

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No. D-2296 of 2026
(*Abdul Karim versus KMC & others*)

Date	Order with signature of Judge
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Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Hasan (Akber)

Date of hearing and order: 18.5.2026

Malik Altaf Hussain advocate for the petitioner
Mr. Shahrukh Khan advocate for respondent No.1
Mr. Abdul Jalil Zubedi, Additional AG, along with
Mr. Qamar Zaman Shah legal consultant for SPPRA

ORDER

Adnan-ul-Karim Memon, J., the Petitioner, through the captioned petition, prayed that this Court declare the failure of the Respondents to decide the Petitioner's complaint/appeal in accordance with the Sindh Public Procurement Rules, 2010, as illegal, unlawful, and without lawful authority, and direct Respondent No.3/Review Committee to decide the same strictly in accordance with law. He further sought interim restraint against the Respondents from awarding or finalizing the subject contract in favour of Respondent No.5 or any third party till the final decision of the pending appeal, and also prayed for any other appropriate relief deemed just and proper in the circumstances of the case.

2. Learned counsel for the Petitioner submitted that the Petitioner, being the sole proprietor of M/s. Proud Build Construction and holder of a valid PEC Category C-3 license, participated in the tender process initiated by Respondent No.1 for the development of Anwar Shaheed Park, District East Karachi, pursuant to NIT dated 03.03.2026. He argued that the Petitioner's technical proposal was initially found compliant; however, it was subsequently rejected on flimsy and mala fide grounds, alleging certain blanks in the documents, despite the Petitioner having quoted an amount substantially lower than the estimated project cost. Learned counsel further contended that several other bidders, who had also quoted amounts far below the bid of Respondent No.5, were similarly disqualified on arbitrary grounds only to facilitate the award of the contract to Respondent No.5, who quoted an amount lower than the estimated cost by merely one rupee. He submitted that the entire procurement process lacked transparency and was conducted in a discriminatory and mala fide manner, causing serious loss to the public exchequer. Learned counsel further submitted that the Petitioner, aggrieved by the bid evaluation report, filed a complaint before Respondent No.2 under Rule 31 of the Sindh Public Procurement Rules, 2010; however, the said complaint was

not decided within the prescribed period of seven days. Consequently, the matter stood transferred before Respondent No.3 (Review Committee), before whom the Petitioner also filed an appeal/complaint, but no decision has yet been rendered despite the statutory mandate. He argued that under the applicable Rules, the procuring agency is restrained from awarding the contract until the complaint/appeal is adjudicated, yet the Respondents are proceeding to finalize the contract in favour of Respondent No.5 in violation of the law. Learned counsel lastly contended that unless restrained by this Court, the Respondents would illegally award the contract, rendering the Petitioner's statutory remedy infructuous; hence, he prayed that the Respondents be directed to decide the pending appeal strictly in accordance with law and be restrained from awarding or finalizing the contract till such decision.

3. Learned AAG, relying upon the decision of the Review Committee, submitted that the Petitioner's appeal was duly considered by the Review Committee constituted under the Sindh Public Procurement Rules, 2010, in relation to the NIT issued by the Director General, Parks & Horticulture, KMC. He contended that during the proceedings, it transpired that the Petitioner had earlier been imposed a penalty of Rs. 200,000/- by the Review Committee in another procurement matter pertaining to District Council Tando Allahyar, which penalty had not been deposited despite clear directions of the Committee. He further submitted that owing to the Petitioner's failure to comply with the earlier directions of the Review Committee, the instant appeal was rightly rejected/dismissed under Rule 32(7)(a) of the SPP Rules, 2010; therefore, no illegality or infirmity exists in the impugned decision warranting interference by this Court.

4. In rebuttal, learned counsel for the Petitioner submitted that the Review Committee acted illegally and without lawful authority in dismissing the Petitioner's appeal based on an alleged past default about another procurement matter wholly unrelated to the present controversy. He argued that the legality and validity of the impugned procurement process were required to be examined independently on their own merits, and the Petitioner could not be non-suited merely on account of a previous transaction or alleged non-compliance in another case. Learned counsel contended that the Review Committee failed to adjudicate the substantive grievances raised by the Petitioner regarding arbitrary disqualification, lack of transparency, and financial loss to the public exchequer, and instead dismissed the appeal on a technical ground extraneous to the merits of the present case. He further submitted that such action amounts to a denial of fair hearing and frustrates the very object of the Sindh Public Procurement Rules, 2010, which require transparent and fair adjudication of procurement disputes.

5. From the submissions advanced by learned counsel for the parties, the core controversy revolves around the legality of the decision of the Review Committee whereby the Petitioner's appeal was dismissed under Rule 32(7)(a) of the Sindh Public Procurement Rules, 2010.

6. Rule 32(7)(a) of the SPP Rules, 2010 empowers the Review Committee to dismiss an appeal where the appellant fails to comply with the lawful directions of the Committee. The object of this provision is to ensure procedural discipline and enforcement of the Committee's authority in procurement disputes. However, it is equally well-settled that such power must be exercised strictly within the confines of law and in a manner that does not defeat substantive justice, particularly where allegations pertain to irregularities in public procurement processes involving public funds.

7. In the present case, the impugned decision of the Review Committee reflects that the Petitioner's appeal was not adjudicated on its merits. Instead, it was dismissed solely on the ground that the Petitioner had earlier been imposed a penalty of Rs. 200,000/- in an unrelated procurement matter, which remained unpaid. The Committee, therefore, treated the alleged non-deposit of penalty in a previous case as a disqualifying factor for consideration of the present appeal.

8. The learned AAG has supported this approach by contending that the Petitioner's non-compliance with earlier directions justified dismissal under Rule 32(7)(a). However, this position does not address the fundamental requirement that each procurement dispute must be decided independently on its own facts and record. The statutory scheme of the SPP Rules, 2010 envisages a fair hearing and reasoned determination of grievances arising out of each tender process separately.

9. The rebuttal advanced by learned counsel for the Petitioner carries substantial weight in this regard. It is correctly contended that the merits of the present procurement process, particularly allegations of arbitrary disqualification, lack of transparency, and favouritism, were not examined at all. Instead, the Petitioner was effectively non-suited based on an extraneous consideration relating to a past and distinct transaction, which had no direct nexus with the tender in question.

10. While Rule 32(7)(a) does provide authority to dismiss an appeal for non-compliance, such provision cannot be applied mechanically or in a manner that bypasses adjudication on the core controversy. The discretion under the said rule must be exercised judiciously and not as a substitute for deciding the substantive rights of the parties. The failure of the Review Committee to address the merits of

the grievance, particularly where allegations of procedural irregularity in public procurement were raised, renders the impugned decision legally vulnerable.

11. Accordingly, without expressing any final opinion on the merits of the procurement process itself, it is observed that the impugned decision of the Review Committee suffers from non-consideration of relevant issues and appears to have been founded on unrelated matters to the subject dispute. In such circumstances, the matter warrants reconsideration by the competent forum in accordance with the law after addressing all grounds raised by the Petitioner.

12. Resultantly, the impugned decision is set aside, and the matter is remanded to the Review Committee for fresh consideration on merits strictly in accordance with the Sindh Public Procurement Rules, 2010, after providing a proper opportunity of hearing to all concerned parties. The Review Committee shall decide the appeal expeditiously, preferably within two weeks period.

13. The captioned petition stands disposed of with all pending application(s) in the above terms.

JUDGE

JUDGE