

## IN THE HIGH COURT OF SINDH, AT KARACHI

BEFORE:  
MR. JUSTICE MUHAMMAD FAISAL KAMAL ALAM  
MR. JUSTICE MUHAMMAD HASAN (AKBER)

Constitution Petition No. D-3064 of 2025  
'Waliullah Bhutto v. Province of Sindh and others'  
and  
Constitution Petition No.D-3187 of 2025  
'Abdul Hafeez v. Province of Sindh and others'

Petitioners: Waliullah Bhutto (in CP.D-3187/2025) through Mr. Asadullah Jan Advocate; Abdul Hafeez (in CP.D-3187/2025) through Mr. Malik Altaf Hussain Advocate

Respondents: M/s. Global Builders (SMC) Pvt. Ltd. through Mr. Ahmad Ali Hussain; Mr. Hisham Mahar A.A.G.; SPPRA through Mr. Qamar Zaman Shah Assistant Director Legal.

Date of hearing: 22.07.2025

Date of Judgment: 08.10.2025

### JUDGMENT

**MUHAMMAD HASAN (AKBER), J.**-Through this consolidated Judgment, the subject petitions will be disposed of since common questions of facts and law have been raised, assailing therein the Order dated 24<sup>th</sup> of June 2025 passed by the Review Committee and the Order dated 11<sup>th</sup> June 2025 [**impugned Orders**] by the Complaint Redressal Committee under the Sindh Public Procurement Regulatory Authority Act, 2010 [**SPPRA**].

2. Gist of the common arguments agitated by learned counsels for Petitioners are that the procurement process was initiated by Respondent No.2 for "ESTABLISHMENT AND SHIFTING OF NAB KARACHI OFFICE TO GPO BUILDING I.I. CHUNDRIGARH ROAD KARACHI". However per learned Counsels, the entire procurement process was sham and non-transparent as the bidding process was manipulated; the Petitioner was prevented from participation in the bidding process; the venue of bidding was closed at the relevant time; neither bid opening process nor opening of Technical Bid were conducted publicly; no hearing of the Complaint Redressal Committee [CRC] was conducted due to non-

availability of one of its Member; that M/s. Global Builder and Contractor [Contractor] was ineligible, yet it was awarded the Work Order; that complaint was lodged before CRC but the impugned Order passed by the CRC was coram non judice due to incomplete composition; that the entire work was reportedly completed within a period of 15 days, which raises serious doubts about the genuineness of the entire process; and that the purported procurement process was only a cover-up exercise to favour the Contractor. Prayers were sought for setting aside of the impugned Order by C.R.C. and the rider contained in the impugned order by the Review Committee; and it was alternatively pleaded that even if the Work Order has been awarded and work has been completed, action under Rule 32A of the Sindh Public Procurement Rules, 2010 [**SPP Rules**] be ordered to be initiated.

3. In response to the above, learned Counsel for the Contractor Mr. Ahmad Ali Hussain argued that the procurement process was followed strictly in accordance with law; that Petitioner in CP No.3064 of 2025 did not even participate in the bidding process; the documents clearly depict that its bid was submitted at a much later stage; that not only Work Order has been issued to the Contractor but around 85% of the assigned work has already been completed; that around 80% of the payment has also been made to the Contractor by the procuring agency; that no Complaint regarding the quality of work by the Contractor has been made by the Procuring Agency or by NAB; and that NAB has already shifted its office to the new premises due to completion of work by the Contractor.

4. We have heard the learned Counsels for the parties, learned Assistant Advocate General and the officers present in Court.

5. The “Notice Inviting Tender” dated 02.05.2025 reflects that the Executive Engineer, Provincial Building Division No.II, Works and Services Department, Government of Sindh [Procuring Agency] invited bids for “ESTABLISHMENT AND SHIFTING OF NAB KARACHI OFFICE TO GPO BUILDING I.I. CHUNDRIGARH ROAD KARACHI” through publications in newspapers and was also posted on SPPRA website on 04.06.2025. This was for the shifting of the office of the Regional Headquarter of National Accountability Bureau Karachi [NAB]. The

procurement process was through Single Stage Two Envelop in accordance with Rule 46(2) of the SPPR Rules.

6. With respect to the bidding process, it has been alleged by the petitioner (in CP.3064/2025 Waliullah Bhutto) that as per the NIT, the tenders were to be received on 27.05.2025 at 9:00 am and the bids were to be opened at 9:15 am in the office of the Respondent No.2. It has however been alleged that the petitioner prepared the bidding documents and prepared the Pay Order for the amount equivalent to 2% of the tender cost. However, at the relevant time, the Office of the procuring agency was found closed. The authorized person of the petitioner waited for the bid opening time and also contacted the staff available at the office along with another interested bidder, namely Mr. Abdul Hafiz (in CP.D-3187/2025). Further alleged that the Chairman CRC was also reached, but to no avail and phone call records and video recording of the same day are also available to establish that the Executive Engineer was unreachable on his cell phone and no bidding process was conducted on the said day. A complaint was lodged on the same day.

7. By invoking Rule 31 of the SPPR Rules, the Petitioner submitted a Complaint to the CRC on 4.06.2025; however, it was surprising to note that a hearing notice dated 03.06.2025 was issued by the CRC, thereby hearing was called on 05.06.2025 at the office of the CRC. That on the said date, also no one was present at the office of CRC and therefore the petitioner gave a handwritten submission on the spot, requesting the CRC to reconvene the hearing, whereby a new hearing notice dated 05.06.2025 was issued, and the hearing of CRC was called on 10.06.2025. In the meanwhile, the impugned Bid Evaluation Report dated 04.06.2025 was uploaded on the SPPRA website.

8. Per Petitioner's counsel, on 10.06.2025 also, no hearing could be conducted due to lack of quorum as one of the members of CRC Mr. Atif Nazar was absent, which fact was also duly recorded and submitted through a handwritten submission by the petitioner's counsel. The petitioner thereafter received the impugned Order dated 11.06.2025 whereby the complaint filed by the petitioner was rejected and the Bid Evaluation Report of the procuring agency was upheld. Such order of CRC was challenged before the Grievance Committee by

invoking Rule 32 of the SPP Rules, which passed a conditional Order dated 24.06.2025, depending upon the issuance of Work Order to the Contractor.

9. With respect to the eligibility of the Contractor, attention of the Court was drawn towards page 713 of the Court File, to depict that until 2024, Income Tax paid by the Contractor was NIL. Attention was also drawn to page 509 of the Court File to reflect that the first License issued by the Pakistan Engineering Council to the Contractor was in 2023 and that the first Work Order was issued to the Contractor in the year 2024. Lastly, page 795 of the Court File was referred to establish that, despite a clear deficiency of the mandatory requirement of Two-year experience, the Contractor was considered eligible. The CRC decision is completely silent on this aspect.

10. As regards the CRC decision dated 11.06.2025, it appears that the same has been signed only by the Chairman of the CRC. Rule 31(1) of the SPPRA Rules 2010 requires that the CRC shall comprise of three members. The Executive Engineer as Chairman CRC present in Court upon query, states that despite his multiple attempts to ensure participation of the other Members of CRC, they failed to attend the CRC Meeting, and since the decision was required to be given within the statutory period of seven days, hence he as Chairman, signed the decision solely. We are not satisfied with the conduct of the CRC Meeting in the absence of the mandatory quorum of three Members without which a decision would be invalid. When the CRC itself was not complete as required under Rule 31(1) of the SPPRA Rules 2010, the decision signed solely by Chairman was *corum non judice* and it nullifies the framework and spirit of the SPPRA 2010, so also in violation of Section 24-A of the General Clauses Act 1897. In addition to the above, serious allegations, as already discussed in preceding paragraphs, have been levelled against the procurement process, which have also not been attended to by the CRC in a proper and befitting manner.

11. Transparency is the soul of any public procurement process, which guarantees that public money is spent diligently while the spirit of competition is not discouraged. Procuring Agencies are therefore bound to ensure that procurement is made in a fair and transparent manner. The Hon'ble Supreme Court in many cases <sup>1</sup> has held the Procurement Enactments and Rules as

mandatory and binding upon procuring agencies undertaking public procurement and has repeatedly ruled, that any contract awarded through a non-transparent process which amounts to mis-procurement under the Enactment or its Rules, as illegal and *void ab initio*.

