

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

CP No.D-1812 of 2025

[M/s. New One Enterprises v. Province of Sindh & others]

Before:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Riazat Ali Sahar

Petitioner : M/s. New One Enterprises through Mr. Mumtaz Ahmed Lashari, advocate.

Respondents No.1to4&6 : Through Mr. Rafique Ahmed Dahri, Assistant Advocate General Sindh.

Respondent No.5 : Through Ms. Rehana Sididqui, advocate.

Respondent No.7 : Through Mr. Ishrat Ali Lohar, advocate.

Date of hearing : 25.11.2025.

Date of decision : 25.11.2025.

J U D G M E N T

RIAZAT ALI SAHAR, J:- Though instant constitutional petition, the petitioner seeks following reliefs:-

- a) To declare the procurement proceedings in respect of the NIT bearing Tender Inquiry No.01/2025-26 & 2026-27 as illegal and unlawful, unfair being mis-procurement in material violation of Sindh Public Procurement Rules 2010 and further direct the respondents to issue above NIT and procurement proceedings afresh.
- b) To declare that the petitioner is entitled for award of contract being qualified bidder and direct the respondents to award contracts to the petitioner in respect of the NIT bearing Tender Inquiry No.01/2025-26 & 2026-27.
- c) To declare that the disqualification of petitioner in order to award contracts to blue eyed contractors of the respondents as illegal, unlawful, being result of malafide and ulterior motives.
- d) To restrain the respondents from issuing work orders, allocating or issuing any funds to their blue contractors for carrying on the above mentioned works per NIT bearing Tender Inquiry No.01/2025-26 & 2026-27 till the disposal of the instant petition,

as if any work orders or the funds are issued, the petitioner shall be deprived his fundamental right and funds will be misappropriated, as the works/contracts have been awarded to the blue eyed contractors of the respondent No.2.

- e) Cost of the petition be saddled upon the respondents.
- f) Any other relief which this Honourable Court deems fit and proper in the favour of petitioner.

2. The petitioner is running the business in the name and style of M/s New One Enterprises dealing in medicine, diagnostic reagent, chemical surgical and scientific instruments, laboratory glassware, hospital equipments, furniture and general order supplier since 2004. The petitioner has obtained NTN Number 4141140-4 and used to take government contracts of different works/bids and he always fulfills his obtained tender requirements within time and sincerity. The respondent No.4 inviting tender Inquiry No.01/2025-26 and 2026-27 vide publication dated 01.08.2025 in respect of supply of drugs and medicine & allied items etc. inviting tenders from respective distributors as such in response to the above mentioned NIT, the petitioner obtained tender forms/proposal documents for the works mentioned at Sr. No.1; however, the respondents awarded the said contract to their blue eyed ones malafidely mentioning the reason that bidder Form No.6 (drug retail license) and Form No.9 (narcotics license) addresses are not matched/same and non-fulfillment of evaluation Criteria Sr. No.6. The petitioner though qualified all the requisite qualifications/criteria as per NIT because M/s new one enterprises is a registered wholesale distributor and a regular participant in Government of Sindh tenders and address on Form 06 reflects the petitioner retail pharmacy, located near Liaquat University Hospital, Hyderabad to which the petitioner had previously supplied medicines and surgical disposables to LUH Hyderabad and Jamshoro. The difference in addresses is strictly operational and does not affect eligibility or ability of petitioner to deliver under the tender. M/s. New one Enterprises and M/s New One Medicose are both registered under the same NTC as per FBR record and operate as part of petitioner's group of businesses which is easily verifiable through the FBR portal. It is stated that serial No.6 as per the Technical criteria/Checklist, required last three years relevant experience with documentary proof on the contrary the respondents issued a Corrigendum Ref No: LUH/(Tender Section)/-18454 dated 20-08-2025 which reveals that in Technical criteria/checklist at serial No.6 last three years relevant experience may be read as one year instead of three years.

