



2026:AHC-LKO:10066

**HIGH COURT OF JUDICATURE AT ALLAHABAD  
LUCKNOW**

**APPLICATION U/S 528 BNSS No. - 1822 of 2025**

Shri Nikant Jain

.....Applicant(s)

Versus

State of U.P. Thru. Prin. Secy. Home Lko. and another

.....Opposite Party(s)

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Counsel for Applicant(s)	: Pranjal Jain, Nadeem Murtaza
Counsel for Opposite Party(s)	: G.A., Kartikeya Yadav

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**Court No. - 14**

**HON'BLE RAJEEV SINGH, J.**

1. Heard Shri P. Chakraborty, learned Senior Advocate assisted by Shri Nadeem Murtaza and Shri Pranjal Jain, learned counsel for the applicant, Dr. V.K. Singh, learned Government Advocate assisted by Shri Bhanu Pratap Singh, learned A.G.A. and Shri Punit Yadav, learned State Counsel as well as Shri Yuvraj Verma, learned counsel appearing for the complainant.

2. This application has been filed for quashing the charge sheet dated 15.05.2025, summoning order dated 17.05.2025 along with all consequential proceedings as well as the order rejecting the discharge application dated 06.11.2025 passed by Special Judge, P.C. Act-2, Lucknow in Sessions Case No. 730 of 2025 arising out of F.I.R. No. 111 of 2025, under Sections 308(5) B.N.S. and Section 8/12 of Prevention of Corruption Act, P.S. Gomti Nagar, District Lucknow.

3. The instant F.I.R. No. 111 of 2025 (supra) was lodged on the basis of written complaint dated 20.03.2025 given by respondent no. 2 addressed to then Chief Secretary, Government of U.P. The allegations made in the F.I.R. are that the complainant-respondent no. 2 and his business group, i.e., M/s. SAEL Solar P6 Pvt. Ltd. (hereinafter referred to as the 'Company') were willing to establish a unit for manufacturing certain parts to be used in solar cell and solar energy, for which, on-line application was submitted in the office of Invest UP and in relation to the said application, a meeting of the Evaluation Committee was convened. Further allegation made in the F.I.R. is that before consideration on his application, one Officer of the Invest UP shared the number of the applicant to the complainant and told that he may talk to the applicant and if the applicant will recommend, the matter of the complainant would be approved by the Empowered Committee as well as by the Cabinet. On the said instructions, the complainant talked to the applicant, who asked for 5% of the Project in advance, however, since the owner of the Company of the complainant had already met to the Hon'ble Chief Minister regarding his Project, therefore, he refused the demand of the applicant. Later on, it came into the knowledge of the complainant that even after recommendation, his matter was deferred. Further allegation made in the F.I.R. is that the applicant informed to the complainant that ultimately, complainant and the owner of his Company have to come to him for the approval, otherwise they cannot be succeeded. The said complaint was forwarded to the concerned police station and it was registered as F.I.R. No. 111 of 2025, under Sections 308(5) BNS and Sections 7,

12, 13 of P.C. Act, P.S. Gomti Nagar, District Lucknow on 20.03.2025 at 16.24 hrs.

4. Learned counsel for the applicant submitted that the applicant, who is a law abiding citizen, is a businessman and pays his income tax regularly. It has further been submitted that due to business dispute, earlier also, five cases were initiated against the applicant by the business rivalries, one of which is F.I.R. No. 180 of 2020, under Section 406 I.P.C., P.S. Kotwali Nagar, District Etah, in which, the issue has already been resolved in between the parties. In another case, i.e., Case Crime No. 1081 of 2018, under Sections 406, 420, 506 I.P.C., P.S. Kankadkheda, District Meerut, closure report was submitted by the police. In other case, i.e., Case Crime No. 204 of 2019, under Sections 406, 420, 506 I.P.C., P.S. Wazirganj, District Lucknow, the applicant has been granted anticipatory bail. In other two cases, i.e., F.I.R. No. 128 of 2025, under Section 308(5), 111(2)(b) B.N.S., P.S. Wazirganj, District Lucknow and F.I.R. No. 149 of 2025, under Sections 409, 420, 465 I.P.C., P.S. Hazratganj, District Lucknow, in which, he is enlarged on bail. It has also been submitted that one case related to E.C. Act was also lodged against the applicant bearing Case Crime No. 489 of 2017, under Section 3/7 E.C. Act, P.S. Matsena, District Firozabad, which is still pending. Submission of the learned counsel for the applicant is that due to business rivalry, he has been dragged in the present case also and no offence under Section 308(5) BNS and Sections 8/12 of P.C. Act can be said to be made out on the basis of entire material available in the case diary.

4.1 Learned counsel for the applicant has also drawn the attention of the Court to the provisions of Section 308(1) & Section 308(5) BNS, which read as under :

**“308. Extortion.-** (1) Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property, or valuable security or anything signed or sealed which may be converted into a valuable security, commits extortion.

(2) ----

(3) ----

(4) ----

(5) Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.”

4.2 It has been submitted that there is no evidence in regard to dishonestly inducing for delivery of any property or valuable security, or anything signed or sealed, which may be converted into valuable security to anyone and, therefore, no offence under Section 308(5) BNS is made out against the applicant. With the intention to fortify his submissions, learned counsel for the applicant relied on the decision of Hon’ble Supreme Court in the case of **Isaac Isanga Musumba & Ors. Vs. State of Maharashtra & Ors., (2014) 15 SCC 357**. Further drawing the attention of the Court towards the contents of provisions of Section 8 of P.C. Act, learned counsel for the applicant submitted that in the entire case diary, there is no evidence that the applicant offered or gave any bribe to any person or made any promise to give any undue advantage to another person or persons with the intention to induce a public servant to perform his public duty improperly.

4.3 Learned counsel for the applicant vehemently submitted that once the ingredients of Section 8 are not made out, Section 12 will also not attract.

4.4 Sections 8 and 12 are quoted hereunder :

**“8. Offence relating to bribing of a public servant.-** (1) Any person who gives or promises to give an undue advantage to another person or persons, with intention-

(i) to induce a public servant to perform improperly a public duty; or

(ii) to reward such public servant for the improper performance of public duty,

shall be punishable with imprisonment for a term which may extend to seven years or with fine or with both:

Provided that the provisions of this section shall not apply where a person is compelled to give such undue advantage:

Provided further that the person so compelled shall report the matter to the law enforcement authority or investigating agency within a period of seven days from the date of giving such undue advantage:

Provided also that when the offence under this section has been committed by commercial organisation, such commercial organisation shall be punishable with fine.

(2) Nothing in sub-section (1) shall apply to a person, if that person, after informing a law enforcement authority or investigating agency, gives or promises to give any undue advantage to another person in order to assist such law enforcement authority or investigating agency in its investigation of the offence alleged against the later.”

**12. Punishment for abetment of offences.-** Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall not be less than three years, but which may extend to seven years and shall also be liable to fine.”

5. Learned counsel for the applicant submitted that the investigation of F.I.R. No. 111 of 2025 was assigned to Mr. Vinay Kumar Dwivedi, ACP, who prepared the 1st Parcha on the same day of lodging of F.I.R., i.e., on 20.03.2025 by reiterating the contents of F.I.R. and writing the statement of informant after giving notice

under Section 190 of BNSS, in pursuance to which, the complainant provided a written statement, in which, he reiterated the version, which was given in the complaint. Learned counsel for the applicant vehemently submitted that neither any date nor time has been mentioned by the complainant either in the complaint or in his written statement. It has further been submitted that the Investigating Officer also asked specific question from the complainant that whether he had given any money, to which, he replied that he will provide the details of the same later on. It has also been submitted that the Investigating Officer also requested the complainant for assisting him in the preparation of the site plan, but he avoided the same also by saying that he had to go somewhere else. Thereafter, the Investigating Officer again contacted him for the preparation of site plan.

