

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. SOUMEN SEN

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

THURSDAY, THE 5TH DAY OF MARCH 2026 / 14TH PHALGUNA, 1947

WA NO. 382 OF 2026

AGAINST THE JUDGMENT DATED 17.10.2025 IN WP(C)
NO.21952 OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/RESPONDENTS 1 TO 3:

- 1 STATE NODAL OFFICER
SOURA PROJECT, VYDUTHI BHAVAN, KERALA STATE
ELECTRICITY BOARD LTD. PATTOM, THIRUVANANTHAPURAM
. , PIN - 695004
- 2 CHAIRMAN
KERALA STATE ELECTRICITY BOARD LTD. VYDUTHI
BHAVAN, PATTOM, THIRUVANANTHAPURAM . , PIN -
695004
- 3 KERALA STATE ELECTRICITY BOARD LTD
VYDUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY., PIN - 695004

BY ADVS.
DR.THUSHARA JAMES
SHRI.NOEL JACOB
SRI.M.S.AMAL DHARSAN

RESPONDENT(S)/PETITIONERS:

- 1 MANOJ M.S
AGED 46 YEARS

**S/O.SASEEDRAN NAIR, MANAGING DIRECTOR, SOURA
NATURAL ENERGY SOLUTIONS PRIVATE LTD, CHIRANKARA,
KORATTY P.O, CHALAKKUDY, THRISSUR, RESIDING AT
CHIRANKARA, KORATTY P.O, CHALAKKUDY, THRISSUR.,
PIN - 680308**

**2 SOURA NATURAL ENERGY SOLUTIONS INDIA PRIVATE LTD
CHERANGARA, KORATTY P.O, CHALAKKUDY, THRISSUR
REPRESENTED BY ITS MANAGING DIRECTOR MANOJ M.S.,
PIN - 680308**

**BY ADVS.
SRI.RAAJESH S.SUBRAHMANIAN
SHRI.SANTHOSH MATHEW (SR.)**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
05.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

JUDGMENT

SOUMEN SEN, C.J.

Heard Ms. Thushara James, learned counsel for the appellants and Mr. Santhosh Mathew, learned Senior Advocate instructed by Mr. Rajeesh S. Subrahmanian, learned counsel for the writ petitioners/respondents 1 and 2.

2. This appeal arises from an order dated 17.10.2025 passed by the learned Single Judge in a writ petition filed by respondent Nos. 1 and 2 challenging the decision of the Kerala State Electricity Board Limited (KSEB) dated 17.06.2023, whereby a show cause notice was issued to the writ petitioners to explain why the contract awarded to them for the installation of rooftop solar plants in Kerala should not be terminated, followed by the final letter of termination dated 01.07.2023. The ground for termination appears to be that the writ petitioners have not disclosed their blacklisting by the Jharkhand Renewable Energy Development Agency (JREDA). In the impugned order dated 01.07.2023, it appears that Mr. Manoj M.S., the Managing Director of M/s. Soura Natural Energy Solutions Private Limited, tried to clarify the

fixed deposits / bank guarantee furnished under the agreement that was raised during the hearing by the KSEB and also tried to explain the reason for non-disclosure of blacklisting by JREDA.

3. The letter of allocation in favour of the 2nd respondent was issued by the KSEB on 16.12.2021. However, it appears that as early as on 30.10.2019, the JREDA had terminated the contract and M/s. Soura Natural Energy Solutions Private Limited has been blacklisted for five years with immediate effect. Admittedly, at the time when the writ petitioners participated in the said contract, the order of blacklisting passed by the Director, JREDA on 30.10.2019 was in force. Writ Petition(C) No.3185 of 2023 was filed before the Jharkhand High Court for quashing the said order of blacklisting, which, however, was dismissed on 07.08.2023 by recording that no illegality was found in the order passed by the authority in terminating the contract and blacklisting the writ petitioners.

4. The writ petitioners, in terms of the letter of allocation, executed 1745 installations in the State of Kerala.

The State Nodal Officer of the KSEB inspected the installations. Relevant documents were submitted to the KSEB to release the Central Financial Assistance (CFA) from the Ministry of New and Renewable Energy (MNRE) of the Government of India. The CFA is to the tune of ₹9 Crores and at the time when the writ petition was filed, the petitioners had received ₹4 Crores. The rest of the aforesaid amount was withheld on the basis of an information received by the KSEB that the 2nd writ petitioner was blacklisted by the JREDA and, therefore, the 2nd writ petitioner would stand disqualified for all future empanelment. The show cause notice was issued and reply submitted. We have already mentioned that proceeding was initiated towards the termination of the contract. Ultimately, on 01.07.2023, the contract was terminated. The impugned order of termination is reproduced below:

“PROCEEDINGS OF STATE NODAL OFFICER, SOURA
PROJECT

Soura natural Energy Solutions Pvt. Ltd.- Blacklisting-
Sanctioned – orders- issued.

No. /2023 Soura Natural Blacklisting – TVPM Dated 1.07.23

- Read.
1. Letter dated 30.5.23 from Shri. Rajesh Kumar M.
 2. Letter dated 30.05.2019 from JREDA regarding termination of work order along with blacklisting of M/s. Soura Natural Energy Solutions Pvt. Ltd.
 3. Reply message from JREDA dated 19.06.23.
 4. Undertaking of M/s. Soura Natural Energy Solutions Pvt. Ltd regarding blacklisting, if tender conditions are violated.
 5. LOA 16/2021-22 Dated 16.12.2021/ agreement No. 19/21-22/15.12.21.

A letter was received from Shri. Rajesh Kumar M., Echungal House, Chelavur, Mayanadu PO, Kozhikodu on 1.06.2023 regarding fraudulent transactions alleged to be done by M/s. Soura Natural Energy Solutions Pvt. Ltd. with JREDA and the subsequent termination of their work order with it. M/s. Soura Natural Energy Solutions Pvt. Ltd. is one of the developers of Soura project subsidy scheme. Confirmation regarding this was received from JREDA on 19.6.23.

The firm had submitted Fixed Deposit for Rs.52 lakhs, Lien marked in favour of State Nodal Officer, Soura project in lieu of Performance Bank Guarantee. In view of the above the information, message was sent to Punjab National Bank Chalakudy on 1.6.2023 to confirm the genuineness of the FDR submitted by the alleged firm. Subsequently the reply message from Bank was received on 2.06.23 stating that, out of the four FDRs, the firm had withdrawn three receipts amounting to Rs.46 lakhs for re-submission to get higher interest rate and only FDR for Rs. 6 lakhs is active at the

bank. This action was taken by the firm without the knowledge or approval of the tendering authority, SNO Soura project.

Shri. Manoj M.S., on behalf of the firm M/s.Soura Natural Energy Solutions Pvt. Ltd. on 6.6.23 replied apologizing for the inconvenience and admitting that the mistake occurred in connection with the shifting of account from PNB to Canara Bank is not acceptable.

The firm had acted malafidely against the interest of KSEBL. The bonafide mistake had taken place not only in withdrawing the lien marked FDRs by the firm but also in suppressing the facts about termination of 01 order and blacklisting by JREDA, and participating in the subsidy tender No. 1 / Phase II-Subsidy Scheme /2021-22 dated 10.09.2021.

Communications seeking clarification in this matter had already been issued to PNB, Chalakudy Branch and their regional head offices at Ernakulam and Kozhikode on 7.06.2023 through mail and registered post.

In view of the above, before taking a final decision in terminating the contract, blacklisting and debarring the firm M/s. Soura Natural Energy Solutions Pvt. Ltd. and its promoters from participating in the recent tender a notice was issued to Shri. MANOJ M.S. and hearing was conducted on 30.6.2023 at the O/o the undersigned. But he was unable to substantiate his stand by any material evidence to prove his innocence in this regard.

