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LEGAL AND JUDICIAL

How to Challenge PPMO Blacklisting Notice in 2026?

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For any contractor, domestic supplier, or international joint-venture entity operating in Nepal, a notice from the Public Procurement Monitoring Office (PPMO) spells operational gridlock. Under **Section 63(1) of the [Public Procurement Act (PPA)]**, the PPMO routinely issues notices penalizing firms ranging from major domestic builders like **Pappu Construction** and **Raman Construction** to cross-border consortiums like the **Raman-Patel JV** (involving India's Patel Engineering) barring them from public tenders for one to three years.

When a sudden *kalosuchi* (□□□□□□□□) listing hits, it freezes bank credit lines, halts ongoing execution, and threatens corporate survival. At **Adalat Lawyers in Nepal**, our commercial litigation desk regularly represents construction contractors in this regard.

1. Why Construction Firms Get Blacklisted (And the Real-World Precedent)

Under the PPA, the PPMO acts on recommendation letters sent by procuring entities (such as road divisions, the Department of Water Resources and Irrigation, or national utilities) citing delays or performance defaults.

- **The Joint Venture & Cross-Border Trap:** High-profile enforcement actions such as historical penalties on **Pappu-Raman JVs** or recent cross-border consortium disputes like the **Raman-Patel JV** on major infrastructure initiatives highlight how complex multi-partner structures get caught in blanket administrative action. Often, foreign or domestic partners find themselves penalized due to operational bottlenecks or disputes tied strictly to a lead partner's execution scope.
- **Ignored Show-Cause Deadlines:** Frequently, firms ignore initial 30-day or final 7-day warning notices issued by the PPMO, treating them as routine bureaucracy. Failing to respond is legally treated as an admission of default, accelerating the *kalosuchi* publication.

2. The Legal Framework: Challenging Arbitrary Administrative Action

A blacklisting decision is an administrative action, meaning it is legally bound by the principles of natural justice, statutory compliance, and proportionality. If your firm has been unfairly targeted, the law provides robust mechanisms to push back.

Step 1: Attacking Procedural Lapses under the PPA

Before a blacklisting order is executed, the law mandates a legitimate opportunity for defense. If the procuring entity failed to issue proper warnings, did not account for *force majeure* events (such as delayed site handovers, design changes, or government-side payment delays), or shortened statutory notice periods, the foundational basis of the blacklisting collapses.

Step 2: Pursuing Judicial Review and Civil Code Remedies

If the PPMO proceeds with the publication, your primary remedy is filing a **Writ Petition** under **Article 133/144 of the Constitution of Nepal** at the Supreme Court or the relevant High Court.

- **Interlocutory & Interim Orders (□□□□□□□□□ □□□□ □ □□□□□□□ □□□□):** Under civil litigation practices and the **Muluki Civil Procedure Code**, courts possess inherent powers to issue protective orders. An **Interlocutory Order (□□□□□□□□□ □□□□)** can be sought for immediate, short-term relief during preliminary hearings, paving the way for a formal **Interim Order (□□□□□□□ □□□□)**.
- **Why it Matters:** An interim stay order temporarily freezes the implementation of the PPMO's blacklisting decision. This judicial shield allows your company to remain active, protect existing tender pipelines, and maintain banking facilities while the court evaluates the legality of the underlying default claims.

Frequently Asked Questions (FAQ)

Q: Can a public entity blacklist a joint venture partner (such as a foreign partner in a Patel or Raman JV) without evaluating individual liability?

A: Blanket blacklisting of all JV members is a frequent administrative shortcut. However, a targeted legal defense can dissect the consortium agreement, isolating innocent partners (or foreign entities whose scope was restricted) from penalties triggered by contractual disputes or a defaulting co-venturer.

Q: What is the exact legal recourse once our name appears on the PPMO *kalosuchi* gazette?

A: Once published, administrative appeal options within the executive are generally exhausted. The definitive remedy is a constitutional writ petition challenging the decision for arbitrariness, lack of proportionality, and violation of natural justice, coupled with an urgent application for an interlocutory and interim stay order under procedural codes.

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