

**IN THE HIGH COURT OF SINDH,  
BENCH AT SUKKUR**

**Const. Petition No. D- 1761 of 2021**

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| Date of hearing | Order with signature of Judge. |
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**Hearing of Case**

For hearing of main case

**Before:**

**Mr. Justice Zafar Ahmed Rajput &  
Mr. Justice Omar Sial**

Date of Hearing: **30-12-2021**

Date of Decision: **30-12-2021**

Mr. Shafqat Rahim Rajput, Advocate for the Petitioner.  
Mr. Ghulam Abbas Akhtar for Respondents-Pakistan Railways a/w  
Shahzad Javed, Law Officer, Pakistan Railways.

**ORDER**

**Zafar Ahmed Rajput J.** Through instant Petition, the petitioner, who is a Vending Contractor in Railways Department, has impugned the order dated 16.12.2021, whereby the Divisional Commercial Officer, Pakistan Railways (PR), Sukkur has declared him blacklisted from taking part in any type of contracting activity with PR and forfeited all securities deposited with the PR by him, in consequence of finalization of a joint enquiry report of the DCO, DSC & DME/Sukkur, PR.

2. Heard learned counsel for the petitioner, respondents / PR and perused the material available on record.

3. It appears that the petitioner was a successful bidder of Stall No.12 at Railways Station, Rohri being participated in the auction proceeding on 18.10.2021 by offering his bid for Rs.27,00,000/-; however, he failed to deposit 30% amount of his offer. Later, a joint

enquiry was held to probe into the matter as he was unable to pay alleged 30% amount and he therefore allegedly withdrew from his offered bid. A joint enquiry report annexed with the parawise comments, filed by the respondent No.3, reflects that following conclusion and recommendations were made by the Enquiry Committee:

**“Conclusion:**

It is concluded that Mr. Muhammad Zakir vending contractor is failed to deposit the 30% amount at the time of auction and taken the time by the committee.

The vending contractor deposited the amount Rs.60000/- through MRNo.839597 dated 18.10.2021 at R ohri station however, refused to run the business.

**Recommendation**

In view of above it is recommended that:

- Rs.10000/-security money may be forfeited.
- Rs.60000/- in lieu of remaining amount of 30% as desired by contractor be also forfeited.
- Mr. Muhammad Zakir vending contractor may be imposed fine Rs.30000/- of this gross anomaly.
- The vending stall may be allotted 2<sup>nd</sup> successful bidder
- The 2<sup>nd</sup> successful bidder offered 2600000/- per annum. (Twenty Six lacs)
- If the 2<sup>nd</sup> successful bidder is not agreed to run the same stall than contract may be given in the next auction.
- The affidavit taken from contractor regarding any fraudulent activity will notice by the Railway administration in future the business of contractor shall be terminated and he may be blacklisted with imposed heavy fine”.

4. However, against the above recommendations, respondent No.3 passed the impugned order imposing severe penalty of blacklisting the petitioner, which was even not recommended by the Enquiry

Committee. It is also an admitted position that before imposing alleged penalty, the petitioner was not given any opportunity of hearing by the respondent No.3. Besides, on perusal of impugned order, it reflects that no reasoning, which was required to be assigned, has been given by the respondent No.3. Therefore, the impugned order cannot be sustained and hence it is hereby set aside directing the respondent No.3 either to impose penalty, as recommended by the Enquiry Committee or in case he is of the opinion that the petitioner should be imposed penalty of being blacklisted, he should give him an opportunity of hearing and pass a reasoned and speaking order. In case, the petitioner is further aggrieved, he will be at liberty to seek appropriate remedy, as may be available in the law. Let this exercise be completed preferably within a period of 60-days hereof.

5. With these observations and above terms, this Petition stands disposed of.

**JUDGE**

**JUDGE**

Ahmad