

**IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(C) No.7229 of 2023**

M/s. Deepak Construction, through its Proprietor, Deepak Kumar Mehta, aged about 42 years, son of Dwarika Mahto, resident of Nagwan, P.O. Baritath, P.S. Sadar, Hazaribagh, District, Jharkhand. **Petitioner**

Versus

1. The State of Jharkhand.
2. The Secretary, Department of Urban Development & Housing, Government of Jharkhand, having its office at 4th Floor, Project Building, Dhurwa, P.O. & P.S. Dhurwa, District Ranchi, PIN-834004 (Jharkhand).
3. The Municipal Commissioner, Municipal Corporation, Hazaribagh, P.O. & P.S. Hazaribagh, District Hazaribagh, Jharkhand.
4. The Executive Engineer, Municipal Corporation, Hazaribagh, P.O. & P.S. Hazaribagh, District Hazaribagh, Jharkhand. **Respondents**

**CORAM: HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN KUMAR RAI**

For the Petitioner : Mr. Nipun Bakshi, Advocate
For the State : Mr. Mohan Kr. Dubey, AC to AG
For the Resp. Nos.3&4 : Mr. Ranjit Kumar, Advocate

Order No. 05/Dated 29th July, 2024

1. This writ petition is under Article 226 of the Constitution of India whereby and whereunder following prayers have been made :-

- (i) For issuance of appropriate writ, rule, order or direction on the Respondents to immediately open the Technical Bid/Price Bid of this Petitioner in Tender No. UDD/HMC/HZB/SBD/03/2023-24 dated 29.08.2023 [Annexure-7] in which the Petitioner has participated and he has been excluded on the false and baseless pretext of his being involved in Hazaribagh P.S. Case

No. 339 of 2021 dated 15.09.2021 even though Final Form has already been submitted in this case on 12.01.2023 with a clear report of non-involvement of the Petitioner in any untoward incident.

- (ii) For issuance of appropriate Writ of Certiorari for quashing and/or setting aside the unilateral, unfair and baseless debarment order contained in Memo No. 2926 dated 13.09.2021 [Annexure-2] passed by the Municipal Commissioner, Municipal Corporation Hazaribagh (Respondent No. 3) as mere filing of First Information Report against any contractor does not afford any reason or justification for blacklisting any contractor, that too without complying with principles of natural justice and for an indefinite period of time.
- (iii) For a declaration that the exclusion of this Petitioner and several other contractors from the bidding process by lodging First Information Report was malicious and with the ulterior motive to award the contract to favoured persons by eliminating all competition which is illegal, arbitrary and against the principle of fairness and probity in awarding government contracts.”

2. The grievance of the writ petitioner is that merely on the basis of an F.I.R. he has been debarred from participating in the future bid vide communication dated 13.09.2021.

3. The further grievance of the writ petitioner, as per the pleading made in the writ petition, is that after institution of the F.I.R., the final form has been submitted but even then in the future bid the writ petitioner has not been permitted to participate, therefore, the present writ petition.

4. The counter affidavit has been filed wherein the ground *inter alia* has been taken that due to institution of the F.I.R. being Hazaribagh P.S. Case No.339 of 2021, the petitioner has been debarred from participating in the future bid. However, after submission of the final form, the respondents have come out with a fresh order on 11.11.2023 by which the restriction put upon the writ petitioner in participating in the future bid has been recalled with permission of his participation in the future bid (Annexure-A).

5. Learned counsel appearing for the petitioner has filed rejoinder to the counter affidavit and has submitted that due to the illegal action of the respondent authorities, the writ petitioner has been deprived from participating in the bid for about eight months and, as such, he is entitled for compensation for the aforesaid period for the illegal acts of the respondents.

6. This Court has heard learned counsel for the parties and gone across the pleading made in the writ petition as also the counter affidavit and rejoinder.

7. It is evident from the content of the First Information Report that on the day of opening of the bid, some nuisance was created which led the authority in instituting the aforesaid criminal case before the concerned police station. The authority, on account of pendency of the aforesaid criminal case against the petitioner, has debarred him from participating in the future bid vide communication dated 13.09.2021 as contained in Memo No.2926.

8. The police, after conclusion of investigation, has submitted the chargesheet under Section 173 Cr.P.C. wherein the final form has been submitted.

9. The respondent, based upon the said final form, has again come out with an order of allowing the writ petitioner to participate in the bid which is available at Annexure-A to the counter affidavit dated 11.11.2023.

10. Therefore, this court is of the view that so far as the restriction having been put upon the writ petitioner is no more available and, as such, the prayer No.(i) has become infructuous.

11. So far as prayer No.(ii) is concerned, it has been submitted that due to the illegal act of the respondents, the

writ petitioner has been made to suffer for eight months and, as such, he is entitled for damage, cost, etc.

12. This Court is of the view that the writ court sitting under Article 226 of the Constitution of India cannot assess the quantum of damage or compensation since the same requires adjudication by leading evidence for which the appropriate forum is else.

13. Accordingly, no positive direction can be passed in favour of the writ petitioner so far as prayer No.(ii) is concerned.

14. Hence, the writ petition is dismissed so far as prayer No.(ii) is concerned.

15. However, liberty is reserved to the petitioner to approach before the court of civil jurisdiction, if the petitioner so wishes, for damage/compensation.

16. The writ petition stands disposed of.

(Sujit Narayan Prasad, A.C.J.)

(Arun Kumar Rai, J.)