5.1 Submission of the learned counsel for the applicant is that without any evidence in relation to the alleged offences, the applicant was taken into custody by the police on the same day, i.e., on 20.03.2025 for the offences under Section 308(5) BNS and Sections 7, 12, 13 of P.C. Act. Thereafter, he was placed before the Magistrate. It has further been submitted that the Investigating Officer wrote the statement of the applicant in the case diary on his own, as his statement was not taken by the Investigating Officer. It has also been submitted that Special Judge/Magistrate refused to accept the remand of the applicant for the offences under Sections 7 and 13 of P.C. Act and accepted for the offences under Sections 308(5) BNS and Sections 8, 12 P.C. Act.

5.2 It has vehemently been submitted that search of the house of the applicant had also been conducted related to recovery of articles related to crime, but nothing was found.

5.3 In Parcha No. 3, it is observed by the Investigating Officer that Rs.1 crore, in cash, was taken by the applicant and, therefore, details of the Bank accounts of the applicant were also fetched, which is mentioned in CD 4. Learned counsel for the applicant vehemently submitted that after investigation, no alleged money was found by the Investigating Officer in the account of the applicant.

5.4 In Parcha No. 6, it is observed by the Investigating Officer that the informant had stated that he will give details of the bribe and will also facilitate in preparation of the site plan, but he did not turn up. Learned counsel for the applicant also drew attention of the Court on Parcha No. 13 dated 30.03.2025, in which, it is mentioned that the Investigating Officer contacted to the informant on his mobile for recording his mazed statement, in which, he informed that his father-in-law is not well, due to which, he is in Jaipur and after some time, he will come for recording his mazed statement. However, on being asked, the complainant informed that Project of his Company was of Rs.8000 crore and since the demand was of 5% of the said amount, therefore, the complainant withdrew himself and later on, his management team started handling the matter. The complainant also informed to the Investigating Officer that he will also provide the details of his management team, after returning back to Lucknow.

5.5 Learned counsel for the applicant, drawing the attention of the Court towards Parcha No. 24 dated 15.04.2025, submitted that the written statement along with affidavit was provided by the private respondent/complainant to the Investigating Officer on 15.04.2025, wherein while reiterating his version, which was mentioned in his complaint, the complainant stated that the group/Company of the complainant was willing to establish a unit for manufacturing parts, which was to be used in solar cell and solar energy system, for which, application was given in the office of Invest UP as well as also applied through online mode. It is further stated in the second written statement that their matter was presented before the Evaluation Committee, but the Committee deferred the application with the observation that the same will be considered in next meeting, after obtaining response from the concerned departments. However, prior to consideration of the matter, Mr. Abhishek Prakash, Officer of Invest UP had provided the mobile number of the applicant to the complainant with the instructions to contact him and, in case, the applicant advises, his matter will be approved by the Empowered Committee as well as by the Cabinet immediately. It is also stated in the said written statement that on 07.03.2025, the applicant shared the location of his office to the complainant, where he met to the applicant, which was a general meeting, in which, the applicant had given hint that his Project will be approved from the Cabinet within 45 days and asked the complainant to meet him again on 12.03.2025. On the said date, the meeting of Evaluation Committee was scheduled and in the said meeting, it was mentioned that 5% of the subsidy was to be provided in 3 phases. After the meeting of the



Committee, the complainant also met with the applicant, who had the details of the subsidy, which was presented in the meeting of Evaluation Committee. The applicant told the complainant that he might make all his endeavours, but ultimately, he had to come to the applicant for approval. However, since the owner of the Company of the complainant had already met to the Hon'ble Chief Minister in regard to the Project, therefore, he refused to the applicant. Later on, it came into his knowledge that despite recommendation, his file was deferred by the Committee. The applicant told him that all the efforts of him or the owner of the Company will go in vain, if they did not approach the applicant. It is lastly stated by the complainant that his owner may shift the Project to other State.

6. Learned counsel for the applicant vehemently submitted that this is a peculiar type of investigation, as Para 114 of the U.P. Police Regulation clearly provides that it is mandatory duty of the Investigating Officer to draw site plan before inception of any investigation on the pointing out of the informant or any eye witness, however, in the present case, the preparation of the site plan has been mentioned in Parcha No. 24 dated 15.04.2025 stating that the since the office was sealed by the police, therefore, the site was visited from outside.

7. It has further been submitted that a SIT was constituted for investigation and after conclusion of investigation, charge sheet No. 1 dated 15.05.2025 was submitted by the Investigating Officer in mechanical manner, on which, cognizance was also wrongly taken by the trial court. Thereafter, a discharge application was filed by the applicant averring all the evidences as

mentioned in the case diary, and while relying on the decisions of Hon'ble Supreme Court in the cases of **Tuhin Kumar Biswas @ Bumba Vs. State of West Bengal, 2025 SCC OnLine SC 2604, State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp (1) SCC 335, Pradeep Kumar Kesarwani Vs. State of Uttar Pradesh & Anr., 2025 SCC OnLine SC 1947** and **Isaac Isanga Musumba** (supra), requested that no alleged offence under Section 308 (5) BNS and Sections 8/12 P.C. Act is made out. It is, thus, prayed therein that the applicant may be discharged and the impugned proceedings may be quashed.

7.1 However, the trial court wrongly rejected the discharge application vide impugned order dated 06.11.2025, without appreciating the grounds of the applicant as well as the evidences mentioned in the case diary. Learned counsel for the applicant vehemently submitted that it is obligatory on the part of the trial court to decide the discharge application on the basis of the evidences placed before it and the trial Judge is not a mere post office to frame charges at the instance of the prosecution. It has also been submitted that if two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge is empowered to discharge the accused. But, in the present case, the trial court failed to consider all these vital facts while rejecting the discharge application.

8. While referring to the counter affidavit filed by the respondent no. 2 dated 10.12.2025, learned counsel for the applicant submitted that in the said counter affidavit, it is averred by respondent no. 2-complainant that his Company filed an application dated 03.12.2024 through

online mode before the Invest UP under U.P. Industrial Investment and Employment Promotional Policy, 2022 (for short 'Policy, 2022) for setting up a manufacturing unit of solar cell and solar module along with solar plant to be established under the Yamuna Expressway Industrial Development Authority (hereinafter referred to as 'YEIDA'). It is further averred that the meeting of 1<sup>st</sup> Evaluation Committee was conducted on 24.02.2025 and the 2<sup>nd</sup> meeting of Evaluation Committee was convened on 12.03.2025. However, after the 2<sup>nd</sup> meeting, due to utter confusion and misunderstanding, application dated 20.03.2025 was moved by him/complainant to the Chief Secretary of Invest UP and later on, it came into his knowledge that since the information pertaining to subsidy of land and electricity was not available on record, the Project was put for re-evaluation in the meeting held on 12.03.2025. Thereafter, on receipt of the said information, the proposal was recommended by the Evaluation Committee to the High Level Empowered Committee in its meeting dated 25.03.2025.

8.1 Drawing the attention of the Court towards CA 1 of the counter affidavit filed by respondent no. 2, learned counsel for the applicant vehemently submitted that the complainant himself has admitted that due to wrong impression, he made the complaint.

8.2 It has further been submitted that Mr. Shiv Kumar Shukla, Coordinator, Invest UP has explained the procedure of dealing with the applications, those were filed by the entrepreneurs under the scheme of Policy, 2022. It is also explained that, in case, a Project is of the value more than Rs.3000 crore, then it is to be approved by the Cabinet and the duty of the Evaluation Committee

is only to examine and forward the same, if it is found within the guidelines.

9. Referring to Annexure C.A. 3 of the counter affidavit filed by learned A.G.A. duly sworn by Mr. Vinay Kumar Dwivedi-Investigating Officer, learned counsel for the applicant submitted that in the Minutes of meeting of 16<sup>th</sup> Evaluation Committee dated 12.03.2025, the Company of the complainant-M/s. SAEL Solar P6 Pvt. Ltd. was at serial no. 2 along with six others. He further submitted that in the aforesaid Minutes of meeting, after examining all the reports from different departments, as aforesaid, Evaluation Committee recommended to put up the application of the Company of complainant before the Evaluation Committee again for re-evaluation, after relevant details having been submitted by YEIDA and UPPCL.

