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CROSS-GOVERNMENT BLACKLISTING: CAN ONE DEPARTMENT'S DECISION PERMANENTLY DISQUALIFY A CONTRACTOR EVERYWHERE?

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Abstract

Blacklisting is among the most consequential sanctions available to public authorities in the administration of government contracts. By excluding a contractor from future procurement, the State protects public funds, preserves the integrity of tendering processes and deters fraud, corruption and serious contractual misconduct. Yet blacklisting also creates a substantial civil disability: it may deprive an enterprise of access to public markets, undermine its commercial reputation, impair its ability to obtain credit and threaten the livelihoods of persons whose employment depends on its continued operations. These consequences become significantly more severe when a decision taken by one department is treated as sufficient to exclude the contractor from every other government department, public sector undertaking or public procuring entity.

This Article examines the constitutional, administrative and institutional limits of cross-government blacklisting in India. It distinguishes the authority of an individual procuring entity to protect its own contractual interests from the power to impose a wider, government-wide debarment. Through an analysis of Article 14 of the Constitution, the principles of natural justice, proportionality, reasoned decision-making and the Supreme Court's jurisprudence, the Article evaluates the legal conditions under which an exclusion decision may acquire consequences beyond the authority that originally imposed it.

1. Introduction

Government procurement is not merely a commercial activity undertaken by the State. It is an instrument through which public resources are converted into infrastructure, essential services, technological systems, welfare delivery and institutional capacity. The integrity of procurement therefore has consequences extending well beyond the immediate contractual relationship. A contractor who secures public contracts through bribery, falsification of documents, fraudulent representations or persistent and serious misconduct may expose the public exchequer to

financial loss and compromise the reliability of public services. The State must possess effective mechanisms to identify such misconduct and prevent its recurrence.

Blacklisting, commonly described in contemporary procurement practice as debarment, is one such mechanism. It enables a public authority to declare that a contractor is unsuitable for future contractual engagement, either for a specified period or, in exceptional circumstances, subject to the governing legal framework. Its rationale is preventive as well as disciplinary.¹ It protects the procuring authority against future risks and signals that access to public contracts is conditional upon minimum standards of integrity and performance.

This Article advances the proposition that a blacklisting decision does not acquire unlimited government-wide force merely because it has been issued by a public authority or uploaded to a centralised procurement platform. Its wider legal consequences must be traced to an applicable rule, valid executive instruction, competent authority or other lawful source of authority. Where a governing procurement framework expressly prescribes cross-government consequences, those consequences may operate according to its terms. Where the framework limits the original decision to a particular ministry or procuring entity, unrelated authorities cannot necessarily transform that decision into a universal prohibition simply by treating the fact of blacklisting as conclusive.²

The proposition requires two qualifications. First, government-wide exclusion does not invariably require every affected department to conduct an entirely new trial of the original allegations. A valid central debarment order may lawfully bind specified authorities, and a receiving department may rely upon an operative order within the scope of that framework. Secondly, the existence of a local blacklisting order is not legally irrelevant to other procuring entities. It may constitute important evidence of risk, justify enhanced scrutiny, or provide a basis for action under an applicable procurement rule. The issue is whether the consequences follow through a legally authorised process or through an assumption of automatic and indefinite disqualification.

2. The Nature and Legal Architecture of Blacklisting

2.1 Blacklisting as a public law sanction

Blacklisting occupies an unusual position within Indian administrative law. It frequently arises out of a contractual relationship, yet its effects extend beyond the enforcement of contractual

¹ Constitution of India 1950, art 298.

² *Erusian Equipment & Chemicals Ltd v State of West Bengal* (1975) 1 SCC 70.

rights. A public authority may terminate a contract, recover damages, invoke a performance guarantee or impose liquidated damages in accordance with the relevant agreement. Blacklisting, by contrast, determines whether the contractor will be considered eligible for future government business.³

In *Raghunath Thakur v State of Bihar*, the Supreme Court reiterated that a decision to blacklist must be taken consistently with the requirements of fairness and natural justice. The judgment demonstrates that even where the governing rules do not expressly prescribe a detailed blacklisting procedure, the serious civil consequences of exclusion attract procedural protection.

2.2 Debarment, suspension and blacklisting

Blacklisting generally refers to a determination that a contractor is unsuitable for future dealings with the authority imposing the sanction. Debarment commonly denotes exclusion from participation in procurement for a specified period. Suspension may describe a temporary restriction imposed while allegations are investigated or a debarment proposal is considered.⁴

2.3 Blacklisting is not the same as contractual termination

Contract termination and blacklisting answer different questions. Termination determines whether an existing contractual relationship should continue. Blacklisting determines whether a person should be permitted to participate in future procurement.⁵

2.4 The State's power to exclude and its constitutional limits

The State is not ordinarily required to contract with every willing supplier. Public authorities must be able to protect themselves against fraud, serious non-performance and other conduct that threatens public expenditure. The Supreme Court has recognised that the power to blacklist may exist as an incident of the executive's authority to conduct government business, even in the absence of an express statutory grant in every individual case.⁶

An authority may possess power to regulate its own procurement without possessing power to bind every other public entity. Similarly, a central authority may possess power to impose a wider sanction under a governing framework, but the existence of that power does not establish

³ *Raghunath Thakur v State of Bihar* (1989) 1 SCC 229.

⁴ *Joseph Vilangandan v Executive Engineer, PWD, Ernakulam* (1978) 3 SCC 36.