In view of the above facts and submission of forged and fabricated documents, in exercise of the rights, power and authority vested in SNO Soura project, the tendering and agreement authority, under terms and conditions of contract, the LOA 16/2021-22 Dated 16.12.2021/agreement No.19/21-22/15.12.21 is hereby terminated and considering the criminal and forged behaviour M/s. Soura Natural Energy Solutions Pvt. Ltd., 1st floor, SNDP Jubilee Building, NH Junction, Chirangara, Koratty PO, Chalakkudy, Thrissur and its promoters are hereby blacklisted with immediate effect and debarred from participating in any forthcoming tender process in future with Soura Project, KSEBL.”

This order of blacklisting was, *inter alia*, under challenge in the writ petition.

5. The contention of the writ petitioners before the learned Single Judge was that they are accepting the impugned letter of termination insofar as it relates to the blacklisting, however, insofar as the amounts realisable under the contract for works completed and executed, the decision to withhold the amount was unfair, in view of the fact that the writ petitioners have completed thousands of installations, including the solar panel installation at the

High Court of Kerala.

6. In the counter affidavit, the appellants had admitted that ₹4.44 Crores is pending disbursal to the writ petitioners. Initially, an interim order was passed on 31.07.2023, directing the appellants to release ₹4.44 Crores. The said order was not complied with. On 26.05.2023, the appellant KSEB issued a communication directing the writ petitioner No.2 to submit bank guarantee for an amount of ₹41,39,676/-, thereby accepting the interim order. The writ petitioners submitted performance bank guarantee for a sum of ₹15 lakhs. The contention of the writ petitioners appears to be that after having furnished the performance bank guarantee, the KSEB ought to have released the entire amount of ₹4.44 Crores after deducting the deficit of ₹26,39,676/-. The non-payment of the aforesaid amount resulted in the writ petition being filed, in which, the said two impugned orders were under challenge.

7. Ms. Thushara James, learned counsel appearing on behalf of the KSEB has submitted that, having regard to the fact that the writ petitioners have accepted the order of

blacklisting in the writ proceedings, the KSEB is entitled to invoke Clause 2.10, i.e., the penalty provisions and in this regard, the learned counsel has referred to Clause 2.10 (iii) and (vii) in justification of withholding of the aforesaid amount. The said clauses are reproduced as under:

“2.10. Penalty Provisions

Penalty will be imposed on bidder by State Nodal Officer, Soura Project, KSEB Ltd if following conditions are encountered:

- i. xxxx xxxx
- ii. xxxx xxxx
- iii. If bidders are defaulting in submission of Bank Guarantee/Required Relevant Documents during the bidding/empanelment process.
- iv. xxxx xxxx
- v. xxxx xxxx
- vi. xxxx xxxx
- vii. Penalties may lead to the encashment of Partial/full Security Deposit/ Performance Bank Guarantee and subsequently debarring or blacklisting from the future State/Central Government Tenders.”

8. The learned counsel for the KSEB has also referred to Clauses 5.2 and 5.5 in order to justify that once the termination is held to be valid, the KSEB is entitled to recover

the whole or part of the Central Financial Assistance from the writ petitioners or future payments. It is submitted that admittedly, it is a case of violation of the terms and conditions of the MNRE.

9. Mr. Santhosh Mathew, learned Senior Advocate appearing on behalf of the writ petitioners, has raised a preliminary objection with regard to the maintainability of the writ appeal on the ground that the order passed by the learned Single Judge directing release of the balance amount after retaining the amount as envisaged in Clause 6.2 of the general terms and conditions applicable for performance bank guarantee has been complied with by the KSEB. The learned Senior Advocate has referred to the letter dated 01.12.2025 issued by the Deputy Chief Engineer (Solar Projects) to the Secretary, Ministry of New and Renewable Energy, Government of India, New Delhi, requesting the Secretary to release a sum of ₹5,42,00,239/- in compliance with the order passed in W.P.(C) No.21952 of 2023 vide judgment dated 17.10.2025. The said letter is reproduced below:

“No. KSEB/Solar Projects/RTSP/Subsidy/

Dated 01.12.2025

From

The Deputy Chief Engineer (Solar Projects)
KSEB, Vidyuthibhavanam Pattom,
Thiruvananthapuram.