12. Considering the above discussed legal and factual position, we are therefore inclined to hold that the eligibility of the Contractor and the transparency, fairness and competitiveness in the entire procurement process ought to have been properly attended by the CRC which was not done rather the same was done in haste and in addition thereto, the impugned Decision which was signed by the Chairman CRC alone, was *corum non judice*.

13. The Grievance Committee, in its Decision dated 24.06.2025 also reached the same conclusion regarding the CRC decision; however, it kept its Decision conditional upon issuance of the Work Order. Upon query during Court hearing, the learned AAG and the XEN present in Court unanimously claim the fact that the Work Order was issued to the Contractor on 13.06.2025, though according to them, the same was belatedly uploaded on the website due to some technical exigencies. Moreover, according to the Work Order, which was time bound, the work assigned was required to be completed within 15 days and according to them, around 80% of the work has already been completed by 01.07.2025 whereas about 85% of the payment has also been released to the Contractor. They further confirm that after completion of work, the Ground floor and the First floor of the subject building have already been completed and handed over to the Bureau, where NAB Karachi has already shifted its offices and is presently operating there. They further confirm that as soon as the earlier Order of this Court was received, the remaining 20% work on the third and fourth floor of the Site Building has been stopped. The above factual position is not controverted as such by learned Counsel for the Petitioners present in Court. Rule 32A of the SPP Rules clearly provides that:

**“32A. Declaration of Mis-procurement and its consequences,-**

(1) Notwithstanding anything contained in rule 32(7)(g)

(a)..

(b)..

(2) on declaration of mis-procurement; the head of the procuring agency, the Authority or the Review Committee shall refer the case to the Competent Authority for initiation of disciplinary proceedings

against the officials of the procuring agency responsible for mis-procurement and may also refer the matter to Sindh Enquiries and Anti-Corruption Establishment for initiating action against such officials.”

14. In the present case firstly, although the Grievance Committee concluded that mis-procurement has occurred, however did not follow the mandatory requirement under Rule 32A(2) by referring the case to the Competent authority for disciplinary proceedings, but made it conditional upon issuance of Work Order, which though according to the AAG and Contractor, was issued many days before the Decision of the Grievance Committee, such position however, is denied by the Petitioners. Secondly, the Grievance Committee ought to have verified such factual aspect before announcing its Order, which exercise was also not done, thus defeating the statutory object for establishing such Forum. It appears that the proceedings before the Grievance Committee were conducted in a casual manner, without making a real effort to verify the latest factual position, which is yet another illegality and is unsustainable.

15. From the above discussion, it is evident that the conduct of the proceedings before CRC and the Grievance Committee in dealing with the subject complaint is found to be unsatisfactory, which raises serious questions about the manner in which the Grievance Redressal Mechanism has been handled by the above two fora.

16. Along with the above, it is also to be considered that the operations of the NAB Karachi office performing a national duty cannot be allowed to be disturbed, while only 20% of the work remains to be concluded. Under identical considerations, this Court in the case of **Badar Expo Solutions**<sup>2</sup> declined to interfere in the writ jurisdiction. Whether or not, the Respondent/ Global Builders [the Contractor] was/ is an illegal beneficiary in this entire procurement is to be factually determined by the Controlling Authority, the Government of Sindh, because this crucial fact cannot be decided in this writ jurisdiction, in absence of any undisputed record. In this regard, reliance is placed on the Judgment handed down by the learned Islamabad High Court in the case of **Messers Muhammad Hanif and Co.**<sup>3</sup>

17. Consequently, in view of the above Findings, that both the Fora [the CRC and the Review Committee] have failed to exercise their respective jurisdiction, the Respondent No.1 should immediately hold inquiry, fix responsibility and take action accordingly against all those involved in the mis-procurement, including Members of the CRC and Grievance Committee, strictly in accordance with law. All pending Applications stand dismissed.

In the above terms, both the Constitution Petitions are disposed of.

**J U D G E**

**J U D G E**

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1. *PLD 2014 SC 47 'Habibullah Energy Ltd. V. WAPDA through Chairman; PLD 2014 SC 206 'Khawaja Muhammad Asif v. Federation of Pakistan'.*
  2. *'Badar Expo Solutions through Managing Director v. Federation of Pakistan' PLD 2022 Sindh 336*
  3. *2023 CLC 443 'Messrs Muhammad Hanif and Co. through authorized representative and another v. Chief Engineer North, Pak PWD and 3 others.'*