9.1 Submission of the learned counsel for the applicant is that Minutes of meetings reveals that the land was to be facilitated by YEIDA and the exemption of electricity was to be provided by the UPPCL, which was under consideration. It has lastly been submitted by the learned Senior Counsel that all these facts were not considered by the trial court and passed the impugned order. It has, thus, been submitted that the impugned order passed by the trial court and its consequential proceedings are liable to be quashed.

10. Learned Government Advocate vehemently opposed the prayer of the applicant and submitted that after detail investigation, the charge sheet was submitted against the applicant. It has further been submitted that all these arguments can be raised by the applicant before the trial court at appropriate stage. Relying on the decision of the

Hon'ble Apex Court in the case of **C.B.I. Vs. Aryan Singh, 2023 SCC OnLine SC 379**, learned Government Advocate submitted that the contentions of the defence are to be considered during the course of trial and not at this stage. It has, thus, been submitted that no interference is required in the matter. However, he conceded the fact that during the course of investigation, it was pointed out that Rs.1 crore cash was taken by the applicant, but no such evidence was found by the Investigating Officer.

11. Learned counsel for respondent no. 2-complainant, on the other hand, submitted that the complaint was given to the Chief Secretary due to wrong impression. He also admitted that the complainant was not aware that the report of YEIDA and UPPCL was awaited regarding the availability of land and subsidy in electricity. He also conceded that no money was given to the applicant.

12. Mr. Shiv Prakash Shukla, Coordinator of the Invest UP also provided the photocopy of the complete record and on the basis of record, he informed to this Court that the meeting of 15<sup>th</sup> Evaluation Committee was conducted on 24.02.2025, in which, the application of complainant's Company was at serial no. 5 and as the Committee was informed that the Company requires 200 acres of land, the Committee vide letter dated 29.01.2025 had inquired from YEIDA about the availability of such parcel of land. The Committee also directed the YEIDA to respond to the Nodal Agency about the availability of land. In the said meeting dated 24.02.2025, the Committee was also informed that as per Clause 12.4 of Policy, 2022, the Government may consider providing customized package of incentives on case-to-case basis as deemed necessary

for Ultra Mega category projects of special importance. Such customized packages on case-to-case basis shall be approved by the Cabinet. It is also informed by the Coordinator of Invest UP that in the said meeting, the Committee recommended to defer the issue of complainant's Company and directed YEIDA to respond regarding the availability of land in YEIDA Region and to put it up before the Evaluation Committee again with the details.

12.1 It is also informed that the Chief Executive Officer, YEIDA vide his letter dated 24.02.2025 written to Additional Chief Executive Officer, Invest UP informed that the process for purchasing the land is going on and the land would be available for the Company by 30<sup>th</sup> April, 2025. Thereafter, letter of consent has also been issued to the complainant's Company.

13. I have considered the arguments advanced by the learned counsel for the applicant, learned A.G.A., learned counsel for the complainant and gone through the contents of the application, counter affidavits filed by the learned A.G.A. as well as learned counsel for the complainant, impugned order, relevant part of the case diary as well as the Policy, 2022 and the relevant record produced by Mr. Shiv Prakash Shukla, Coordinator of the Invest UP.

14. The core basis of the case is the written complaint of the private respondent, which was moved to Chief Secretary, Government of U.P. on 20.03.2025. It is alleged in the said complaint that the complainant's Company had to establish its unit for manufacturing certain parts to be used in solar cell and solar energy, for which, it applied through online mode in Invest UP and the said application

of the Company was considered by the Evaluation Committee. The allegation made in the said complaint is that Mr. Abhishek Prakash, Officer of the Invest UP provided the mobile number of the applicant to the complainant informing him that the applicant is capable for facilitating the complainant's Company for clearance of his file upto the Cabinet. It is also alleged therein that when the complainant contacted the applicant, he asked for 5% of the Project, in advance.

14.1 On the said complaint, F.I.R. No. 111 of 2025 (supra) was lodged on 20.03.2025 and on the same day, the statement of the complainant was recorded under Section 161 Cr.PC. during the course of investigation. In his statement, the complainant reiterated his version made in F.I.R. However, on the said date, he denied to cooperate the Investigating Officer in drawing the site plan, as mandated in Para 114 of U.P. Police Regulation.

14.2 The case diary further reveals that the Investigating Officer was continuously pursuing the complainant for showing the place of incident, but the complainant was reluctant in doing so for one reason or the other. It is further evident from Parcha No. 13 dated 30.03.2025 that Investigating Officer again requested the complainant to cooperate in the investigation, but he informed that he is in Jaipur and will come back to Lucknow for recording his 'mazeed' statement. It is also mentioned therein that the complainant also informed the Investigating officer that after conversation with the applicant, he withdrew himself and his Management team started handling the issue. He also stated that details of his Management team will also be provided to the Investigating Officer. Ultimately, the complainant met the Investigating Officer on 15.04.2025

and provided his written statement, description of which is mentioned in Parcha 24. In the said written statement, it is informed that the applicant shared the location of his office to the complainant and he met to the applicant on 7<sup>th</sup> March, 2025, which was a general meeting.

Relevant portion of Parcha No. 13 is as under.

"श्रीमान् जी प्रस्तुत अभियोग में कार्यवाही का पर्चा नं० 12 दिनांक 29.03.2025 को किता कर सादर सेवा में प्रेषित किया जा चुका है। मैं सहायक पुलिस आयुक्त कार्य सरकार से फुर्सत पाकर मशरूफ विवेचना हुआ। मुकदमा उपरोक्त में साक्ष्य संकलन के क्रम में वादी मुकदमा के मोबाइल नं० 9910884705 पर जरिये व्हाट्सअप नोटिस अन्तर्गत धारा 179 बीएनएसएस दिनांक 28.03.2025 को प्रेषित किया गया था तथा 02 दिवस में मजीद कथन अंकित कराने हेतु निर्देशित किया गया था, परन्तु वादी मुकदमा अभी तक मजीद कथन अंकित कराने मुझ विवेचक के समक्ष उपस्थित नहीं आये। इसके पश्चात मुझ विवेचक द्वारा वादी मुकदमा के मोबाइल नं० 9910884705 पर जरिये दूरभाष सम्पर्क कर बयान के लिए कहा गया तो बताये कि हमारे ससुर की तबियत खराब है, मैं जयपुर में हूँ मुझे थोड़ा से वक्त लगेगा जैसे मैं फ्री होता हूँ शीघ्र ही आकर मैं अपना मजीद कथन अंकित करा दूंगा तथा वादी मुकदमा से प्रोजेक्ट के सम्बन्ध में पूछने पर बता रहे हैं कि हमारा प्रोजेक्ट लगभग 8000 करोड़ रुपये से अधिक का था। यूपी इनवेस्ट के वरिष्ठ अधिकारी द्वारा श्री जैन का नम्बर दिया गया था तो मेरे द्वारा श्री जैन से बात हुई तो पूरे प्रोजेक्ट के 8000 करोड़ पर 5 प्रतिशत तथा उससे बड़ी बड़ी डिमांड करने लगे कोई छोटी मोटी डिमांड नहीं थी तो मैं पीछे हट गया बाद में मेरी मैनेजमेन्ट टीम ने हैंडल करना शुरू कर दिया। रिश्त के पैसे देने के सम्बन्ध में पूछा तो बताये कि मैनेजमेन्ट की टीम ने मैनेज किया था कौन किया था इसके सम्बन्ध में जानकारी कर मैं जब लखनऊ आऊंगा तो आपको अपने मजीद बयान में विस्तृत रूप से बता दूंगा। वादी मुकदमा के उपलब्ध होने पर प्रकरण के सम्बन्ध में गहराई से छानबीन कर सभी पहलुओं पर जानकारी कर विवेचना में अग्रिम कार्यवाही अमल में लायी जायेगी।"

14.3 It is further evident from Parcha No. 24 dated 15.04.2025 that in place of preparing the site plan, the site was visited by the Investigating Officer along with the complainant, from outside. Further, there is no whisper about the names or the mobile number of Management team of the Company, who were in touch with the applicant.