⁵ *Kulja Industries Ltd v Chief General Manager, Western Telecom Project, BSNL* (2014) 14 SCC 731.

⁶ *Patel Engineering Ltd v Union of India* (2012) 11 SCC 257.

that every local authority's order automatically exercises it.⁷

2.5 The institutional problem: fragmented procurement, shared consequences

Information sharing is valuable. A supplier that has fabricated documents in one tender should not be able to conceal that misconduct merely by submitting a bid to another department. However, a shared information system can become an instrument of de facto exclusion if an entry made by one authority is treated as conclusive by every other authority, without examining the legal scope or continuing validity of the underlying order.

3. Constitutional and Administrative Law Foundations

3.1 Article 14 and non-arbitrary exclusion

Article 14 prohibits the State from denying equality before the law and equal protection of the laws. In procurement, it does not guarantee that every bidder will be selected or that every supplier will be treated identically irrespective of relevant differences. It requires that distinctions affecting eligibility be based on rational and legally permissible considerations.⁸

In *Ramana Dayaram Shetty v International Airport Authority of India*, the Supreme Court established that public authorities cannot depart arbitrarily from standards governing their dealings with prospective contractors. The judgment is important because it rejects the notion that government contracting exists outside the discipline of constitutional equality.

First, an authority may treat all blacklisting decisions as equivalent despite material differences in the underlying misconduct. A finding of deliberate corruption may rationally justify broader exclusion than a technical dispute over delayed delivery.

Secondly, the authority may disregard differences between the original and proposed procurement. A finding concerning specialised equipment does not necessarily establish that the contractor presents the same level of risk in an unrelated service contract.

3.2 The limits of the doctrine of legitimate expectation

Nevertheless, a bidder may have a legitimate expectation that an authority will follow its published procurement framework, apply eligibility conditions consistently and refrain from introducing an undisclosed disqualification criterion after bids have been submitted.⁹

In *Food Corporation of India v Kamdhenu Cattle Feed Industries*, the Supreme Court

⁷ Constitution of India 1950, arts 14 and 298.

⁸ *Ramana Dayaram Shetty v International Airport Authority of India* (1979) 3 SCC 489.

⁹ *Food Corporation of India v Kamdhenu Cattle Feed Industries* (1993) 1 SCC 71.

recognised the relevance of legitimate expectation in ensuring fairness in administrative decision-making, while clarifying that such expectation does not itself create an infeasible right to a particular outcome.

3.3 Article 19(1)(g): the right to trade and the limits of its application

Article 19(1)(g) protects citizens' freedom to practise a profession or carry on an occupation, trade or business, subject to the reasonable restrictions permitted by Article 19(6). Blacklisting may seriously affect commercial activity, particularly where government contracts constitute a substantial portion of the relevant market.

However, the constitutional argument must be framed carefully. Article 19(1)(g) does not create an unconditional right to obtain government contracts,¹⁰ nor does every refusal to contract constitute an unconstitutional restriction on business. A procurement authority may legitimately exclude a bidder to protect public funds or preserve the integrity of tendering.¹¹

The more secure doctrinal foundation is the established public law recognition that blacklisting has serious civil consequences. In *Erusian Equipment*, the Supreme Court held that the affected person must receive a fair opportunity to present its case before the disability is imposed. In *Gorkha Security Services v Government of NCT of Delhi*, the Court further explained the requirements of an adequate show-cause notice and the need to communicate that blacklisting itself is contemplated.¹²

These decisions establish that the legal significance of blacklisting lies not only in the loss of a particular contract but in the future disability it creates. Where the sanction is extended across government, the consequences are amplified. A contractor may face exclusion from numerous opportunities that were not directly connected with the transaction giving rise to the original allegations.

3.5 Natural justice: notice must identify the proposed disability

In *Gorkha Security Services*, the Supreme Court held that a show-cause notice should indicate that blacklisting is proposed and should communicate the grounds on which that action is contemplated. A notice alleging deficient performance, without making the possibility of blacklisting discernible, may not provide a sufficient basis for imposing that additional

¹⁰ Constitution of India 1950, arts 19(1)(g) and 19(6).

¹¹ *State of Madhya Pradesh v Nandlal Jaiswal* (1986) 4 SCC 566.

¹² Constitution of India 1950, art 21.

sanction.¹³

The rule is especially important when cross-government exclusion is contemplated. Notice that a department is considering termination or recovery of damages does not necessarily communicate that the contractor may be prohibited from participating in procurement across all central ministries. The latter consequence is materially different in scope and severity.¹⁴

3.6 Reasons, proportionality and the duty to consider relevant factors

The duty to provide reasons is particularly important where the proposed sanction has a wide reach. A conclusion that a contractor breached one contract does not, without more, explain why it should be excluded from every government procurement process for several years.¹⁵

Relevant considerations include the seriousness and deliberateness of the misconduct, whether it was isolated or systemic, the risks posed to future procuring entities, the contractor's past record and corrective measures, the duration and institutional reach of exclusion, and the availability of narrower lawful safeguards.

3.7 Judicial review and institutional restraint

In *Tata Cellular*, the Supreme Court identified the importance of reviewing the legality of the decision-making process rather than treating judicial review as an appeal on the merits. In *Michigan Rubber (India) Ltd v State of Karnataka*, the Court similarly emphasised that interference in tender matters is justified where arbitrariness, mala fides or other recognised grounds of illegality are established, not merely because another procurement choice might have been preferable.¹⁶

The same restraint should apply to cross-government debarment. A court need not determine the precise commercial risk associated with every contractor. It can, however, examine whether the authority possessed the relevant power, followed the required procedure, considered relevant factors and imposed a sanction rationally connected to the alleged misconduct.¹⁷

Judicial restraint and meaningful review are therefore complementary. The former protects legitimate administrative discretion; the latter prevents that discretion from becoming a source of uncontrolled exclusion.

