



2025:DHC:4820



\$~29

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 25.04.2025+ **W.P.(C) 5334/2025**

RAJENDRA PRASAD TYAGI

.....Petitioner

Through: Mr. Yashvir Singh and Mr. Shamsheer Singh, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Archana Sharma, SPC and Mr. Divakar Upadhyay, Adv. for UOI.
Ms. Vaishali Gupta, Panel Counsel, GNCTD.
Mr. Puneet Rai, Mr. Ashvini Kumar and Mr. Rishabh Nangia, Advs. for R-2 and 5.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)****CM APPL.24282/2025 (Exemption)**

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 5334/2025

3. The petitioner has filed the present petition, inter alia, praying as under –

“(a) Issue a Writ order or direction to the Respondents to pay monetary compensation of Rs.8,00,00,000/- (Rupees Eight Crore) for causing wrongful, malicious, illegal prosecution of the Petitioner thereby causing mental and physical torture, loss of dignity and harassment for the last of 26 years;

(b) Issue a Writ order or direction to the Respondents to pay monetary compensation of Rs.2,00,00,000/- (Rupees Two Crore) to compensate the



loss of life of the mother of the Petitioner caused by the illegal, unconstitutional and mala fide search and seizure operation on 21/01/1997;

(c) Issue a Writ order or direction to the Respondent No.7 to pay monetary compensation of Rs.2,00,00,000/- (Rupees Two Crore) to compensate the loss caused to the Petitioner in not giving him selection grade promotion from 21/10/1999 and super time scale promotion from 17/07/2000 in accordance with law even after the acquittal of the Petitioner and even after the exoneration of the Petitioner from all the enquiries as held by Respondent No.7;

(d) Issue a Writ order or direction to the Respondents No.1, 2, 3, 4, and 6 to pay monetary compensation of Rs.2,00,00,000/- (Rupees Two Crore) to compensate their illegal and mala fide act in not returning the seized share bonds, gold and silver jewellery, revolver being illegally seized on 21/01/1997, and afterwards, and to return all the seized jewellery, share bonds, revolver etc. to the lawful owners.”

4. The petitioner is an 83-year-old retired senior government officer and war veteran who served in the Indian Army from 1964 to 1970. After his military service, he held senior bureaucratic positions in the Government of Uttar Pradesh, including Special Secretary, Minority Welfare Cell, and Additional Director General, Bureau of Public Enterprises.

5. The background of the matter is that on 21.01.1997, a search and seizure operation was conducted by the Income Tax Department under Section 132 of the Income Tax Act, 1961. The raids were conducted at multiple locations including Lucknow, Delhi, Bulandshahr, Meerut, and Goa, targeting the petitioner, his wife, children, his brother, father, and some other associated entities.

6. It is submitted that despite each of the named individuals and entities being registered assesseees and having consistently disclosed their income in accordance with law, the authorities executed a raid without prior information and seized all the assets regardless of whether they were



disclosed or undisclosed assets.

7. Subsequent to the raid, respondent no. 5 (Assessing Officer) was appointed to determine the undisclosed income. It is submitted that without any evidentiary basis, the Assessing Officer declared that all the properties and assets belonging to various family members of the petitioner and other associated entities were in fact owned by the petitioner and constituted undisclosed income. Subsequent to which a penalty of ₹5,80,775 was imposed upon the petitioner.

8. Thereafter, it is submitted that the respondent nos. 3, 4 and 5 provided false information to respondent No.7 (Government of Uttar Pradesh), on the basis of which an FIR was lodged at Civil Lines Police Station, Meerut on 26.10.1997. It was alleged that House No. V-15, Satya Sadan, Chanakyapuri, New Delhi was the petitioner's residence and that money, valuables, and documents recovered were benami properties of the petitioner. Even the assets belonging to other family members of the petitioner were described as the petitioner's benami holdings.

9. Subsequently, on the basis of the information provided by the respondent nos. 3, 4 and 5 and other officers of respondent no.1 and 2 an investigation was conducted by respondent nos. 8, 9 and 10 and a report was submitted to the Government of India. By its order dated 18.12.2001, the Ministry of Personnel and Grievances concluded that no prima facie case existed against the petitioner and the entire proceedings were based on conjectures and surmises.

10. Thereafter, the petitioner filed an Appeal bearing no. 69/1999-2000 before the Commissioner of Income Tax (Appeals)-XXII, New Delhi against the actions taken by the Assessing officer. By an order dated



25.01.2001, the Commissioner partly allowed the appeal, recording that the materials relied upon by the Assessing Officer were not recovered from the petitioner's personal custody or possession. Accordingly, the case was remanded back for re-examination.