Relevant portion of Parcha No. 24 is as under.

"उक्त कार्यवाही के उपरान्त वादी मुकदमा से घटनास्थल का निरीक्षण कराने हेतु कहा गया वादी मुकदमा घटनास्थल निरीक्षण कराने हेतु तैयार है जिस पर वादी मुकदमा को साथ लेकर घटनास्थल 1/311 विराटखण्ड गोमतीनगर लखनऊ पहुंचा जहां पाया गया कि उक्त कार्यालय दिनांक 22.03.25 को प्रभारी निरीक्षक गोमतीनगर लखनऊ द्वारा सील किया गया था। जिसके कारण वादी मुकदमा की हस्व निशादेही पर बाहर से ही घटनास्थल का निरीक्षण किया जा रहा है।"

14.4 From the record, it is also evident that the State Government promulgated Policy, 2022 vide Notification



dated 04.11.2022 for significant development in the State of U.P. by establishing a number of manufacturing units, in pursuance to which, the complainant's Company had applied for establishing its unit through online mode on 03.12.2024 and its case was being considered. As per the record produced by Mr. Shiv Kumar Shukla, Coordinator, Invest UP, in the meeting of 15<sup>th</sup> Evaluation Committee held on 24.02.2025, the application of complainant's Company was at serial No. 5, but since the response of YEIDA in pursuance to the letter dated 29.01.2025 of Additional Chief Executive Officer, Invest UP about the availability of land of 200 acre, was not available before the Committee in its meeting, the matter of the complainant's Company was deferred with the direction to the YEIDA to respond regarding availability of land in YEIDA region and to put it up before the Evaluation Committee again with the required details.

14.5 The record also reveals that a letter bearing No. YEIDA/Udhyog/2025/5735 dated 24.02.2025 was written by Chief Executive Officer, YEIDA to Additional Chief Executive Officer, Invest UP, in which, it is mentioned that after purchasing 200 acre land from the farmers, the same would be provided to the Company of the complainant. The letter dated 24.02.2025 reads as under.

"पत्रांक:- YEIDA/उद्योग/2025/5735

दिनांक 24/02/2025

प्रेषक,

मुख्य कार्यपालक अधिकारी

यमुना एक्सप्रेसवे औद्योगिक विकास प्राधिकरण।

सेवा में,

अपर मुख्य कार्यपालक अधिकारी

इन्वेस्ट यू०पी०, चतुर्थ तल, ए-ब्लॉक

पिकप भवन, विभूति खण्ड, गोमती नगर,  
लखनऊ 226010 (यू०पी०)

विषय: - M/s SAEL Solar P6 Private Limited को 200 एकड़ भूमि की उपलब्धता के सम्बन्ध में।

महोदय,

कृपया अपने पत्रांक D.O. No 1698/IUP/SKS/2024-25 दिनांक-29 जनवरी, 2025 का सन्दर्भ ग्रहण करने का कष्ट करें जिसके माध्यम से M/s SAEL Solar P6 Private Limited को यमुना प्राधिकरण क्षेत्र में 200 एकड़ भूमि की उपलब्धता के सम्बन्ध में सूचना उपलब्ध कराये जाने की अपेक्षा की गयी है।

अवगत कराना है कि इस सम्बन्ध में सम्बन्धित कम्पनी के सी०ई०ओ० के साथ अधोहस्ताक्षरी द्वारा दो दिन पूर्व विस्तृत वार्ता की गयी है। यहाँ यह भी अवगत कराना है कि कम्पनी के सम्बन्धित अधिकारी द्वारा यमुना विकास प्राधिकरण के औद्योगिक सैक्टर का स्थलीय निरीक्षण किया गया था।

मा० मुख्यमंत्री जी द्वारा प्राधिकरण क्षेत्र में स्थित नोएडा इण्टरनेशनल एयरपोर्ट के फेज-2 व 3 हेतु भूमि अधिग्रहण की दर 4300 प्रतिवर्गमीटर की घोषणा की गयी है। जेवर एयरपोर्ट हेतु घोषित भूमि दर को प्राधिकरण के विभिन्न सैक्टरों के क्रय हेतु समान दर लागू की जाती रही है। मा० मुख्यमंत्री जी द्वारा घोषित दर 4300 प्रतिवर्गमीटर को प्राधिकरण के अन्य सैक्टर हेतु समान दर लागू किये जाने के सम्बन्ध में औद्योगिक विकास विभाग, उत्तर प्रदेश शासन द्वारा कार्यवाही की जा रही है। प्राधिकरण का औद्योगिक सैक्टर-8 जो नोएडा इण्टरनेशनल एयरपोर्ट के ईस्टर्न बाउण्ड्री पर स्थित है, के सम्बन्धित किसानों द्वारा आपसी सहमति पर क्रय करने हेतु सहमति प्रदान की गयी है। नयी दर के आदेश के उपरान्त उक्त परियोजना हेतु सैक्टर-8 में 200 एकड़ भूमि आगामी 02 माह में (30 अप्रैल, 2025 तक) क्रय कर कम्पनी को उपलब्ध करा दी जायेगी, इसके लिए प्राधिकरण पूर्ण रूप से प्रतिबद्ध है तथा कम्पनी को किसी अन्य राज्य में परियोजना स्थापित करने की आवश्यकता नहीं है।

भवदीय,

(डा० अरुणवीर सिंह)

मुख्य कार्यपालक अधिकारी

प्रतिलिपि:-

1. श्री सुखबीर सिंह, प्रतिनिधि M/s SAEL Solar P6 Private Limited को इस आशय से प्रेषित की सैक्टर-8 में 200 एकड़ भूमि किसानों से क्रय कर आगामी 02 माह में (30 अप्रैल, 2025 तक) उपलब्ध करा दी जायेगी।"

14.6 Further, Annexure 3 to the counter affidavit reveals that the meeting of 16<sup>th</sup> Evaluation Committee was conducted on 12.03.2025, in which, the application of the complainant's Company was at Serial No. 2. After considering the aforesaid letter dated 24.02.2025 of YEIDA, in which, it is informed that 200 acres of land by

the Company is available and on the direction of Evaluation Committee dated 24.02.2025, the same will be ready for allotment by 30<sup>th</sup> April, 2025, the Committee recommended the application of the complainant’s Company to be put up before the Evaluation Committee again for re-evaluation, after relevant details having been provided by YEIDA and UPPCL.

Relevant part of the Minutes of the said meeting is quoted hereunder.