Despite this, the evaluation in the BOR was carried out based on the previous three year requirement, without reflecting the changes stated in the corrigendum, hence, the bid of the petitioner fully meets the eligibility requirements. The petitioner fulfills the technical as well as financial criteria, but the disqualification of petitioner is itself evident that respondents awarding the contracts to their blue eyed ones which proved *mala fide* on the part of the respondents whereby entire bidding process is proved to be unfair, result of mis-procurement and liable to be declared as illegal, unlawful and cancelled. The petitioner participated in another NIT's wherein the petitioner has been awarded contract with the same set of documents and supplied the medicines/surgical and allied items without any complaint or deficiency, hence, the disqualification of the petitioner is inconsistency and call into question the merit-based nature of the evaluation but the respondents malafidely in order to award contracts to their blue eyed once, disqualified the petitioner, hence, he invoked the jurisdiction of this Court under article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

3. Pursuant to Court notices, the respondents No.5 and 6 filed their respective comments while respondent No.2 filed minutes of meeting of Complainant Redressal Committee (CRC) as well as Corrigendum dated 20.08.2025 whereby the technical criteria/check list at serial No.06, was modified from three years relevant experience to one year.

4. In the comments filed respondent No.5/Medical Superintendent Liaquat University Hospital, Hyderabad/Jamshoro stated that the petitioner has misconstrued the factual and legal position of this petition, wherein the order dated 10.10.2025 merely restrained the issuance of work orders till the next date of hearing. The Corrigendum uploaded on EPADS on 20.08.2025 was duly noted; however, objections were raised by other bidders regarding non-compliance of Rule 21(2) of the SPPRA Rules concerning timely and proper publication. Further, discrepancies in the petitioner's Form-6 and Form-9 addresses created legitimate doubt as to regulatory compliance under Rules 14 and 20 of the Drug (Sale) Rules, 1978. The variation in the firm names, New One Enterprises and New One Medicare, further generated ambiguity regarding the bidder's identity. After hearing all parties and verifying the record, the CRC upheld the Procurement Committee's decision and directed further action per the verification report. Respondent No.5 acted

strictly in accordance with law without any deviation from rules. The issues raised by the petitioner pertain purely to disputed factual matters. Hence, the petition is not maintainable within the constitutional jurisdiction of this Honourable Court.

5. Respondent No.7 stated that the petition is liable to dismissal at the threshold for lack of evidence and for being non-maintainable. The petitioner has bypassed the alternate and efficacious statutory remedies prescribed under Rules 31 and 32 of the SPPRA Rules, rendering the proceedings premature. The entire petition is based on factual controversies, particularly discrepancies in tender documents and licensing details, which cannot be adjudicated in constitutional jurisdiction. The petitioner submitted inconsistent documents: Form-7A in the name of New One Enterprises, whereas the mandatory Drug Sale License (Form-6) stands issued to New One Medicos, thereby failing essential eligibility criteria. Respondent No.7 was lawfully declared a qualified bidder under the rules. Moreover, the petitioner's business location falls outside the required vicinity of Civil Hospital Hyderabad, contrary to tender conditions. The corrigendum dated 20.08.2025 does not cure the petitioner's substantive deficiencies. The competent authority rightly disqualified the petitioner in accordance with SPPRA provisions. The petition discloses no cause of action and is liable for rejection.

6. Learned counsel for the petitioner contended that the disqualification of the petitioner is arbitrary and contrary to the corrigendum dated 20.08.2025, which reduced the experience requirement from three years to one year but was never applied in evaluation. He contended that the difference in Form-6 and Form-9 addresses is only operational and does not affect eligibility, as both M/s. New One Enterprises and M/s. New One Medicos operate under the same NTN and ownership. He contended that the petitioner has consistently been awarded similar contracts in the past with the same documents, demonstrating his eligibility and competence. Learned counsel also alleged *mala fide* on the part of the respondents that they have manipulated the process to favour blue-eyed contractors. He, therefore, prayed that the procurement process be declared illegal and the petitioner be declared the rightful qualified bidder.