¹³ *Gorkha Security Services v Government of NCT of Delhi* (2014) 9 SCC 105.

¹⁴ *UMC Technologies (P) Ltd v Food Corporation of India* (2021) 2 SCC 551.

¹⁵ *Kulja Industries* (2014) 14 SCC 731.

¹⁶ *Tata Cellular v Union of India* (1994) 6 SCC 651.

¹⁷ *Michigan Rubber (India) Ltd v State of Karnataka* (2012) 8 SCC 216.

4. The Union Government's Debarment Framework: Local Decisions and Cross-Government Consequences

4.1 Rule 151 of the General Financial Rules 2017

The General Financial Rules 2017 provide an important administrative framework for expenditure and procurement by the Union Government. Rule 151 addresses debarment from bidding and must be read alongside the applicable Department of Expenditure instructions, procurement manuals and relevant tender conditions.¹⁸

The Department of Expenditure's Manual for Procurement of Goods, Second Edition, 2024 describes two distinct routes. Where debarment is intended to remain within a single ministry, that ministry may issue the appropriate order governing its business dealings with the affected firm.¹⁹ Where the intended consequence extends beyond that ministry to all central ministries and departments, the requisite order is to be issued by the Department of Expenditure, Ministry of Finance.²⁰

The allocation serves several purposes. It preserves the ability of a ministry to respond to misconduct affecting its own procurement; it prevents individual departments from unilaterally determining eligibility across the entire Union Government where the framework reserves that decision to a central authority; and it promotes consistency in the treatment of contractors facing government-wide exclusion.

4.2 Department-specific debarment

The central principle is that the sanction remains within the prescribed institutional scope. A department that has determined that a contractor is unsuitable for its procurement may ordinarily take the action authorised by the governing rules.²¹ The decision does not, merely by being a government decision, automatically establish that the contractor is ineligible for every other public procurement.²²

4.3 Cross-government debarment and the role of the Department of Expenditure

Where exclusion is intended to extend across all central ministries and departments, the

¹⁸ General Financial Rules 2017, rr 149, 151 and 175, as amended.

¹⁹ Department of Expenditure, Ministry of Finance, Office Memorandum No F.1/20/2018-PPD (2 November 2021), *Guidelines on Debarment of Firms from Bidding*.

²⁰ Department of Expenditure, Ministry of Finance, *Manual for Procurement of Goods*, 2nd edn (2024), section on debarment of firms from bidding.

²¹ General Financial Rules 2017, r 151(iii), read with the applicable amendments and debarment guidelines.

²² General Financial Rules 2017, r 175 (Code of Integrity for Public Procurement).

Department of Expenditure occupies a coordinating and authorising role under the framework described in the procurement manual.²³

The 2024 manual contemplates a process in which the concerned ministry or department, after obtaining the approval of its Secretary, forwards a reasoned proposal supported by relevant facts and documents. It also requires that the firm be given a reasonable opportunity to represent against the proposed debarment, including a personal hearing where requested. If the Department of Expenditure considers that adequate opportunity has not been provided, the proposal may be rejected. The manual further contemplates the possibility of an additional opportunity to make representations and provides for a decision within the prescribed administrative timeframe.²⁴

The allocation of these functions is not merely bureaucratic. It serves as a safeguard against the multiplication of local sanctions into a nationwide disability without an institutionally accountable determination of the broader consequences.

However, centralisation is not sufficient by itself. A central authority must still act within the governing rules, provide the required procedural opportunity and give reasons supporting the breadth and duration of exclusion. Central competence does not cure substantive disproportionality or procedural unfairness.

4.4 The legal significance of a centralised debarment list

4.5 Special consequences under procurement preference regimes

The Department of Expenditure's 2024 manual, for example, addresses false declarations concerning local content under the Public Procurement (Preference to Make in India) Order. It contemplates the reporting and consolidation of specified cases and provides that a supplier debarred for the relevant reason may become ineligible for preference under that policy in procurement by other procuring entities for the duration of the debarment, subject to the prescribed mechanism.²⁵

4.6 Amendments and the need to identify the operative version

Consequently, an assessment of a particular blacklisting order must identify the rules and instructions in force at the legally relevant time. The 2024 procurement manual remains useful

²³ Department of Expenditure, Ministry of Finance, Office Memorandum No 2/6/2026-PPD(i) (8 May 2026), 'Amendment in the General Financial Rules, 2017 (GFR, 2017)—Rule 151 relating to Debarment from Bidding'.

²⁴ Department of Expenditure, Ministry of Finance, Office Memorandum No 2/6/2026-PPD(ii) (8 May 2026), 'Guidelines on Debarment of Firms from Bidding—amendment reg'.

²⁵ Public Procurement (Preference to Make in India) Order 2017, as amended.

for understanding the distinction between department-specific and cross-government debarment, but it should not be treated as an exhaustive statement of every amendment subsequently made to the governing framework.²⁶

The amendments of 8 May 2026 are material to any current analysis. The amended Rule 151 expands the grounds on which a bidder may be liable to debarment, including specified convictions and repeated debarments connected with failures to pay wages or remit statutory social-security contributions where the procuring entity has had to meet the default. The accompanying amendment to the Department of Expenditure's debarment guidelines requires reporting of relevant cases to the Government e-Marketplace and retains a central route where a ministry seeks exclusion from bidding across Central Government ministries and departments. The legal effect therefore depends on the ground invoked, the applicable procedure and whether the order is entity-specific or cross-government.

