

HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.D-274 of 2026

[Darya Khan Leghari v. Province of Sindh and 07 others]

Before:

Justice Arbab Ali Hakro

Justice Riazat Ali Sahar

Petitioner by : Mr.Saeed Ahmed Mirjat advocate

Respondents by : Nemo

Dates of Hearing : **17.02.2026**

Date of Decision : **17.02.2026**

ORDER

ARBAB ALI HAKRO J:- The petitioner has invoked the constitutional jurisdiction of this Court under Article 199 of the Constitution, seeking to challenge the Notice Inviting Tender (NIT) issued by Respondent No.2, Executive Engineer, Provincial Highways Division, Jamshoro, relating to certain drainage schemes. The petitioner alleges that the procurement proceedings were conducted in violation of the Sindh Public Procurement Act, 2009, and the Sindh Public Procurement Rules, 2010 (Revised 2013), and that the entire process is tainted with mala fide, collusion, and a deliberate attempt to favour a preselected contractor. It is further asserted that the mandatory e-PADS mechanism was bypassed, that several bids were not opened and that the procuring agency lacked jurisdiction over drainage schemes.

2. Learned counsel for the petitioner submits that the impugned tender is void ab initio, having been issued without adherence to the mandatory requirements of procurement planning, constitution of a procurement committee, proper advertisement, public opening of bids, evaluation in accordance with disclosed criteria and hoisting of the evaluation report. He contends that the petitioner is an aggrieved person whose rights have been infringed by the alleged illegalities.

3. We have heard learned counsel and examined the petition. Before entering into the merits of the allegations, it is necessary to address a threshold issue that goes to the very maintainability of the petition, i.e., the locus standi of the petitioner. The record before us reveals that the petitioner did not participate in the bidding process. He did not obtain bidding documents, did not submit a bid, did not deposit bid security and did not enter the competitive field in any manner. This fact is not disputed.

4. The settled legal position governing public procurement is unequivocal. Only a person who participates in the tender process acquires enforceable rights under the procurement regime. Participation is not a procedural nicety; it is the legal foundation upon which a bidder's rights and expectations are built. A person who never entered the arena cannot claim to have suffered any legal injury. He has not been rejected, disqualified or deprived of any legitimate expectation. He stands wholly outside the procurement process and is, in law, a stranger to it.

5. The statutory framework reinforces this conclusion. The Sindh Public Procurement Rules, 2010 (Revised 2013) establish a comprehensive grievance mechanism under Rule 31 (Complaint Redressal Committee) and Rule 32 (Review Committee). These remedies are available only to bidders, persons who have actually participated in the procurement proceedings. A non-participant cannot invoke these statutory remedies because he has no standing before the procurement fora. It follows, as a matter of constitutional discipline, that a person who cannot invoke the statutory remedy cannot bypass it and directly invoke Article 199. The constitutional jurisdiction is not intended to be a substitute for specialised statutory mechanisms, particularly in technical matters such as procurement.

6. The petitioner attempts to overcome this jurisdictional bar by asserting that he is a public-spirited citizen and a social worker. However, procurement disputes are not ordinarily matters of public interest litigation. They involve technical evaluation, factual scrutiny and examination of administrative records, tasks that the constitutional court does not undertake in limine.

Public interest cannot be used as a device to overcome the absence of personal legal injury or to intrude into commercial disputes where specialised statutory fora exist. The Supreme Court has consistently held that a person who has not participated in the bidding process lacks locus standi to challenge it and that permitting such challenges would open the floodgates to speculative or commercially motivated litigation, undermining the certainty essential to public procurement.

7. In the present case, the petitioner has not demonstrated any direct, personal, or legally cognisable injury. His allegations of mala fide, collusion, and illegal gratification, though couched in strong language, remain unsubstantiated and cannot substitute for the foundational requirement of locus standi. His nonparticipation is not a mere technicality; it is a jurisdictional bar. Without participation, there is no grievance; without grievance, there is no standing.

8. Even otherwise, the petitioner has bypassed the statutory remedy without offering any explanation. The SPPRA framework provides a comprehensive and effective mechanism for addressing procurement-related grievances. The High Court does not assume the role of a fact-finding tribunal in such matters, nor does it entertain petitions that require examination of disputed facts or procurement records. No exceptional circumstance, patent illegality on the face of the record, or violation of fundamental rights has been demonstrated that would justify bypassing the statutory mechanism.

9. For these reasons, the petition is found to be wholly misconceived and not maintainable. The petitioner lacks locus standi, and no case for interference under Article 199 is made out. Accordingly, this petition is **dismissed** in *limine*, along with the pending application(s).

JUDGE

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