7. Learned A.A.G. Sindh contended that the procurement process was conducted strictly in accordance with the SPPRA Rules and that the Corrigendum was duly uploaded on official EPADS portal, which

the CRC has confirmed in its meeting held on 17.10.2025. He contended that the petitioner's documents contained material discrepancies, including mismatched addresses on Form-6 and Form-9 and conflicting business identities, which were validated during CRC proceedings. The CRC minutes demonstrate that no bidder with similar deficiencies was declared responsive and that evaluation was transparent and uniform. Learned A.A.G. contended that the issues raised by the petitioner pertain to factual disputes not amenable to writ jurisdiction. He, therefore, supported the decision of the Procurement Committee and CRC and prayed for dismissal of the petition.

8. Learned counsel for respondent No.5 contended that the petitioner has misinterpreted the tender requirements and that the disqualification was based on clear documentary inconsistencies identified during evaluation. She contended that the petitioner failed to meet mandatory regulatory compliance under the Drug (Sale) Rules, as the addresses on Form-6 and Form-9 differed, creating ambiguity regarding the licensed premises. The CRC, after hearing all parties and examining the record, upheld the Procurement Committee's decision, thereby ruling out any allegation of *mala fide*. She further contended there is no violation or discrimination on the part of respondents and they acted strictly under law and within the SPPRA framework. Learned counsel, therefore, prayed for dismissal of the petition being not maintainable and raises purely factual controversies.

9. Learned counsel for respondent No.7 contended that the petition is not maintainable as the petitioner submitted inconsistent documents, including a Drug Sale License (Form-6) issued to M/s. New One Medicos while bidding under the name M/s. New One Enterprises, failing mandatory eligibility criteria. He contended that respondent No.7 was properly evaluated and declared qualified and the petitioner's business location falls outside the required vicinity of the Civil Hospital. He also refers to the CRC minutes confirming that evaluation was transparent and lawful. He, therefore, prayed that the petition be dismissed for being meritless and based on factual disputes.

10. We have heard the learned counsel for the parties at considerable length and perused the material available on record very carefully.

11. Having examined the minutes of the meeting of the Complaint Redressal Committee (CRC) as well as the record produced by the respondents, and having appreciated the respective submissions, we are of the considered view that the petitioner has failed to make out any case for interference in constitutional jurisdiction. The foundational attack of the petitioner rests upon alleged *mala fides*, mis-procurement and violation of SPPRA Rules; however, the petitioner has not produced any cogent evidence, nor demonstrated any perversity or illegality in the procurement process, sufficient to invoke the extraordinary jurisdiction of this Court under Article 199 of the Constitution. It is by now a settled principle of law that public procurement matters primarily involve technical evaluation, factual verification, documentary scrutiny and domain-specific determinations best left to the procuring agency and the statutory bodies constituted under the SPPRA regime. Courts have consistently held that unless the petitioner establishes patent illegality, jurisdictional error, *mala fide* intention or violation of statutory rules, this Court would not substitute its own assessment for that of the specialized committees. In the present case, none of these essential preconditions stand satisfied.

12. The petitioner's principal contention was that the contract was awarded to "blue-eyed" bidders through deliberate mis-procurement by citing mismatches between Form-6 (drug retail license) and Form-9 (narcotics license) and by incorrectly applying the technical criterion relating to relevant experience. However, the record categorically demonstrates that the CRC thoroughly examined these objections. The Committee considered the uploaded corrigendum dated 20.08.2025 and the objections of rival bidders concerning Rule 21(2) SPPRA regarding timely publication. After evaluating the discrepancy in the petitioner's documents, the CRC upheld the Procurement Committee's decision. There is no material placed before this Court to suggest that the CRC's findings were tainted with *mala fide* intention or were based on extraneous considerations. Mere dissatisfaction of the petitioner with the outcome does not by itself render the process illegal.

13. More so, a pivotal factual defect, never controverted by any reliable material, is the inconsistency in the petitioner's licensing documents. The petitioner submitted Form-7A in the name of M/s. New One Enterprises, while the operative drug sale license (Form-6) was issued to New One Medicos (or Medicose). This discrepancy is not a small

technicality but goes directly to the regulatory eligibility under the Drug (Sale) Rules, 1978, which require strict identity between the licensed entity and the bidding entity. The petitioner's stance that the two concerns are part of the same "group of businesses" is wholly unsupported by law; procurement requirements demand documentary clarity, not informal assertions. Furthermore, the difference in addresses between Form-6 and Form-9 reasonably raised doubt concerning regulatory compliance, doubt sufficient to justify technical disqualification. The Court cannot rewrite the eligibility requirements nor dilute statutory licensing obligations.