**“3.2. Application 2 - Sael Solar P6 Private Limited**

- 1) **Sael Solar P6 Private Limited**, a subsidiary of SAEL Industries Limited, proposed to establish a 5 GW solar cell and module manufacturing facility each along with a captive renewable energy (RE) power plant of 1 GW in Gautam Buddha Nagar with proposed investment of Rs 8,000 Cr for Case to Case incentives, including following package-
- Capital Subsidy Incentive of 42% (30% Base Subsidy + 12% Boosters) in 5 years

◦ 75 percent subsidy or concession on land price

◦ 100 percent waiver on stamp duty

◦ Permission for 75% ground coverage

◦ 100 percent waiver on land development charges for 15 years

◦ 100 percent waiver on banking and wheeling charges for 15 years

◦ Capacity of the captive RE plant shall be allowed up to 125% of the contract demand of manufacturing plant

◦ 100 percent exemption on electricity duty for 10 years
- 2) The Committee was informed that YEIDA had vide replied vide Letter No. YEIDA/उद्योग/2025/5735 dated Feb 24,2025 that 200 acres of land as asked by the applicant is available in Sec-8 and will be ready for allotment by April 30,2025 on the direction of the Evaluation Committee dated Feb 24,2025.
- 3) The Committee was apprised of the proposed investment under various investment heads as submitted by the applicant:

Sl.	Proposed investment	Amount (in Rs. Cr. )			
		Solar Cell	Solar Module	Solar Power	Total
1.	Land Cost	358	258	100	716

2.	Stamp Duty	25	18	7	50
3.	Registration Fees	4	3	2	9
4.	Building Cost	508	181	17	706
5.	Other Construction Cost	229	117		346
6.	Plant & Machinery	3707	473	928	5108
7.	Cost of Developing Infrastructure Facilities	71.9	25.7	2.4	100
8.	Any other cost excluding In-house R&D (If Applicable)	638	187	140	965
	Total	5540.9	1262.7	1196.4	8000

6) The committee further recommended the below recommendation on the incentives sought by the applicant:

Sl.	Facility Sought	Description	Evaluation Committee Recommendation
A. Fiscal incentives			
1.	Subsidy on Land price	75% subsidy or concession on land price.	<p>The Committee recommended 75% front end land subsidy on the land allotment cost as per the actual land allotment cost on the portion of land utilized for manufacturing of solar cell and module and not on the land for setting up of solar power plant.</p> <p>Such land allotment with front end land subsidy shall be subject to penalty clauses as defined in the UP FDI/FCI/Fortune 500 Policy 2023.</p> <p>YEIDA was asked to provide the estimated land rates and allotment cost of the same.</p>
2.	Waiver of stamp duty	100% waiver of stamp duty	<p>The Committee recommended 100% exemption of Stamp Duty on the land allotted by YEIDA (both for manufacturing &amp; solar power generation), on submission of Bank guarantee of equivalent amount as per provisions of the Stamp Deptt under IIEPP-2022.</p>
3.	Land development	Waiver of land	<p>As informed by YEIDA, no such charges are being levied. Based</p>

	charges	development charges for a 15-year period	on that, the Committee recommended that these charges are not applicable. <i>The Committee directed the YEIDA to submit the response for the same.</i>
4.	Capital Subsidy	42% (30% standard + 12% Booster) capital subsidy on the total investment including plant & machinery, building, captive power plant, land and other construction cost including Utilities & Miscellaneous Fixed Assets to be disbursed equal annual, instalments over a period of 5 years	The Committee recommended the 30% Capital subsidy of Eligible Capital Investment (ECI) along with 12% boosters (as applicable based on actuals) in five equal annual instalments, as per the provisions of 12.3.1. of the IIEPP-2022.  Here, land cost will not be included in ECI for calculation of capital subsidy, since front end land subsidy is being availed separately.
5.	Banking and wheeling charges on RE Power	100% waiver on banking and wheeling charges for a period of 15 years.	Such benefit shall be provided as per ERC Norms, for which the applicant need to separately request the UPERC.
6.	Exemption on Electricity Duty	100% exemption in the electricity duty for a period of 10 years.	UPPCL informed the Committee that no ED is being levied on captive use solar power generation, hence no electricity duty shall be levied in this case. The Committee directed UPPCL for provide this response in writing to the Nodal Agency.
b. Non-Fiscal Incentives			
1.	Land requirement	Requirement of 200 acres of land in YEIDA industrial corridor.	The Committee took note of the letter from YEIDA the (YEIDA/उद्योग/2025/5735) dated 24,2025 confirming availability of 200 acres of land in Sec-8

			and will be ready by April 30,2025.
2.	Ground Coverage	Permission for 75% ground coverage.	As per IDA Norms.
3.	Cluster Investment	Considered Two or more projects at same/different site in Uttar Pradesh as a part of single investment.	The committee recommended the same
4.	Power Requirement	Require 80-90 MW power at doorstep	The committee informed the applicant that Invest UP shall facilitate the same.
5.	RE plant	The capacity of the captive RE plant shall be allowed up to 125% of the contract demand of manufacturing plant.	The committee reviewed that since IIEPP-2022 allows 75% captive use, such contract demand may be allowed. Although, the committee sought clarity on this from UPPCL and UPNEDA in writing to the Nodal Agency.
5.	Water requirement/discharge	Require water 14-15 Mega litres per day and discharge free of cost	The committee informed the applicant that Invest UP shall facilitate the same.

**Recommendation:** The Committee recommended that this application to be put up before Evaluation Committee again for re-evaluation after relevant details have been submitted by the applicant, YEIDA and UPPCL.”

14.7 Evidently, in the letter dated 24.02.2025 of YEIDA, it is categorically mentioned that the land would be provided after purchasing the same from the farmers by 30.04.2025 and indisputably, before availability of the land, Evaluation Committee cannot forward the matter to the High Level Empowered Committee.

14.8 Thereafter, in the meeting of 17<sup>th</sup> Evaluation Committee, which was held on 25.03.2025 in the Chairmanship of Mr. Prathamesh Kumar, Chief Executive Officer, the application of complainant's Company was at serial no. 6 and on the basis of observations made by the Evaluation Committee in its earlier meetings dated 24.02.2025 and 12.03.2025, the land rate was shared by YEIDA to the Government vide letter dated 20.03.2025, wherein anticipating average rate of land was Rs.10,421 per sq. mtr., on which, 75% of the rate was recommended as subsidy. Evaluation Committee in its meeting held on 12.03.2025 also sought clarification from UPPCL on exemption of electricity duty, on which, UPPCL sent a letter dated 19.03.2025 informing that the electricity duty is a revenue of Government of U.P., therefore, final decision can appropriately be taken by the Directorate of Electrical Safety, Government of U.P. It is also written in the said letter of UPPCL that since the amount received as electricity duty by the UPPCL is adjusted against the subsidy amount provided by the Government of U.P., any shortfall in electricity duty must be reimbursed to the UPPCL.

14.9 The Evaluation Committee in its meeting dated 25.03.2025 finally recommended the application of the Company of the complainant to be placed before the High Level Empowered Committee for further recommendation in the light of the comments made by the YEIDA and UPPCL along with other recommendations.

The relevant portion of the meeting dated 25.03.2025 is quoted hereunder.

**Minutes Of Meetings of 17<sup>th</sup> Evaluation dated:- 25.03.2025**

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1. The 17th meeting of the Evaluation Committee (EC) constituted under the Uttar Pradesh Industrial Investment and Employment Promotion Policy (UP-IIEPP) 2022, chaired by CEO of Invest UP, was held on 25th March 2025. (The list of participants and the detailed agenda presented at the meeting are enclosed for reference.)
2. The committee reviewed the following 06 applications from Industrial Undertakings submitted under UP IIEPP 2022 for sanction of Letter of Comfort (LoC).