5. Judicial Precedents and the Limits of Automatic Cross-Government

Exclusion

5.1 *Erusian Equipment*: blacklisting as a consequential public decision

The decision in *Erusian Equipment & Chemicals Ltd v State of West Bengal* remains the starting point for understanding the constitutional character of blacklisting. The Supreme Court recognised that exclusion from government contracts creates a serious disability and that the affected party must receive an opportunity to present its case before the decision is taken.²⁷

The case establishes two principles relevant to cross-government exclusion. First, blacklisting is not a neutral administrative record of past conduct. It is a decision that changes the affected person's legal and commercial position. Secondly, the State's freedom to choose its contracting partners does not exempt it from the obligation to act fairly.

When applied to cross-government blacklisting, these principles require attention to the additional consequences generated by institutional expansion. A contractor that has been heard on whether it should be excluded by one authority may not necessarily have received an opportunity to address a proposed government-wide sanction. The underlying allegations may be identical, but the proposed consequence is different.

The decision in *Erusian Equipment* therefore supports a principle of procedural correspondence: the opportunity to be heard must be meaningful in relation to the disability

²⁶ Department of Expenditure, Office Memorandum No 2/6/2026-PPD(i) (8 May 2026), amendment to GFR 2017, r 151; Office Memorandum No 2/6/2026-PPD(ii) (8 May 2026), amendments to the debarment guidelines.

²⁷ *Erusian Equipment* (1975) 1 SCC 70.

that the competent authority proposes to impose.

5.2 *Joseph Vilangandan*: the distinction between immediate contractual action and future exclusion

In *Joseph Vilangandan v Executive Engineer, PWD, Ernakulam*, the Supreme Court examined the consequences of blacklisting in the context of a government contract and emphasised the need to afford the affected contractor a fair opportunity before imposing the disability. The decision illustrates that action relating to an existing tender or contract cannot automatically be equated with exclusion from future contractual relationships.²⁸

Such an approach overlooks the independent purpose of blacklisting. The decision to terminate a contract may be justified by the need to complete a project or protect immediate public interests. A decision to exclude a contractor from future procurement requires an additional assessment of suitability, risk and the legal basis for the proposed sanction.

5.3 *Patel Engineering*: the public authority's power is not unrestricted

In *Patel Engineering Ltd v Union of India*, the Supreme Court considered the scope of the State's power to blacklist and the importance of procedural fairness. The judgment recognises that blacklisting may be available even where the power is not expressly conferred by a specific statutory provision, while maintaining that the exercise of that power remains subject to legal limitations.²⁹

In particular, the existence of a general executive power to blacklist does not resolve whether an individual department may impose a sanction intended to bind all other ministries. That question depends on the governing procurement framework, the authority's institutional competence and the terms of the order.

5.4 *Kulja Industries*: proportionality and the duration of exclusion

The Supreme Court's decision in *Kulja Industries Ltd v Chief General Manager, Western Telecom Project, BSNL* is central to the proportionality analysis. The Court recognised the significance of the duration of blacklisting and the need to consider the circumstances of the case rather than treat exclusion as an unqualified consequence of contractual misconduct.³⁰

First, it undermines the assumption that a finding of misconduct necessarily justifies the

²⁸ *Joseph Vilangandan* (1978) 3 SCC 36.

²⁹ *Patel Engineering* (2012) 11 SCC 257.

³⁰ *Kulja Industries* (2014) 14 SCC 731.

maximum available period of exclusion. The authority must consider the seriousness of the conduct and the purpose of the sanction.

Cross-government exclusion magnifies the importance of both propositions. The same period of debarment may impose radically different burdens depending on its institutional reach. A two-year exclusion from one specialised procurement stream may be materially less severe than a two-year exclusion from every central ministry, public sector undertaking and autonomous body covered by a central order.

5.5 *Gorkha Security Services*: the proposed consequence must be disclosed

In *Gorkha Security Services v Government of NCT of Delhi*, the Supreme Court held that a show-cause notice must communicate that blacklisting is contemplated and identify the grounds supporting the proposed action. The judgment protects the affected party from being subjected to a sanction that was not fairly disclosed during the notice process.

The principle has direct implications for wider debarment. A notice concerning defective performance or breach of a contract may not be sufficient if the authority ultimately intends to recommend or impose exclusion across all central ministries.

The notice should make the proposed institutional reach reasonably apparent. A contractor may accept that a particular department has suffered a loss but dispute the proposition that the conduct justifies exclusion from unrelated procurement. It may also argue that the evidence is incomplete, that corrective measures have been undertaken or that a narrower sanction would adequately protect the public interest.

5.6 *UMC Technologies*: procedural precision in blacklisting

In *UMC Technologies (P) Ltd v Food Corporation of India*, the Supreme Court reiterated that a show-cause notice preceding blacklisting must clearly indicate that such action is proposed. The judgment reinforces the importance of a fair procedure when the authority seeks to impose a disability affecting future business relationships.³¹

In a cross-government setting, procedural precision requires the notice and subsequent order to identify the intended reach of the sanction. If the authority proposes a central debarment, it should not rely on language that merely indicates an intention to suspend the contractor from one departmental tender.