14. As far as the petitioner has also asserted that the corrigendum reducing the experience requirement from three years to one year was not considered, the record, however, establishes that the CRC did consider the corrigendum but noted that competing bidders had raised objections under Rule 21(2) relating to improper publication. More importantly, even if the petitioner possessed the requisite experience, that alone could not cure the fundamental eligibility defect arising from the mismatched licensing documents. Thus, the petitioner's entire case collapses on the threshold requirement of valid and consistent regulatory documentation.

15. At this stage it is pertinent to underscore that disputes involving factual controversies, such as document authenticity, address mismatch, regulatory compliance and identity of the bidding entity, fall squarely outside the constitutional jurisdiction of this Court. The petitioner desires this Court to re-evaluate tender documents, reinterpret pharmacy licenses and override the technical findings of the expert committee, which is impermissible under Article 199 in presence of the petitioner having an adequate statutory remedy under Rules 31 and 32 of SPPRA pertaining to formal complaint and appeal mechanisms. His bypassing of those remedies itself renders the present petition non-maintainable, as consistently held in judicial precedents that where a complete statutory mechanism exists, writ jurisdiction is not to be invoked unless exceptional circumstances are demonstrated, none of which exist here.

16. Further, the allegation of *mala fide* on the part of respondents is wholly unsubstantiated. Allegations of favoritism require clear, specific and convincing evidence. The petitioner has not produced a single document, witness, communication or irregularity which could

remotely suggest manipulation in favour of respondents No.5 or 7. On the contrary, the CRC minutes reflect a transparent exercise in which all bidders, including the petitioner, were heard, documents were examined and a reasoned decision was delivered. Courts cannot presume *mala fide* merely because a bidder failed to qualify. Petitioner's plea is for being declared the "entitled bidder" and for issuance of work orders in its favour. It is outside the jurisdiction of this Court to step into the functions of the procurement agency and direct award of contract to a particular bidder until and unless the circumstances are evident requiring interference by this Court. Judicial intervention cannot transform an otherwise technically non-responsive bidder into a qualified one. Such relief, if granted, would not only violate the principles of fairness and competition but would also infringe the autonomy of the procuring agency established under statutory rules.

17. It is noted that respondent No.7 has defended its qualification on the basis of compliance with tender conditions, regulatory requirements and geographical criteria, none of which could be disproved by the petitioner. Allegations that the petitioner's business premises fall outside the requisite vicinity and that its documents were inconsistent, stand un-rebutted. When faced with competing affidavits and disputed factual assertions, the Court exercising constitutional jurisdiction must decline to engage in factual adjudication for which proper evidentiary proceedings are required.

18. For what has been discussed above, we found that the petitioner has failed to identify any breach of SPPRA Rules, any violation of mandatory procurement obligations, any *mala fide*, any procedural irregularity or any action contrary to public interest that would justify interference. The procurement process, as reflected from CRC minutes and respondent-side documentation, appears to have proceeded strictly in accordance with law. Courts are custodians of legality, not overseers of procurement preferences. Resultantly, the petition is devoid of factual foundation, unsupported by law and involvement of disputed factual matters, failure to prove eligibility and absence of any demonstrable illegality in the procurement proceedings. The petitioner has attempted to convert a purely technical disqualification into a constitutional controversy, which cannot be permitted under writ jurisdiction. Consequently, for all the reasons recorded hereinabove, we do not find any merit in the instant petition. The petitioner has utterly failed to

demonstrate any violation of his fundamental rights or any illegality in the actions of the respondents warranting interference. Accordingly, the petition stands **dismissed**, along with all pending application(s), if any.

JUDGE

JUDGE

Abdullahchanna/PS