SI	Company/ Location	Investment (Rs. In Cr.)	Category	Incentive Sought	Date of Application	District
01	IDVB Recycling Operations Pvt. Ltd.	459.64	Mega	Net SGST	16.01.2025	Farrukhabad
02	M/s Parle Biscuits pvt. Ltd.	82.70	Large	Capital	31.12.2024	Bahraich
03	Ultratech Cement Ltd.	716.92	Super Mega	Net SGST	09.01.2025	Shahjahanpur
04	Indian Oil Gas Bottling Plant	50	Large	Capital	07.02.2025	Shahjahanpur
05	Indian Oil Gas Bottling Plant	50	Large	Capital	20.02.2025	Shahjahanpur
06	Sael Solar P6 Private Limited	8,000.00	Ultra-Mega	Case to Case	03.12.2024	Gautam Budh Nagar
07	<b>Clarification: Land allotment status against LoC issued to M/s Avaada Electro Pvt. Ltd.</b>					

#### **Application 6- SAEL Solar P6 Private Limited**

1. **Sael Solar P6 Private Limited**, a subsidiary of SAEL Industries Limited, proposed to establish a 5 GW solar cell and module manufacturing facility each along with a captive renewable energy (RE) power plant of 1 GW in Gautam Buddha Nagar with proposed investment of Rs 8,000 Cr for Case to Case incentives, including following package-
  - Capital Subsidy Incentive of 42% (30% Base Subsidy + 12% Boosters) in 5 years
  - 75 percent subsidy or concession on land price
  - 100 percent waiver on stamp duty
  - Permission for 75% ground coverage
  - 100 percent waiver on land development charges for 15 years
  - 100 percent waiver on banking and wheeling charges for 15 years
  - Capacity of the captive RE plant shall be allowed up to 125% of the contract demand of manufacturing plant
  - 100 percent exemption on electricity duty for 10 years.
2. In response to the direction of the Evaluation Committee held on Feb 24,2025 about the availability of land, YEIDA had replied vide **Letter No. YEIDA / उद्योग/2025/5735** dated **Feb 24,2025** that the rate of land acquisition for Phase-2 and 3 of Noida International Airport located in the authority area has



been announced by the Hon'ble Chief Minister as Rs. 4300 per square meter. The same rate of land declared for Jewar Airport has been applied for purchase in various sectors of the authority. Action is being taken by the Industries Department, Uttar Pradesh Government regarding the application of the same rate of Rs. 4300 per square meter declared by the Hon'ble Chief Minister for other sectors of the authority. The concerned farmers of the Industrial Sector-8 of the authority, which is located on the Eastern Boundary of Noida International Airport, have agreed to purchase on mutual consent. After the order of the new rate, 200 acres of land in Sector-8 will be purchased for the said project in the next 02 months (by April 30, 2025) and made available to the company, the authority is fully committed for this and the company does not need to set up the project in any other state.

3. Evaluation Committee in its 16th meeting held on 12.03.2025 sought clarification from YEIDA on land rate. On which YEIDA has shared the land rate vide **YEIDA/उद्योग/2025/5881** dated **March 20, 2025**, wherein the anticipated average land rate is mentioned as Rs 10,421 per sqm which is subject to change as per applicable rates at the time of allotment. Further, YEIDA also informed that development fees, land axquisition fee etc. are included in the above rates and no other development fee is charged separately.

*The Evaluation Committee in its 17th meeting held on March 25,2025 sought clarity from YEIDA regarding the actual status of the land whether acquisition is in process or completed for the same. Also, YEIDA to confirm if the land rates are subject to any change after finalisation of land acquisition. If so, what is the timeframe of finalisation of such land rates and whether any land development charges will be applicable on the actual final rates at the time of allotment to the applicant. The Evaluation Committee decided that the response of YEIDA shall be put up before HLEC for decision.*

4. The Conumittee was apprised of the proposed investment under various investment heads as submitted by the applicant:

Sl.	Proposed investment	Amount (in Rs. Cr. )			
		Solar Cell	Solar Module	Solar Power	Total
1.	Land Cost	358	258	100	716
2.	Stamp Duty	25	18	7	50
3.	Registration Fees	4	3	2	9
4.	Building Cost	508	181	17	706
5.	Other Construction Cost	229	117		346
6.	Plant & Machinery	3707	473	928	5108
7.	Cost of Developing Infrastructure	71.9	25.7	2.4	100

	Facilities				
8.	Any other cost excluding In-house R&D (If Applicable)	638	187	140	965
	Total	5540.9	1262.7	1196.4	8000

*As per DPR, the applicant has mentioned that the captive solar power plant is to be setup at the same location as that of the manufacturing for which the applicant has proposed 28 acres out of the total 200 acres for setting up of captive solar power plant.*

*However, during the meeting the applicant informed that they are searching for separate location for setting up of captive solar power plant which is yet to be decided. The Committee then sought clarification from the applicant about the location of the land for captive solar power plant and for revised DPR mentioning the above details. The reply of the applicant shall be put up before HLEC after comments of the Nodal agency. Since the applicant suggested that he is looking for alternate location to set up captive solar power plant, additional time is required to share revised DPR. The Committee directed the applicant to submit revised DPR within one month.*

5. The Committee recommended the following for computing admissible Capital Investment and Eligible Capital Investment in this case:

Particulars	Amount (Rs. Cr.)	Remarks
Proposed Investment	8000	As per Format-2
Less: Inadmissible heads u/c 12.16 & 12.17 of IIEPP-22	1,124	Stamp duty: 50Cr. Registration charges: 9 Cr. Preliminary & Pre-operative expenses, Interest During Construction, Margin money for Working Capital: 965 Cr Land Cost for Solar Power Plant: Rs 1000 Cr <sup>#</sup>
<b>Total Capital Investment*</b>	<b>6,876</b>	-
Less: Inadmissible Land & Building Cost to be adjusted (u/c 12.16)	Nil	Total Land & Building Cost is Rs 1,422 Cr. Since the total of Land & Building is 20.38% which is less than 30% of the Total Capital Investment as per 12.1.6(ii) of IIEPP-2022, full value of Land & Building shall be considered.
<b>Capital Investment*</b>	<b>6,876</b>	-
Less: Investment made before effective date (u/c 12.1.10) & Land Cost	616	Land Cost for manufacturing solar cell/module (since land subsidy is being sought): Rs 616 Cr

as subsidy on land provided separately.		
<b>Eligible Capital Investment*</b>	<b>6,260</b>	-
<i>*All figures are subject to physical verification at the time of disbursement. #Land Cost for Solar Power Plant (Rs 100 Cr) disallowed considering the same was applied in the earlier Case-2-Case application processed for Avaada Electro.</i>		

6. The Committee was apprised that as per clause 12.4 of the IIEPP 2022, "Government may consider providing customized 'package of incentives on case-to-case basis as deemed necessary for Ultra Mega category projects of special importance. Such customised packages on case-to-case basis shall be approved by the Cabinet".
- (I) The Committee reviewed that the project proposal is more than Rs 3000 Cr, hence it is Ultra-Mega category.
- (II) Regarding the strategic importance of the project, the Committee reviewed the applicant's declarations in the DPR for the proposed project : "...due to its potential to reduce import dependency, drive industrial growth, create employment, advance technology, align with policy goals, and boost exports."

**The Committee directed the applicant to submit Techno Economic viability (TEV) report of the project and re-iterate such strategic importance.**

7. The Committee further recommended the below recommendation on the incentives sought by the applicant:

Sl.	Facility Sought	Description	Evaluation Committee Recommendation
A. Fiscal incentives			
1.	<b>Subsidy on Land price</b>	<b>75% subsidy</b> or concession on land price.	The Committee recommended 75% front end land subsidy on the land allotment cost as per the actual land allotment cost on the portion of land utilized for manufacturing of solar cell and module and not on the land for setting up of solar power plant. Such land allotment with front end land subsidy shall be subject to penalty clauses as defined in the UP FDI/FCI/Fortune 500 Policy 2023.  YEIDA has shared the land rate vide YEIDA/Udyog/2025/5881 dated March 20, 2025 wherein the anticipated average land rate is mentioned as Rs.10,421/- per sqm. which is subject to change as per applicable rates at the time of

