by reason or guided by irrelevant considerations. When examined through that lens, the Appellant-State's action withstands scrutiny. We say so, being mindful of the reality that the Department's correspondence shows repeated efforts to secure compliance, followed by mounting concern about the feasibility of deploying devices that had not been certified for compatibility with NIC's national software. These concerns were germane; they were neither whimsical nor pretextual.

51. It is also apposite to note that the Respondent-company's grievance regarding the Department's inconsistent conduct—that it continued to correspond even as it contemplated cancellation—does not advance its case. Administrative deliberation does not amount to duplicity. It is entirely natural that a department exploring compliance would keep lines of communication open while simultaneously assessing whether continuation was tenable. The law does not demand that the State speak only after it has made up its mind; it demands only that its final decision be traceable to reason, not to whim. The record before us meets that threshold.

52. Further, we cannot hold that the decision to cancel was actuated by any improper motive. There is no allegation, nor any evidence, of favouritism or collateral purpose. The cancellation led only to a fresh tender, open to all, rather than an award to another bidder behind closed doors. Where the effect of administrative action is to enhance openness and restore competition, Courts are doubly cautious before imputing *mala fides*.

53. The Respondent-company's plea that the Appellant-State was bound, having allowed the process to run for eight months, is equally misconceived. Lapse of time does not convert a provisional arrangement into a vested right. The expectation that the Government will ultimately formalise an LoI may be legitimate in the commercial sense, but it is not enforceable in law unless the conditions for formal acceptance are met. The constitutional guarantee against arbitrariness is not a charter of commercial expectations; it is a safeguard against irrationality, and none is established in this record.

54. This Court has consistently recognised that the State's decision to cancel a tender or restart the process is itself an aspect of public interest.[7] The present decision to re-tender—prompted by

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7 Tata Cellular v. Union of India, (1994) 6 SCC 651; M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India Pvt. Ltd., (2023) 2 SCC 703.

non-compliance and the desire to ensure NIC compatibility—falls squarely within that zone of permissible discretion.

55. In this vein, the principle of legitimate expectation also does not come to the aid of the Respondent-company. That doctrine presupposes a clear and unambiguous representation by the State, followed by reliance and detriment. The conditional terms of the LoI negate the existence of any clear assurance; rather, they expressly warned that the process was still provisional. To invoke legitimate expectation against an explicit disclaimer would be to transform the doctrine from a shield against arbitrariness into a sword against caution — a proposition no Court can endorse.

56. Accordingly, we find that **the Second Issue must also be answered in the negative**. The cancellation of the LoI dated 02.09.2022 does not suffer from arbitrariness, *mala fides*, or breach of natural justice, and the High Court's interference therewith cannot be sustained. The Department had tangible grounds for dissatisfaction; it followed a discernible process; and it acted within the contractual liberty reserved to it. The reasons for cancellation were antecedent, *bona fide*, and germane to the public purpose of ensuring a reliable, uniform, and lawfully procured ePoS infrastructure.

D. ***EPILOGUE***

57. Before we part with the instant appeal, it bears reminding that the tender in question was not a commercial exercise in isolation but an instrument of social welfare, intended to secure efficient and transparent delivery of subsidised foodgrains to the most vulnerable citizens. The Public Distribution System remains, for millions, the thin line between sustenance and deprivation. When projects of such public importance are delayed or derailed by procedural lapses, the ultimate cost is borne not by the contracting parties but by those at the last mile of governance.

58. It is therefore incumbent upon every stakeholder—the Government, its technical partners, and private participants—to treat such undertakings with the seriousness their human impact demands. Administrative caution and technological innovation must work hand in hand to ensure that reform does not lose sight of its moral anchor: service to the poorest. Future exercises in public procurement, particularly those that underpin welfare delivery, must thus be executed with greater institutional coherence, foresight, and accountability—so that legality, efficiency, and compassion operate in concert, and the constitutional promise of equitable distribution finds tangible expression.

E. CONCLUSION AND DIRECTIONS

59. In light of the foregoing discussion, we find that the LoI dated 02.09.2022 did not culminate into a concluded contract and that its cancellation on 06.06.2023 was a lawful exercise of administrative discretion. Consequently, the Impugned Judgment of the High Court, directing continuation of the LoI, is unsustainable in law as well as on facts. We, thus, deem it appropriate to issue the following directions:

i. The appeal is allowed. The Impugned Judgment and order passed by the High Court in CWP No. 4081 of 2023 is set aside. The decision of the Appellant-State cancelling the Letter of Intent dated 02.09.2022 stands upheld. However, the Expression of Interest issued immediately after cancelling the LoI in favour of Respondent-company is set aside;

ii. The Appellant-State shall be at liberty to issue a fresh tender for supply, installation and maintenance of ePoS devices for Fair Price Shops across the State forthwith, in accordance with law and the applicable financial and procurement rules, apart from the requisite technical specifications. The Respondent-company shall be free to

participate in such tender process, subject to uniform eligibility and compliance with the prescribed conditions;

iii. The Appellant-State is further directed to hold a Fact-Finding Enquiry in association with the Respondent-company and ascertain the details of the ePoS machines, components, or allied services produced or supplied under the cancelled LoI and their utilisation or taking over by the Department during the pilot or demonstration stages. Thereafter, the Appellant-State shall assess the value and costs of installation of such machines, components or services and reimburse such verified cost and expenses on the principle of *quantum meruit*, to make good the losses suffered by the Respondent-company. This entire exercise is directed to be complied with in a period of three months;

iv. All machinery, devices, technology, or software infrastructure handed over, integrated, or otherwise used during such pilot or demonstration stages pursuant to the LoI upon shall vest in the Appellant-State free of encumbrances, subject to payment of cost and installation expenditure to the Respondent-company, and/or

subject to any reimbursement payable as above. The State may retain and deploy such assets for public use or dispose of them in accordance with the applicable policy; and

v. It is clarified that no further claim for loss of profit, expectation, or consequential damages shall survive. The relief granted herein is confined to equitable reimbursement for tangible assets or work actually appropriated by the Appellant-State.

60. The instant appeal stands allowed in the above terms.

61. Consequently, pending interlocutory applications, if any, are also disposed of.

62. Ordered accordingly.

.....CJI.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

NEW DELHI
DATED: 24.11.2025