To

The Secretary,
Ministry of New and Renewable Energy,
Government of India, New Delhi.

Sir,

Sub: Grid Connected Roof top.--solar Project -
request to release the balance CFA amount
-regarding

- Ref:
1. Utilization Certificate in GFR 12-C format for the allotment of Rs.491211874/.
 2. Statement of Expenditure dtd 10.06.2025.
 3. Sanction order No. 318/62/2021-GCRT dtd. 26.03.2024.
 4. Email from rts-mnre@gov.in dtd.20.12.2024.
 5. Letter No. Solar Projects/2025-26 dtd. 21.06.2025.

The fourth tranche/instalment of the Central Financial Assistance (CFA), amounting to Rs. 78,52,54,890/-, in connection with the Phase II Grid Connected Rooftop (GCRT) solar subsidy scheme, was released to Kerala State Electricity Board Limited

(KSEBL) by the Ministry of New and Renewable Energy (MNRE) vide Sanction No. 38/62/2021-Grid Connected Rooftop dated 09.06.2023.

One of the vendors to whom the amount was to be released was M/S Soura Naturals Energy India Private Limited. However, the amount was withheld due to the case concerning fraudulent issues pending for disposal by the Hon'ble High Court of Kerala.

As directed by the MNRE the unreleased amount was subsequently utilized for other vendors according to their seniority. The MNRE, vide its email dated 20.12.2024, directed KSEBL to request the balance CFA once the related court case is settled.

The total unrealized amount under the Phase II Grid Connected Rooftop (GCRT) solar subsidy scheme is Rs. 5,42,00,239/ as detailed below:

1. M/s. Soura Naturals Energy India Private Limited due to litigation: s. 5,29,57,462/-

2. M/s. Druidic Energy Private Limited: Rs. 12,41,790/-, This amount represents the eligible CFA share of M/s. Druidic Energy Private Limited which was transferred to the vendor's virtual loan account in the Kerala Financial Corporation (KFC). The payment was initiated in the DIGIGOV portal vide transaction number KSE8/DAO/2025/316902 on 29.03.2025 but subsequently declined due to bank transfer issues.

3. KSEBL: Rs. 987/-. This amount was already refunded by KSEBL to MNRE vide PPA No. C072243953321 dated 26.07.2022

This office, vide reference (5) had requested to release the above amount. Now the Hon'ble High Court of Kerala, vide Judgment dated 17.10.2025 in WP (C) No. 21952/2023, ordered the refund of the amount to the vendor, M/s. Soura Naturals Energy India Private Limited. KSEBL has decided to comply with this order.

Therefore, it is requested that the balance CFA of Rs.5,42,00,239/- be disbursed urgently to settle the account with M/s. Soura Naturals Energy India Private Limited and comply with the Hon'ble High Court Order.

This matter is of the utmost urgency, as failure to comply may warrant Contempt of Court proceedings.”

(emphasis supplied)

10. Subsequent to the said request, the Ministry of New and Renewable Energy has issued an order dated 18.12.2025, allotting the said amount subject to the conditions mentioned in paragraph No. 6 of the said order.

11. However, as rightly pointed out Ms. Thushara James, learned counsel appearing for the KSEB, that the writ petitioners were disqualified at the time when their offer was being considered by the KSEB and now that the fact revealed that the writ petitioners were blacklisted way back in the year 2018 and had suppressed the said fact in participating the

tender, the KSEB is entitled to invoke Clause 2.10 (iii) and (vii) as also Clause 5.5, which permits the KSEB to recover the whole or part of the Central Financial Assistance from the vendor.