5.7 *Tata Cellular and Michigan Rubber*: procurement discretion and judicial restraint

³¹ *UMC Technologies* (2021) 2 SCC 551.

The Supreme Court's procurement jurisprudence also cautions against excessive judicial intervention. In *Tata Cellular*, the Court emphasised the limits of judicial review in contractual matters. In *Michigan Rubber*, it recognised the considerable latitude available to the State in prescribing tender conditions and managing procurement, subject to established constitutional limitations.

At the same time, judicial restraint cannot justify the absence of legal scrutiny. Questions concerning the authority competent to impose cross-government debarment, the existence of a valid order, compliance with mandatory procedures and the rationality of the sanction are conventional questions of legality.

5.8 The limits of the existing case law

This approach avoids two extremes: an excessively decentralised system in which serious misconduct is ignored whenever a contractor approaches a different department,³² and an excessively centralised system in which a single local decision automatically determines commercial eligibility across government without adequate safeguards.³³

Two recent developments reinforce the distinction between a power to blacklist and a lawful exercise of that power. In *Shree Durga Industry v Union of India*, the Calcutta High Court considered GeM's incident-management framework against Rule 151 and distinguished general debarment from entity-specific debarment; the decision illustrates how a platform-level restriction can have consequences far beyond the initiating buyer and must be tested against the governing rules. More recently, in *M/s A.K.G. Construction and Developers Pvt Ltd v State of Jharkhand*, the Supreme Court upheld contractual termination but set aside a five-year blacklisting order because the notice did not clearly propose blacklisting and the authority had not independently justified that sanction. The Court reaffirmed that termination and blacklisting are distinct decisions. In *M/s Techno Prints v Chhattisgarh Textbook Corporation*, the Court also stressed that the authority must assess whether blacklisting is justified before issuing a notice that may initiate such proceedings. These authorities make procedural and substantive separation central to any proposal for wider debarment.³⁴

6. Why Cross-Government Blacklisting Requires a Distinct Legal Analysis

³² *M/s A.K.G. Construction and Developers Pvt Ltd v State of Jharkhand* 2026 INSC 312.

³³ *M/s Techno Prints v Chhattisgarh Textbook Corporation* 2025 INSC 236.

³⁴ *Shree Durga Industry v Union of India*, WPO No 65 of 2024 (Calcutta High Court, 13 February 2024); *M/s A.K.G. Construction and Developers Pvt Ltd v State of Jharkhand* 2026 INSC 312; *M/s Techno Prints v Chhattisgarh Textbook Corporation* 2025 INSC 236.

6.1 The difference between sharing information and extending a sanction

Information sharing and cross-government debarment serve related but distinct purposes. Information sharing alerts procurement authorities to potentially relevant misconduct. Cross-government debarment creates a binding exclusionary consequence across the institutions covered by the order.³⁵

The first is evidentiary and administrative; the second is legally consequential. Confusing the two can produce a system in which the mere existence of an adverse entry becomes equivalent to a final determination of ineligibility.

A department receiving information about a contractor's alleged misconduct should be able to consider its relevance to the procurement before it. Depending on the applicable rules, it may seek clarification from the originating authority, verify whether an order remains in force, or assess whether the circumstances justify action under its own procedures.

Where a valid central debarment order applies, however, the receiving authority may be required to implement the exclusion according to the governing framework. It should not independently disregard the order simply because it would have reached a different conclusion on the original facts.

6.2 The risk of administrative overreach

Cross-government exclusion can produce administrative overreach when the consequences of an order extend beyond the competence or purpose of the original decision-maker.

If its decision automatically binds all public procuring entities, the original authority effectively determines the commercial eligibility of the contractor for transactions it has neither examined nor administered. Such an outcome may be justified where a valid central framework deliberately allocates that power and establishes appropriate safeguards. Without such a framework, it risks exceeding the original decision's lawful scope.

A legally sound system should therefore make the scope of every debarment order explicit. The order should identify the issuing authority, the governing provision, the covered procurement institutions, the duration, the relevant conduct and the mechanism for review.³⁶

6.3 Corporate groups, affiliates and successor entities

A company that has been debarred may attempt to avoid the sanction by creating a new entity

³⁵ Sandeep Verma, 'Debarment and Suspension in Public Procurement: A Survey of Important Executive Guidance and Case Law from India' (paper presented at the 7th International Public Procurement Conference, Bali, August 2016).

³⁶ *Kranti Associates (P) Ltd v Masood Ahmed Khan* (2010) 9 SCC 496.

or submitting bids through an affiliate. Where the new entity is effectively controlled by the debarred firm and continues the same operations, extending the exclusion may be necessary to prevent circumvention.³⁷

The relevant inquiry should consider effective control, operational integration, the role of the affiliate in the misconduct, beneficial ownership, transfer of assets and evidence of an attempt to evade the order. The applicable procurement rules may prescribe additional criteria for determining the treatment of allied firms and successor entities.³⁸

6.4 Federalism and the limits of a Union-wide approach

The expression cross-government blacklisting may refer to exclusion across the Union Government, across the institutions of a particular state, or across both Union and state procurement systems. These are not identical situations.³⁹

A state government may have its own procurement legislation, rules, executive instructions and debarment mechanisms. A state authority considering a contractor subject to a Union Government order must identify whether the relevant state framework gives that order binding effect, permits it to be considered as evidence, or requires a separate decision.⁴⁰

This is not an argument for institutional isolation. Information about serious fraud or corruption may be highly relevant to public procurement throughout the country. The question is whether the legal consequence follows from a valid rule or decision, rather than from an assumption that every public authority is legally bound by every other authority's exclusion order.⁴¹

6.5 Indefinite exclusion and the problem of permanent disqualification

The title of this Article asks whether one department's decision can permanently disqualify a contractor everywhere. The answer requires a distinction between a genuinely permanent sanction and an exclusion that becomes practically permanent because administrative systems fail to recognise its expiry.