			<p>allotment.</p> <p><b>The Evaluation Committee directed YEIDA to provide clarification whether acquisition is in process or completed and also to confirm if the land rates are subject to any change after finalisation of land acquisition. The Evaluation Committee decided that the response of YEIDA shall be put up before HLEC for decision.</b></p>
2.	Waiver of stamp duty	<b>100%</b> waiver of stamp duty	The Committee recommended 100% exemption of Stamp Duty on the land allotted by YEIDA (both for manufacturing & solar power generation), on submission of Bank guarantee of equivalent amount as per provisions of the Stamp Deptt under IIEPP-2022.
3.	Land development charges	Waiver of land development charges for a 15-year period	<p>As informed by YEIDA, no such charges are being levied. Based on that, the Committee recommended that these charges are not applicable.</p> <p>YEIDA vide letter dated YEIDA/Udyog/2025/5881 dated March 20, 2025, wherein the anticipated average land rate is mentioned as Rs.10,421/- per sqm. which is subject to change as per applicable rates at the time of allotment. Further, YEIDA also informed that development fees, land acquisition fee etc. are included in the above rates and no other development fee is charged separately.</p> <p><b>The Evaluation Committee held on March 25, 2025 directed YEIDA to confirm whether any land development charges will be applicable on the actual final rates at the time of allotment to the applicant. The Evaluation Committee decided that the response of YEIDA shall be put up before HLEC for decision.</b></p>
4.	Capital Subsidy	<b>42% (30% standard + 12% Booster) capital subsidy</b> on the total investment including plant & machinery, building, captive	<p>The Committee recommended the 30% Capital subsidy of Eligible Capital Investment (ECI) along with 12% boosters (as applicable based on actuals) in five equal annual instalments.</p> <p>Here, land cost will not be included</p>

		power plant, land and other construction cost including Utilities & Miscellaneous Fixed Assets to be disbursed equal annual instalments over a period of 5 years	in ECI for calculation of capital subsidy, since front end land subsidy is being availed separately.
5.	Banking and wheeling charges on RE Power	<b>100% waiver on banking and wheeling charges for a period of 15 years.</b>	<p>Evaluation Committee held on 12.03.2025 sought clarification from UPPCL on banking and wheeling charges. As per letter 133/Mukadama (Vanijya)/Va-1/10-1/U ba dated 19.03.2025 received from UPPCL.</p> <p>(a) As per the U.P. Solar Policy, 2022, a 50% exemption on wheeling charges is permitted for captive use of a solar plant located within Uttar Pradesh, subject to technical feasibility and compliance with UPERC Regulation.</p> <p>(b) The Renewable Energy Generating Power Plants may be allowed to bank power subject to the following conditions: Banking charges shall be 12% of the energy bank except for Solar and Wind Power for which it shall be 6% of the energy bank and should be adjusted against the banked energy before withdrawal.</p> <p>Therefore, banking charges shall be applicable as per the UPERC Regulations. UPPCL is not authorized to grant any additional incentives beyond those specified.</p> <p><b>The Evaluation Committee held on March 25, 2025 suggested the applicant to file the petition to UPERC for grant of any additional incentives beyond specified.</b></p>
6.	Exemption on Electricity Duty	<b>100% exemption in the electricity duty</b> for a period of 10 years.	<p><b>Evaluation Committee held on 12.03.2025 sought clarification from UPPCL on exemption of electricity duty. As per letter 133/Mukadama (Vanijya)/Va-1/10-1/U ba dated 19.03.2025 received from UPPCL:</b> Electricity duty is revenue of Government of Uttar Pradesh: therefore, the final decision in this regard should be appropriately taken by Directorate</p>

			<p>of Electrical Safety, Government of Uttar Pradesh. However, since the amount received as electricity duty by Uttar Pradesh Power Corporation Ltd. (UPPCL) is adjusted against the subsidy amount provided by the Government of Uttar Pradesh, any short fall in electricity duty (ED) must be reimbursed to UPPCL by Government of Uttar Pradesh.</p> <p>The Evaluation Committee dated March 25, 2025 recommended the same based on the response by UPPCL for HLEC to to decide.</p>
b. Non-Fiscal Incentives			
1.	Land requirement	Requirement of <b>200 acres</b> of land in YEIDA industrial corridor.	<p>The Committee took note of the letter from YEIDA (YEIDA/उद्योग/2025/5735) dated Feb 24, 2025 confirming that the rate of land acquisition for phase 2 and 3 of Noida International Airport located in the Authority area has been announced by the Hon'ble Chief Minister as Rs.4300/- per square metre. The same rate of land declared for Jewar Airport has been applied for purchase in various sectors of the Authority. Action is being taken by the Industries Department, Uttar Pradesh Government regarding the application of the same rate of Rs.4300/- per square metre declared by the Hon'ble Chief Minister for other sectors of the Authority. The concerned farmers of the Industrial Sector 8 of the Authority, which is located on the Eastern Boundary of Noida International Airport, have agreed to purchase on mutual consent. After the order of the new rate, 200 acres of land in Sector 8 will be purchased for the said Project in the next 2 months (by April 30, 2025) and made available to the Company, the Authority is fully committed for this and the Company does not need to set up the Project in any other State.</p> <p>Further, as informed during the meeting, the applicant is yet to confirm on the location for the captive solar power plant.</p> <p><b>The reply of the applicant shall be put up before HLEC after comments of the Nodal agency.</b></p>

			<b>Since the applicant suggested that he is looking for alternate location to set up captive solar power plant, additional time is required to share revised DPR. The Committee directed the applicant to submit revised DPR within one month.</b>
2.	Ground Coverage	Permission for <b>75% ground coverage.</b>	As per IDA Norms. YEIDA apprised during the meeting that ground coverage is 55% with FAR of 1.
3.	Cluster Investment	Considered <b>Two or more</b> projects at same/different site in Uttar Pradesh as a part of single investment.	As per DPR, the applicant was setting up captive solar power plant at same location where it has proposed manufacturing. The applicant informed to the Committee that they are yet to decide on the location for captive solar power plant. On which, the Committee directed the applicant to provide clarity on the location of the capacity solar power plant and submit revised DPR including the above details. <b>The reply of the applicant shall be put up before HLEC after comments of the Nodal agency. Since the applicant suggested that he is looking for alternate location to set up capacity solar power plant, additional time is required to share revised DPR. The Committee directed the applicant to submit revised DPR within one month,</b>
4.	Power Requirement	Require 80-90 MW power at doorstep	The committee informed the applicant that Invest UP shall facilitate the same. During the meeting, YEIDA informed that they will provide the same till the boundary of proposed site of the applicant as allotted by YEIDA.
5.	RE plant	The capacity of the captive RE plant shall be allowed up to 125% of the contract demand of manufacturing plant.	<b>Evaluation Committee held on 12.03.2025 sought clarification from UPPCL on RE Plant utilization. As per letter 133/Mukadama (Vanijya)/Va-1/10-1/U ba dated 19.03.2025 received from UPPCL:</b> As per the UPERC Regulations, the capacity of a capacity renewable energy (RE) plant may be allowed upto 125% of the contract demand of the manufacturing plant subject

		<p>to following conditions as per UPERC Regulations as below: UPERC (Terms and Conditions of Open Access) (First Amendment) Regulations, 2024.</p> <p><b>"In case of open access consumer if fed through independent feeder, the total drawl from open access and from the Distribution License shall be restricted upto the ceiling of drawl applicable for voltage level, as specified under the Supply Code, to which the open access consumer is connected. In case of any breach of such ceiling penal action be taken by the Nodal agency as deemed appropriate including suspension of open access for three months for each breach. In case of repeated breach for more than three times open access shall be suspended till open access consumer shift to the next approach voltage level as per the Supply Code.</b></p> <p><b>Whereas in case of open access consumer if fed through mixed feeder the open access consumer shall restrict the sum of his total drawl from open access and from the distribution licence upto the contracted capacity with the Distribution License. In case of any breach of such ceiling penal action be taken by the Distribution Licensee as deemed appropriate including suspension of open access for Three months for each breach by the Nodal agency. In case of repeated breach for more than three times open access shall be suspended till open access consumer enhances the contracted capacity with the distribution licensee as per the Supply Code."</b></p> <p>The Evaluation Committee held on March 25, 2025 recommended the same based on the response by UPPCL subject to UPERC Regulations.</p>
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5.	Water requirement/discharge	Require water 14-15 Mega litres per day and discharge free of cost	The committee informed the applicant that Invest UP shall facilitate the same.
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**Recommendation:** The Committee recommended that this application to be put up before HLEC for further recommendation in light of the comments made by the YEIDA and UPPCL, and other recommendation as made above.