12. The learned Senior Advocate appearing for the writ petitioners submitted that the writ petitioners accepted the order passed by the learned Single Judge on a clear understanding that the impugned order would be limited to blacklisting and not beyond it and, therefore, the said decision was accepted.

13. The writ court is a court of equity. If a person has invoked the writ jurisdiction with unclean hands and suppressed the material facts, the writ court will nip such proceeding at the bud as fairness requires that a writ petitioner must state the full and true facts. Admittedly, the writ petitioners did not challenge the order of blacklisting issued by JREDA on 30.10.2019 which was hanging like a Damocles' sword on their head and the said decision was not challenged till 2023. In the meantime, the tender in respect of the present work was issued and substantially progressed.

The tender was accepted unanimously as the order of blacklisting issued by JREDA was not disclosed. Facing an imminent danger of termination of the contract, the writ petitioners approached the Jharkhand High Court in 2023 challenging the order of blacklisting by JREDA, which was dismissed by the Division Bench on 07.08.2023. This clearly shows that, at the time of participating in the tender, the order of blacklisting was in force, but was suppressed. Although in the impugned decisions, the penalty was restricted to blacklisting and does not relate to any imposition of damages or invocation of Clause 5.2, we are of the view that the KSEB is not precluded from exercising the said right if it is otherwise permissible in law. The KSEB has already received the amount from the Central Government. However, it appears that the request for the amount was made in the wake of initiation of a contempt proceeding against the KSEB for not complying with the impugned order. Under such circumstances, we could have set aside the impugned judgment and dismissed the writ petition.

14. The primary and main reason for setting aside the judgment and for dismissing the writ petition would be that writ court, while exercising its equitable jurisdiction, shall not entertain a petition where there had been suppression of material facts. The writ court, notwithstanding the existence of an alternative remedy, may even decide the writ petition on merits and dismiss it if it comes to a finding that there is suppression of material facts or that it is not a fit case for exercising such an extraordinary power. In the present case, the petitioners had suppressed the factum of blacklisting at the time of submission of their tender and when the contract was entered into.

15. However, having regard to the fact that the writ petitioners have executed the contract by installing 1745 rooftop solar plants across Kerala, and that the installations have been made to the satisfaction of the KSEB, and further that the communication of KSEB to the Central Government would show that the amount is due and payable towards the work executed, and that the garnishee proceedings have been initiated by the banks against the writ petitioners for default

in repaying the bank loans, we deem it appropriate to direct the KSEB to forfeit the amounts in terms of the contract and release the balance amount only to the financial secured creditors, in discharge of the garnishee notices. Towards this purpose, we had directed the KSEB to quantify the amounts involved. The KSEB has quantified the details and furnished the following figures:

Statement of Accounts

Sl. No.	Description of Recovery	Amount (in ₹)
1	Performance Guarantee Amount (PBG)	1,09,03,211
2	TDS – Income Tax – 2% of the taxable value	33,63,412
3	TDS – CGST – 1% of the taxable value	16,81,706
4	TDS – SGST – 1% of the taxable value	16,81,706
5	Recovery towards Kerala Building and Other Construction Workers Welfare Board 1% of the taxable value	16,81,706
	TOTAL RECOVERIES	1,93,11,741

Balance Amount	Amount (in ₹)
Total Available Fund in DigiGov	5,29,57,462
Recoveries	1,93,11,741
Balance amount	3,36,45,721

16. Both sides agreed to the above figures. Accordingly, we direct that after forfeiting the amount of ₹1,93,11,741/-, the KSEB remit the balance amounts to the bank/banks in discharge of garnishee notices towards the amounts due from the writ petitioners. Thus, as per the figures supplied by the KSEB, an amount of ₹3,36,45,721/- is to be paid by the KSEB directly to the bank/banks.

17. The appeal succeeds in part. The impugned judgment stands modified to the aforesaid extent.

**Sd/-
SOUMEN SEN,
CHIEF JUSTICE**

**Sd/-
SYAM KUMAR V.M.,
JUDGE**

uu/vpv