A different question arises where the order purports to impose indefinite exclusion. The Supreme Court's proportionality jurisprudence requires close scrutiny of the duration and consequences of blacklisting. An indefinite prohibition covering all government procurement

³⁷ General Financial Rules 2017, r 151, as amended.

³⁸ Companies Act 2013, ss 2(6), 2(87) and 2(46), where applicable to the corporate relationship in issue.

³⁹ Constitution of India 1950, arts 245, 246 and 298.

⁴⁰ Constitution of India 1950, art 226.

⁴¹ Kaushal J Thaker, 'Role of Constitutional Courts in Matters Concerning Contracts by Government and Public Contracts: A Brief Analysis of Case Law' (2021) 3(2) *GLS Law Journal* 1–13 <<https://doi.org/10.69974/gslawjournal.v3i2.45>>.

may be difficult to justify where the applicable framework contemplates a maximum period or where the authority has not explained why a lesser restriction would be inadequate.⁴²

A lawful system requires a clear endpoint, a defined review mechanism or an identifiable continuing statutory basis for any enduring exclusion. Without these safeguards, the practical effects of blacklisting may exceed its formal duration and undermine the principles of proportionality and legal certainty.

Blacklisting also has a reputational dimension. A public entry identifying a contractor as debarred may influence private counterparties, lenders, insurers and prospective business partners. The effect can persist even after the legal disability expires.

The appropriate response is not to suppress legitimate information. Public procurement requires transparency, and authorities must be able to communicate valid exclusions. Rather, published records should distinguish clearly between allegations, interim suspensions, final debarment orders, expired sanctions and orders that have been stayed or quashed.⁴³

Accurate communication is therefore part of procedural fairness. It reduces the possibility that the informational consequences of blacklisting become broader and more enduring than the legal sanction itself.

7. Reconstructing the Legal Framework: A Proportionate Model of Cross-Government Debarment

7.1 From automatic exclusion to graduated debarment

A more coherent framework should recognise that misconduct differs in seriousness, relevance and institutional significance. The appropriate sanction should depend on the nature of the conduct and the risks it creates, rather than the mere fact that a blacklisting order exists.⁴⁴

A graduated model could distinguish three categories of exclusion.

First, local or transaction-specific exclusion. This category would cover misconduct whose demonstrated consequences are principally confined to a particular contract or procurement relationship. Subject to the governing rules, the originating authority could exclude the contractor from its own procurement for a prescribed period. The decision could be communicated to other authorities, but it would not automatically become a government-wide

⁴² *M/s A.K.G. Construction* 2026 INSC 312.

⁴³ Department of Expenditure, *Manual for Procurement of Goods* (2024), provisions concerning publication and implementation of debarment orders.

⁴⁴ *Kulja Industries* (2014) 14 SCC 731; *M/s A.K.G. Construction* 2026 INSC 312.

prohibition.⁴⁵

Secondly, sectoral or function-specific exclusion. This category would apply where the misconduct reveals a risk relevant to a defined class of procurement. For example, falsification of specialised safety certifications may justify broader restrictions in procurements involving the same regulated equipment or technical risk. The legal basis for this category would need to be established in the applicable procurement framework; it should not be assumed to exist merely because the sanction appears commercially sensible.⁴⁶

Thirdly, cross-government debarment. This category would be reserved for conduct that justifies exclusion across the institutions covered by a valid central framework. Systematic corruption, deliberate manipulation of multiple tenders or serious fraud affecting public procurement may provide a stronger basis for such action than an isolated contractual dispute. The advantage of graduated debarment is that it preserves the State's capacity to respond firmly to serious misconduct while reducing the possibility that every adverse finding becomes a universal commercial disability.⁴⁷

7.2 A two-stage decision-making process

At the first stage, the originating authority should establish the relevant facts, identify the contractual or procurement rule breached, provide the prescribed opportunity to respond and decide what action is justified within its own jurisdiction.⁴⁸

At the second stage, where wider exclusion is proposed, the competent central authority should determine whether the conduct warrants the additional consequence under the applicable framework. It should assess the evidentiary record, the seriousness of the conduct, the relevance of the misconduct to other procurement institutions and the proposed duration and scope of debarment.

This second stage need not reproduce every aspect of the original proceedings. Where the originating process was lawful and the facts are adequately documented, the central authority may rely on that record. However, it should independently determine whether the wider sanction is authorised and justified.⁴⁹

The two-stage approach also clarifies institutional accountability. The originating department

⁴⁵ Department of Expenditure, *Guidelines on Debarment of Firms from Bidding* (2024), as amended on 8 May 2026.

⁴⁶ United Nations Commission on International Trade Law, *Model Law on Public Procurement* (2011), arts 9–10.

⁴⁷ Organisation for Economic Co-operation and Development, *Recommendation of the Council on Public Procurement* (18 February 2015), OECD/LEGAL/0411.

⁴⁸ *Gorkha Security Services* (2014) 9 SCC 105; *UMC Technologies* (2021) 2 SCC 551.

⁴⁹ *M/s A.K.G. Construction* 2026 INSC 312.

remains responsible for the factual foundation of its findings, while the central authority remains responsible for the broader legal and administrative consequences of extending the sanction.

7.3 Standardised notices and disclosure of scope

The procurement framework should prescribe a standardised notice for proposed debarment. It should identify the alleged misconduct and material facts, the legal basis, whether exclusion is local or cross-government, the proposed duration and institutions covered, the material relied upon subject to lawful confidentiality, and the time and procedure for making representations.⁵⁰ Where the proposal originates with one department but is intended to be considered by a central authority, the notice should explain that institutional arrangement. The contractor should know whether it is responding to a local sanction, a proposal for wider debarment or both.

Standardisation would reduce uncertainty, improve administrative consistency and help prevent disputes arising from notices that describe contractual consequences but fail to communicate the possibility of wider exclusion.

7.4 Proportionality as an express decision-making requirement

Although proportionality already informs the judicial review of blacklisting, its application should be made explicit in procurement instructions governing wider debarment.⁵¹

A central authority should record its assessment of four matters.

Legitimate objective. The order should identify the public procurement interest being protected, such as preventing corruption, protecting public funds or ensuring the reliability of critical services.

Suitability. The authority should explain how exclusion is connected to the identified risk. Misconduct involving deliberate fraud may justify a wider inference of risk than an isolated failure attributable to external circumstances.

Necessity. The authority should consider whether a narrower measure could adequately protect the public interest. Depending on the governing framework, alternatives may include local debarment, enhanced verification, additional performance security, restrictions confined to a particular procurement category or other lawful safeguards.

Balancing. The authority should weigh the seriousness and recurrence of the misconduct

⁵⁰ *Gorkha Security Services* (2014) 9 SCC 105; *UMC Technologies* (2021) 2 SCC 551.

⁵¹ *Om Kumar v Union of India* (2001) 2 SCC 386.

against the breadth and duration of exclusion, including the foreseeable consequences for the contractor and its employees.

This framework should not become a mechanical checklist that prevents decisive action in cases of grave wrongdoing. Rather, it should ensure that the reasons supporting the sanction are visible and capable of review.⁵²

The assessment should also recognise that government-wide exclusion may have effects beyond the contractor itself. Employees, subcontractors, small suppliers and commercial creditors may be affected even though they had no involvement in the misconduct. These effects do not override the public interest in integrity, but they reinforce the importance of imposing only the sanction justified by the applicable law and evidence.

7.5 A central debarment register with enforceable safeguards

A centralised register should be designed as a reliable legal information system rather than a permanent repository of adverse labels.⁵³

The distinction matters because these categories have different legal consequences. An allegation should not be displayed as though it were a final finding, and an expired order should not continue to function as a present disqualification.

A defined process should permit the contractor to request correction of inaccurate entries and removal of records whose operative period has ended. The originating authority should be responsible for notifying the register administrator of material changes, while the central administrator should maintain a reliable audit trail.⁵⁴

Receiving authorities should be able to verify the operative order and its scope before rejecting a bid on the ground of debarment. This would reduce the risk of exclusion based on mistaken identity, outdated information or an incorrect assumption about the order's reach.

7.6 Periodic review and rehabilitation

Rehabilitation should not be confused with automatic forgiveness. A contractor responsible for serious corruption may require substantial safeguards before being considered suitable for future public contracts. But a system that offers no means of correcting an error or recognising the expiry of a sanction risks converting a temporary administrative measure into a permanent exclusion.

⁵² *M/s Techno Prints* 2025 INSC 236.

⁵³ Department of Expenditure, Office Memorandum No 2/6/2026-PPD(ii) (8 May 2026), para 5(h).

⁵⁴ *State of Punjab v Bandeep Singh* (2016) 1 SCC 724.

7.7 An independent review mechanism

Judicial review remains an essential safeguard, but litigation may be costly and time-consuming. A contractor that depends on public procurement may suffer substantial losses before a challenge is finally decided.

Subject to the institutional arrangements adopted by the Government, an administrative review mechanism could provide a more accessible route for correcting errors in cross-government debarment. It might operate through a designated review committee or an appropriately independent authority.⁵⁵

To preserve credibility, the review process should have specified timelines, reasoned outcomes and safeguards against conflicts of interest. Where urgent procurement is affected, the framework should permit expedited consideration without automatically suspending a valid order.⁵⁶

The legal standard should not vary arbitrarily according to the contractor's size. Serious fraud remains serious regardless of whether it is committed by a small enterprise or a large corporation. However, the economic consequences of exclusion are relevant to a proportionate assessment of the sanction, particularly where the governing framework allows discretion over its scope and duration.⁵⁷

Graduated exclusion, transparent review and clearly defined durations can serve both objectives. They allow public authorities to respond firmly to wrongdoing while ensuring that commercial survival does not depend upon an arbitrary or obsolete administrative entry.⁵⁸

7.8 A model decision-making test

This test is a proposed analytical framework, not a substitute for the operative procurement rules. Its value lies in making the legal steps explicit and preventing the mere existence of a local blacklisting order from being treated as sufficient proof that every public procuring entity is bound to exclude the contractor.

In practical terms, the decision-maker should verify the source of power and operative status of the original order; identify the institutions and entities covered; assess the seriousness and wider relevance of the misconduct; give notice of the proposed scope and duration; consider proportionality; record reasons; and ensure that the register reflects any stay, modification or expiry. This sequence is a proposed analytical safeguard and does not displace the procedure

⁵⁵ Constitution of India 1950, art 226.

⁵⁶ *Tata Cellular* (1994) 6 SCC 651.

⁵⁷ *Michigan Rubber* (2012) 8 SCC 216.

⁵⁸ Kaushal J Thaker (2021) 3(2) GLS Law Journal 1–13.

prescribed by the applicable procurement rules.⁵⁹

8. Conclusion

8.1 The answer to the central question

Can one department's decision permanently disqualify a contractor everywhere? Under Indian law, the answer cannot be expressed as an unconditional yes or no. The legal effect depends on the authority issuing the order, the governing procurement framework, the terms of the decision and the procedures through which wider exclusion is imposed.⁶⁰

A department-specific blacklisting order should not automatically be equated with a government-wide debarment order. The Union Government's procurement framework expressly distinguishes between debarment confined to an individual ministry or department and exclusion intended to apply across central ministries and departments. The Department of Expenditure's guidelines provide a central mechanism for the latter. This distinction confirms that the intended reach of a sanction is a legally significant matter, not merely an administrative detail.⁶¹

At the same time, a valid cross-government debarment order may lawfully bind the institutions covered by the applicable framework. Those institutions cannot necessarily disregard the order simply because they were not parties to the original contractual dispute. The legal issue is whether the wider consequence has been imposed through the prescribed authority and procedure, and whether the receiving institution is bound by the operative order.

Nor does Indian law support the proposition that every blacklisting order is necessarily permanent. The governing framework may prescribe a defined period, and the principles of proportionality and reasoned decision-making constrain the exercise of blacklisting power. A contractor should not continue to be treated as debarred after the operative period expires merely because an administrative database retains an obsolete entry.

8.2 The constitutional significance of cross-government exclusion

The constitutional importance of the issue lies in the relationship between administrative efficiency and the rule of law. Public authorities require effective mechanisms to protect public funds and exclude contractors whose conduct threatens procurement integrity. They must also

⁵⁹ The proposed safeguards are analytical recommendations; compare the statutory and executive framework in General Financial Rules 2017, r 151, as amended, and Department of Expenditure, Office Memorandum No 2/6/2026-PPD(ii) (8 May 2026).

⁶⁰ General Financial Rules 2017, r 151, as amended by Office Memorandum No 2/6/2026-PPD(i) (8 May 2026).

⁶¹ Department of Expenditure, Office Memorandum No 2/6/2026-PPD(ii) (8 May 2026), para 11.

be able to exchange information about serious misconduct and implement valid central sanctions consistently.⁶²

However, administrative coordination cannot itself create unlimited exclusionary power. The fact that several authorities use the same procurement portal does not establish that every order issued by one authority automatically binds all the others. The fact that the State has a legitimate interest in avoiding unreliable contractors does not eliminate the requirements of jurisdiction, fairness and proportionality.

The Supreme Court's blacklisting jurisprudence establishes that exclusion from government contracts is a consequential administrative decision. *Erusian Equipment* emphasises fair hearing; *Gorkha Security Services* and *UMC Technologies* require meaningful notice of the proposed sanction; *Kulja Industries* underscores proportionality; and the procurement decisions in *Tata Cellular* and *Michigan Rubber* preserve judicial scrutiny while respecting legitimate administrative discretion.⁶³

Taken together, these principles support a model in which the legal reach of blacklisting must be justified rather than assumed.

8.3 From a blacklist to a legally accountable system

The appropriate reform is not to eliminate cross-government debarment. Such a step would weaken the State's ability to respond to systematic fraud and corruption. Nor should every department be required to repeat the entire factual inquiry whenever a contractor participates in a new tender.

The better approach is to establish a legally accountable system of graduated exclusion. Local sanctions should remain within their authorised scope. Wider sanctions should be imposed by the competent authority under the applicable framework. Notices should communicate the proposed breadth and duration of exclusion. Decisions should explain why the conduct justifies that reach. Central registers should distinguish operative orders from allegations and expired sanctions. Review mechanisms should permit correction of material errors and ensure that the practical consequences of debarment do not outlast its legal basis.⁶⁴

Such a framework would preserve the integrity of procurement without allowing a single administrative decision to acquire consequences greater than those authorised by law.

⁶² Constitution of India 1950, arts 14 and 19(1)(g).

⁶³ *Erusian Equipment* (1975) 1 SCC 70; *Gorkha Security Services* (2014) 9 SCC 105; *UMC Technologies* (2021) 2 SCC 551; *Kulja Industries* (2014) 14 SCC 731.

⁶⁴ *M/s A.K.G. Construction* 2026 INSC 312; *Shree Durga Industry* WPO No 65 of 2024 (Calcutta High Court, 13 February 2024).

Ultimately, the legitimacy of blacklisting depends not only on the State's power to exclude, but also on its ability to justify who is excluded, by whom, for what conduct, from which procurement opportunities and for how long. Cross-government debarment can be a necessary instrument of public accountability. It should not become an informal mechanism of permanent commercial disqualification.

The rule of law requires that the breadth of an administrative sanction remain proportionate to its purpose and traceable to a lawful source of authority. A contractor may legitimately be excluded from public procurement for serious misconduct, and in appropriate cases that exclusion may extend throughout the government institutions covered by a valid central order. What the law should resist is not effective debarment, but the unexamined conversion of one department's decision into a universal and indefinite prohibition.

