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HIGH COURT OF CHHATTISGARH BILASPUR**Order Reserved on 09.02.2021****Oder Delivered on 18.02.2021****Writ Petition (C) No. 1958 of 2020**

Sunny Security Services, Through its Proprietor Ganesh Rameshwar Choubey, son of late R.R. Choubey, aged about 44 years, R/o House No.503, Behind Raghuraj Singh Stadium Imlipara, Bilaspur, District Bilaspur (C.G.).

---- Petitioner**Versus**

1. State of Chhattisgarh, Through the Secretary, Urban Administration & Development Department, Mahanadi Bhawan, Mantralaya, Atal Nagar, Nawa Raipur, District Raipur (C.G.).
2. Director, Directorate, Urban Administration & Development Department, Indrawati Bhawan, Atal Nagar, Nawa Raipur, District Raipur (C.G.).
3. Chief Municipal Officer, Nagar Palika Parishad Jashpur Nagar, District Jashpur (C.G.).
4. Vikash Kumar Jaiswal, son of Raj Kumar Jaiswal, aged about 40 years, R/o Ward No.13, Main Road Bageecha, District Jashpur (C.G.).

---- Respondents

For Appellant : Shri Ram Narayan Sahu, Advocate
 For Respondent/State : Shri Siddharth Dubey, Dy. Govt. Advocate
 For Respondent No.3 : Shri Manoj Chouhan, Advocate

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

C A V Order**Per Parth Prateem Sahu, Judge**

1. Petitioner who is a contractor engaged in supply of Manpower (skilled, Un-skilled, semi skilled and safai worker) participated in tender proceedings bearing Notice Inviting Tender (for short 'NIT') No.134/Estt./2020-21 Jashpur Nagar, dated 01.05.2020 floated by respondent No.3. The bid submitted by petitioner came to be

rejected, which made the petitioner to prefer instant writ petition with following reliefs :-

“10.1 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities particularly the respondent No.3 to open the form-A of petitioner.

10.2 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities particularly the respondent No.3 not to issue work order to the respondent No.4.

10.3 That, this Hon'ble Court may kindly be pleased to direct the respondent authorities particularly the respondent No.3 to cancel the NIT dated 01.05.2020 (Annexure P-1).

10.4 Any appropriate writ, direction or order may also kindly be passed in favour of the petitioners, which this Hon'ble Court deems fit in the circumstances of the case.”

2. Facts of the case in nutshell are that, respondent No.3 issued NIT inviting bids from the reputed NGOs and experienced firm for 'supply of Manpower (skilled, Un-skilled, semi skilled and safai worker)', period of which contract was for one year. The petitioner being experienced in the sector of providing manpower and holding all requisite qualifications as per the terms and conditions, made an application for procuring e-tender. The bid start date was 02.05.2020 and bid opening date was 25.05.2020. Bid of petitioner was not

opened and it was left in system, whereas bids submitted by other participants were opened. When petitioner made search in web-portal, it came to his knowledge that his bid was not opened and as per screen shot of website, remark has been made that bidder is debarred/banned/ blacklisted. When inquiry has been made from the office of respondent No.3, it was informed that it may be for the reason of some action taken against petitioner for outstanding against Employees' Provident Fund Organization (for short 'EPFO'). This reason has been assigned orally. The action taken by EPFO has already been settled. Petitioner is engaged in security services since long back and worked with various authorized institutions in State of Chhattisgarh. Petitioner has made representation, but no action was taken on it.

3. Respondent No.3 submitted reply to petition pleading that there was outstanding amount of Rs.48,12,998/- against the petitioner of EPFO. Respondent No.3 vide letter dated 06.01.2020 granted last opportunity to deposit and in the said letter itself, he has been blacklisted. On account of non-payment of amount of EPFO, bid submitted by the petitioner was not opened.

4. Shri Ram Narayan Sahu, learned counsel for the petitioner submitted that action on the part of 3rd respondent in not opening bid of petitioner is highly arbitrary and unreasonable. Petitioner has submitted the document showing that action taken by EPFO has been withdrawn by competent Officer of said Department on 01.07.2019. There was no dispute with regard to deposit of

Employees' Provident Fund nor there was any outstanding as such pointed out by respondent No.3 of Rs.48,12,998/-. He submits that amount of Provident Fund is being deducted by awardee of contract themselves before releasing payment towards supply of Manpower to contractor. The outstanding towards Employees' Provident Fund may be against respondent No.3/Municipal Corporation and prayed that subject tender proceedings should be interdicted.

5. Per contra, Shri Siddharth Dubey, Deputy Govt. Advocate representing the State/respondents No.1 and 2 submits that dispute is between the petitioner and respondent No.3 who has floated NIT. The action of blacklisting as stated has been taken by respondent No.3. The State is having no say in proceedings drawn by respondent No.3, particularly, which is with regard to floating of tender notification for a contract of supply of Manpower.

6. Shri Manoj Chouhan, learned counsel for respondent No.3 submits that respondent authorities have acted strictly in accordance with law. Much prior to floating of NIT vide letter dated 06.01.2020, petitioner was informed with regard to blacklisting vide Annexure R-3/2 on the ground that there is outstanding of huge amount of Rs.48,12,998/- towards Employees' Provident Fund.

7. The order/letter dated 06.01.2020 (Annexure R-3/2) was not put to challenge. Even after filing of the reply on 30.09.2020 till date, order of blacklisting of petitioner is not put to challenge, hence respondent No.3 has not acted in arbitrary and unreasonable manner, but have taken action against the petitioner within four

corners of law in not considering the bid as his name found in the list of blacklisted contractor. He further pointed out that from the very tender notification (Annexure P/1), period of the contract was of 12 months.

8. We have heard learned counsel for the respective parties and also perused the pleadings and documents placed on record by the respective parties.

9. To appreciate the submission made by learned counsel for the petitioner that bid of the petitioner has been arbitrarily not opened, we have perused the reply filed by respondent No.3, particularly the document (Annexure R-3/2), which is a letter dated 06.01.2020 wherein as per the proceedings drawn on same date, petitioner has been debarred and blacklisted. The writ petition is not filed challenging the action of debarring or blacklisting, but only with regard to non-opening of bid submitted by petitioner, hence, we could not make any comment or pass any order on the proceedings dated 06.01.2020 or letter of blacklisting of petitioner on 06.01.2020.

10. The petitioner even after getting the knowledge of initiation of proceedings debarring him in further tender proceedings and also blacklisting him has not challenged by way of appropriate proceedings. Unless and until, proceedings drawn by respondent No.3 on 06.01.2020 and letter dated 06.01.2020 to be set aside/quashed, no relief can be passed as sought for by the petitioner in paragraphs 10.1 and 10.2. Till the proceedings dated 06.01.2020 and letter dated 06.01.2020 blacklisting the petitioner

stand against the petitioner, he is not entitled for any relief or direction for considering his bid for contract.

11. For the foregoing reasons, we do not find any tenable ground raised in this petition. The petition being devoid of merit, is liable to be and is hereby dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh