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IN THE HIGH COURT OF DELHI AT NEW DELHI**Date of decision: 04.06.2025**

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W.P.(C) 8390/2025**MANJU GUPTA**

.....Petitioner

Through: Mr. Avinash Trivedi, Mr.
Anurag Kaushik and Mr. Rahul
Aggarwal, Advocates.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Tushar Sannu, Standing
Counsel for MCD with Mr.
Parvind Bansal, Mr. Sourav
Verma, Advocates and Mr. Atul
Bhardwaj, Ex. Engineer, EMS.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR****JUDGMENT (Oral)****TUSHAR RAO GEDELA, J.****CM APPL. 36522/2025 (for exemption)**

1. Exemption allowed, subject to just exceptions.
2. Application stands disposed of accordingly.

W.P.(C) 8390/2025 and CM APPL. 36521/2025 (stay)

3. The present writ petition has been filed under Article 226 of the Constitution of India. The short case of the Petitioner is that in violation of the sub clause 5(i) of *Clause 7.5 of the Manual for Procurement of Works, 2022*, which stipulates that an order for debarment passed, shall be deemed to have been revoked on the expiry of the specified period and it would not be necessary to issue a



specific formal order of revocation, the Respondent has rejected the bid of the Petitioner on the ground that '*the contractor's suspension is not revoked till date*'.

4. Learned counsel for the Petitioner submits that contrary to their own provision in the Manual for Procurement of Works, the aforesaid action has been taken *vide* the Tender Summary Report, uploaded on the E-Procurement Portal on 30.05.2025, in respect of Tender ID No. 2025_MCD_235067_1 and 2025_MCD_235067_2, submitted in furtherance of NIT NO. EE (EMS)/SZ/TC/2025-26/01 dated 09.05.2025.

5. It is stated by the learned counsel for the Petitioner that original Suspension Order was issued on 08.01.2024 against the Petitioner firm for a period of six months, which period stood elapsed on 08.07.2024. Learned counsel also submits that subsequently on 09.05.2025, the subject matter tender was floated by the Respondent, for which the Petitioner, being an eligible tenderer, submitted its bid.

6. Learned counsel submits that the petitioner's technical bid was disqualified and non-responsive on the erroneous assumption that suspension has not been revoked. He submits that the Petitioner has been prejudiced since the action taken by the Respondent is in clear contravention of sub clause 5(i) of *Clause 7.5 of the Manual for Procurement of Works, 2022*.

7. Learned counsel submits that in fact the aforesaid Clause of the Manual has also been incorporated by the MCD itself in *Clause 13.8 of the Rules for Enlistment of Contractor in MCD-2024*. Learned counsel, therefore, submits that it is not only the *Manual for Procurement of Works, 2022* but the *Rules for Enlistment of Contractor in MCD-2024* too that prescribes the same procedure. The



action of technical disqualification thus, is clearly in violation of the aforesaid Clauses.

8. Having heard the learned counsel for the parties, we deem it apposite to extract *Clause 13.8* of the draft *Rules for Enlistment of Contractor in MCD-2024* hereunder for ready reference:-

“...13.8 Revocation of Orders

1. An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.
2. A debarment order may be revoked before the expiry of the Order, by Enlistment Authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.”

9. We also find it appropriate to extract sub-clause 5 of *Clause 7.5* of the *Manual for Procurement of Works, 2022* hereunder:-

“5. Revocation of Orders

- i. An order for debarment passed shall be deemed to have been automatically revoked on the expiry of that specified period and it will not be necessary to issue a specific formal order of revocation.
- ii. A debarment order may be revoked before the expiry of the Order, by the competent authority, if it is of the opinion that the disability already suffered is adequate in the circumstances of the case or for any other reason.”

10. Considering the aforesaid provisions, it appears that the impugned action taken by the Respondent *vide* the rejection letter dated 30.05.2025, which is annexed as Annexure P-1 and Annexure P-2 (Pages 20 and 21), *prima facie*, seems to be an infraction of the aforementioned Clauses, both of the *Manual for Procurement of Works, 2022* and the *Rules for Enlistment of Contractor in MCD-2024*.

11. We have been informed by the learned counsel for the Respondent that the financial bid of the three bidders, who are held to be qualified, has already been opened. However, the financial bid of



the Petitioner has not been opened yet. It is also informed that though the tender process is in progress, however the Award of Contract has not yet been finalized or granted.

12. In view of the aforesaid facts and circumstances of the case, we deem it appropriate that the present writ petition be treated as a representation on behalf of the Petitioner to be considered by the competent authority of the Respondent/ MCD, for reconsideration of the technical bid as well as the financial bid of the Petitioner, in light of what has been noted above.

13. Mr. Tushar Sannu, learned Standing Counsel for MCD seeks and is granted one week's time to dispose of the said representation.

14. Needless to state that the Petitioner will be granted an opportunity of hearing and the orders, so passed, shall be in writing with clear reasons and furnished to the Petitioner forthwith. In the meanwhile, we direct that till such time that the representation is not disposed of, the contract shall not be awarded.

15. The petition is disposed of in the above terms.

16. Needless to state that it will be open to the Petitioner to approach this Court in case the Petitioner is aggrieved by any order passed by the MCD/ Respondent under the directions of this Court.

TUSHAR RAO GEDELA
(VACATION JUDGE)

HARISH VAIDYANATHAN SHANKAR
(VACATION JUDGE)

JUNE 4, 2025/PB