15. After going through the whole record, there is no evidence that the applicant offered any money to the officials of Invest UP.

15.1 Hon'ble Supreme Court in the case of **Pradeep Kumar Kesarwani** (supra) held that while invoking the power vested in High Court under Section 482 Cr.P.C. for quashing of proceedings, four steps should be followed.

The relevant parts of the aforesaid judgment are as under.

"20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:-

(i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?

(ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.

(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal proceedings, in exercise of power vested in it under Section 482 of the Cr.P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would

otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused.

21. The fact that the complainant thought fit not to even accept the notice issued by this Court is one additional ground that she was not at all serious right from day one, i.e., since the time she decided to lodge the complaint.

22. We need not say anything further in the matter as we are of the view that continuation of the criminal proceedings against the appellant would be nothing but gross abuse of the process of law.

23. In such circumstances, the High Court should have exercised its inherent powers under Section 482 of the Code for quashing of the criminal proceedings.”

15.2 Further, Hon’ble Supreme Court in the case of **Issac Isanga Musumba & Ors.** (supra) quashed the proceedings on the ground that unless the property is delivered to the accused persons pursuant to the threat, no offence of extortion is made out.

“We have read the FIR which has been annexed to the writ petition as Annexure P-7 and we find therefrom that the complainants have alleged that the accused persons have shown copies of international warrants issued against the complainants by the Ugandan Court and letters written by Uganda Ministry of Justice and Constitutional Affairs and the accused have threatened to extort 20 million dollars (equivalent to Rs.110 crores). In the complaint, there is no mention whatsoever that pursuant to the demands made by the accused, any amount was delivered to the accused by the complainants. It that be so, we fail to see as to how an offence of extortion as defined in Section 383 IPC is made out. Section 383 IPS states that:

“**383. Extortion.**- Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security or anything signed or sealed which may be converted into a valuable security, commits ‘extortion’.”

Hence, unless property is delivered to the accused person pursuant to the threat, no offence of extortion is made out and an FIR for the offence under Section 384 could not have been registered by the police.”

15.3 Hon'ble Apex Court in the case of **Tuhin Kumar Biswas @ Bumba** (supra), while referring the principles

laid down in the case of **M.E. Shivlingamurthi Vs. Central Bureau of Investigation Bengaluru, (2020) 2 SCC 768**, quashed the order passed by the trial court, whereby the discharge application was rejected.

The relevant part of the judgment is quoted hereunder.

“In M.E. Shivlingamurthi Vs. Central Bureau of Investigation Bengaluru, (2020) 2 SCC 768 : (2020) 1 SCC (Cri) 811, this Court has held as under:-

“17. This is an area covered by a large body of case law. We refer to a recent judgment which has referred to the earlier decisions viz. P. Vijayan vs. State of Kerala and discern the following principles:

**17.1. If two views are possible and one of them gives rise to suspicion only as distinguished from grave suspicion, the trial Judge would be empowered to discharge the accused.**

**17.2. The trial Judge is not a mere post office to frame the charge at the instance of the prosecution.**

17.3 The Judge has merely to sift the evidence in order to find out whether or not there is sufficient ground for proceeding. Evidence would consist of the statements recorded by the police or the documents produced before the Court.

17.4 If the evidence, which the Prosecutor proposes to adduce to prove the guilt of the accused, even if fully accepted before it is challenged in cross-examination or rebutted by the defence evidence, if any, “cannot show that the accused committed offence, then, there will be no sufficient ground for proceeding with the trial.”

17.5 It is open to the accused to explain away the materials giving rise to the grave suspicion.

17.6 The court has to consider the broad probabilities, the total effect of the evidence and the documents produced before the court, any basic infirmities appearing in the case and so on. This, however, would not entitle the court to make a roving inquiry into the pros and cons.

17.7 At the time of framing of the charges, the probative value of the material on record cannot be gone into, and the material brought on record by the prosecution, has to be accepted as true.

17.8 There must exist some materials for entertaining the strong suspicion which can form the basis for drawing up a charge and refusing to discharge the accused.

18. The defence of the accused is not to be looked into at the stage when the accused seeks to be discharged under Section 227 CrPC (see *State of J&K vs. Sudershan Chakkar*). The expression, “**the record of the case**”, used in Section 227 CrPC, is to be understood as the documents and the articles, if any, produced by the prosecution. The Code does not give any right to the accused to produce any document at the stage of framing of the charge. At the stage of framing of the charge, the submission of the accused is to be confined to the material produced by the police.

(emphasis supplied)”

15.4 Hon'ble Apex Court also laid down seven principles for quashing the proceedings in the case of **State of Haryana & Ors. Vs. Bhajan Lal & Ors., 1992 Supp (1) SCC 335**, which are as under.

“102. In the backdrop of the interpretation of the various relevant provisions of the Code under Chapter XIV and of the principles of law enunciated by this Court in a series of decisions relating to the exercise of the extraordinary power under Article 226 or the inherent powers under Section 482 of the Code which we have extracted and reproduced above, we give the following categories of cases by way of illustration wherein such power could be exercised either to prevent abuse of the process of any court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guidelines or rigid formulae and to give an exhaustive list of myriad kinds of cases wherein such power should be exercised.

(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provisions in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

15.5 Apart from above law laid down by the Hon'ble Apex Court, the factual position of the present case is that the root cause of the entire proceedings is the written complaint moved by the respondent no. 2/complainant and the admitted position of the respondent no. 2 is that due to utter confusion and misunderstanding, complaint was given by him to the Chief Secretary, which fact is mentioned in his counter affidavit dated 10.12.2025. It is also admitted by the complainant that later on, it came into his knowledge that since the information pertaining to **availability of land and subsidy on electricity** was not available on record, the Project was put for re-evaluation in the meeting of Evaluation Committee, which was held on 12.03.2025.

15.6 Hon'ble Apex Court in the case of **Pradeep Kumar Kesarwani** (supra), has already laid down that while invoking the powers vested under Section 482 Cr.P.C., four steps should be taken into consideration to determine the veracity of a prayer for quashing, one of

which is that, in case, the material relied upon by the accused has not been refuted by the prosecution/complainant, then proceedings should be quashed.

At the cost of repetition, sub para (iii) of para 20 of the aforesaid judgment is quoted hereunder.

“(iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?”

15.7 Evidently, the complainant, in his counter affidavit, admitted that due to wrong impression, the complaint was given by him to the Chief Secretary. He also admitted that no money was given to the applicant.

15.8 After analyzing all the facts and discussions made above, particularly the discussions made in paras 14 and 15, this Court is of the view that there is no evidence in the entire case diary that any property was delivered to the applicant pursuant to threat and, therefore, no offence of extortion is made out. Simultaneously, there is no evidence in the case diary that the applicant gives or promises to give any undue advantage to any official of Invest UP or High Empowered Committee or the Members of Cabinet. Thus, no offence under Sections 8, 12 of P.C. Act is made out against the applicant either.

15.9 Apart from above, since the very foundation of the proceedings, i.e., the complaint moved by the respondent no. 2 itself has lost its sanctity, as per the counter affidavit duly sworn by the complainant/respondent no. 2, this Court finds no ground whatsoever to allow the impugned proceedings to proceed further, therefore the judgment relied by learned Govt. Advocate is not applicable in the present case.

16. Accordingly, the charge sheet dated 15.05.2025, summoning order dated 17.05.2025 along with all consequential proceedings as well as the order dated 06.11.2025 passed by Special Judge, P.C. Act-2, Lucknow in Sessions Case No. 730 of 2025 arising out of F.I.R. No. 111 of 2025, under Sections 308(5) B.N.S. and Section 8/12 of Prevention of Corruption Act, P.S. Gomti Nagar, District Lucknow are hereby quashed.

17. The application stands **allowed**.

**February 9, 2026**

VKS

**(Rajeev Singh,J.)**