11. It is submitted that despite the remand, the Deputy Commissioner passed another assessment order dated 27.02.2002 reiterating that some seized properties were undisclosed income of the petitioner. A subsequent appeal was dismissed on 04.12.2002, prompting the petitioner to approach the Income Tax Appellate Tribunal (ITAT), Delhi.

12. The ITAT, by its judgment dated 16.09.2004, allowed the petitioner's second appeal, holding that the assessment order was based purely on assumptions and surmises.

13. Respondent no.5's appeal against the order in favour of the petitioner was dismissed by the ITAT on 31.03.2006.

14. It is submitted that despite judicial orders, authorities have failed to return seized money, foreign currency, jewellery, properties, valuable documents, valuable articles etc. to the petitioner and other legal owners.

15. It is further submitted that respondent no.1 and 2 gave false information to respondent no.7. Based on false information, respondent no.7 ordered a vigilance enquiry and appointed respondent no.8 as the enquiry officer. It is submitted that without required authorization from the Vigilance Committee or Chief Secretary of U.P. (as mandatory in cases involving IAS officers), respondent no.8 filed a criminal case under Sections 13(1)(e) and 13(2) of the Prevention of Corruption Act, 1988 at Civil Lines Police Station, Meerut.

16. Consequently, three senior officers of the Vigilance Department



(Respondents 8, 9, and 10) conducted an investigation and submitted a report to the Government of India, which concluded on 18.12.2001 that no prima facie case existed against the petitioner. It was held that the case was based on conjecture and lacked proper investigation.

17. It is submitted that despite the findings of the Central Government and the exoneration of the petitioner in the investigation, respondent no.7 persisted in charging the petitioner for the seizure of various properties during an Income Tax raid in January 1997. It is submitted that despite knowledge that the house at V-15 Satya Sadan was not owned by the petitioner and that the jewellery recovered from lockers did not belong to him, respondent no.7 issued a charge sheet against the petitioner on 31.08.1999. This initiated malicious proceedings against the petitioner.

18. The Principal Secretary, appointed by the Chief Secretary of Uttar Pradesh, conducted an inquiry into the allegations, but once again, the petitioner was exonerated from all charges. Despite this, respondent no.7 refused to provide the petitioner with a copy of the exoneration order dated 24.11.2000. It is submitted that, in complete disregard of the earlier findings and in the absence of any new material, respondent no.7 proceeded to initiate a second and third inquiry based on the same set of charges and evidence. It was only after the petitioner was compelled to institute contempt proceedings before the Central Administrative Tribunal that the respondent no.7 recommended to the State Vigilance Committee for closure of all proceedings against the petitioner. Consequently, the Chief Minister of Uttar Pradesh approved a recommendation to terminate the proceedings, and the Governor of Uttar Pradesh issued an order on 07.10.2004 to conclude all inquiries against the petitioner.



19. It is submitted that the petitioner had been subjected to harassment and mental torture for nearly five years due to these repeated, unjust proceedings.

20. It is the case of the petitioner that the petitioner's career, reputation, and personal life have been irreparably damaged by the wrongful and malicious prosecution initiated by respondents no.1, 2, and 7, and their officers.

21. After carefully considering the submissions on behalf of the petitioner, this Court is of the view that assessment of the petitioner's entitlement to compensation would entail an intricate adjudication of factual aspects. The same would require evidence to be adduced, as regards the underlying factual aspects and also as regards quantification of financial damages, if any.

22. It is a well-settled that such an exercise may not be apposite in proceedings under Article 226 of the Constitution of India, and the petitioner must be relegated to its civil/other remedies.

23. In ***Deepak Construction, through its Proprietor, Deepak Kumar Mehta v. State of Jharkhand and Others***, 2024 SCC OnLine Jhar 2460 the Division Bench of the Jharkhand High Court has observed as under –

“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.”



2025:DHC:4820



24. In *Sivakasi Master Printer's Association, Rep. by its President, Railway Feeder Road v. State of Tamil Nadu, Rep. By its Secretary, Department of Revenue and Others*, 2025 SCC OnLine Mad 1063, the Division Bench of the Madras High Court has observed as under –

“10. The building in question was admittedly 40 years old. Even if we accept the case of the petitioner, the writ Court sitting under Article 226 of the Constitution of India cannot assess the quantum of damages or compensation since the same requires adjudication by leading evidence for which the appropriate forum is the civil Court.”

25. In the circumstances, the petition is dismissed, with liberty to the petitioner to initiate appropriate civil proceedings, for the purpose of pursuing his claim for damages/ compensation. It is made clear, that this order shall not be construed as an expression of opinion of this Court as regards the merits of any such claim/s.

SACHIN DATTA, J

APRIL 25, 2025/sv