

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

C.P. No.D-1740 of 2025
Ghulam Abass Abassi Vs. PO Sindh & others

DATE	ORDER WITH SIGNATURE OF JUDGE(s)
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Before:

Mr. Justice Muhammad Saleem Jessar
Mr. Justice Nisar Ahmed Bhanbhro

Petitioner

Ghulam Abass Abassi Through Mr. Shahzeb Abbasi,

Respondents:

Province of Sindh & others Through Mr. Rafiq Ahmed Dahri,
Assistant Advocate General
along with Abdul Sattar Jatoi,
Superintendent Engineer (respondent
No.4), Faisal Aftab Memon, Executive
Engineer (respondent No.5) and Ali Raza
Mangi, Ex. Executive Engineer (respondent
No.6), Public Health Engineering.

Date of hearing &

Decision: 21-10-2025

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ORDER

Nisar Ahmed Bhanbhro, J. Through this petition, the petitioner has prayed
as under:

(A) *This Honourable Court may be pleased to declare the process
of NIT bearing No. TC/PHE/160 dated 06-02-2025 to illegal and
unlawful;*

(B) *That this Honorable Court may kindly please to declare the act of respondent No.06 awarding the contracts to his favorite contractors on dated 05-06-2025 and 06-06-2025 after his suspension vide order dated 04-06-2025 is illegal and unlawful.*

(C) *This Honourable Court may be pleased to direct the respondents to re-advertise the NIT. TC/PHE/160 dated 06-02-2025 of same work and follow the SPPRA Rules;*

(D) *That This Honourable Court may be pleased to direct the respondents No. 1 to initiate disciplinary action against the respondents No.5 to 7 for violation of SPPRA Rules."*

2. Learned counsel for the petitioner contended that the that the petitioner was proprietor of M/S G.A.A duly approved government contractor, supplier and consultant firm; and was a regular tax payer; that pursuant to NIT dated 06.02.2025 invited by Respondent No 5 Petitioner submitted proposal; that petitioner participated in the bidding process but was knocked out at technical stage without any lawful authority, that procurement process initiated by the procuring agency was not conducted in accordance with law and rules; thus was marred by irregularities. He argued that the head of the Procurement Committee/ Respondent No 6 was suspended vide order dated 04.06.2025 thus he was not competent to open the bids. He further argued that the petitioner was disqualified at the technical evaluation stage without assigning any cogent reasons. He further argued that the entire procurement process was marred with illegalities and irregularities, thus void and liable to be declared as mis-procurement. He prayed for allowing this petition.

3. Learned AAG submits comments of respondents No.3, 5, 6, 7 & 8 under the cover of his statement dated 21.10.2025; taken on record. Converting the submission of the Petitioner's Counsel, learned Assistant A.G. argued that the petitioner's eligibility was duly examined at the technical stage; that Petitioner was found not qualified as he had filed false and incorrect statement of works executed in the past and such false declaration was a sufficient ground to reject his technical proposal. He further argued that incumbent executive Engineer was suspended under charges of inefficiency vide order dated 05.06.2025 and on the very next day new executive engineer was posted, who discharged the functions as the

head of procurement committee. He argued that the petitioner was intimidated about technical disqualification through letter dated 17.07.2025; that the petitioner did not avail the statutory remedy by filing a complaint before the Complaint Redressal Committee, appeal before Review Panel, or Review Committee provided under Rule 31 and 32 of the Sindh Public Procurement Rules, 2010.

4. Heard arguments, perused the material made available before us on record.

5. The meticulous analysis of record reflects that one stage, two envelope bids were invited by the procuring agency, Public Health Engineering Division Jamshoro. The bids were opened for Technical Evaluation on 27.03.2025, in which the petitioner participated. The Technical Proposal submitted by the Petitioner was opened for evaluation, that was found deficient, the disqualification at technical stage put a clog on petitioner's participation in further process. In the intervening period the Financial Proposals were opened on 06.06.2025, which culminated in award of the contracts in favor of the successful bidders. In case of one stage, two envelope bidding process, bidders submit two envelopes one containing Technical Proposal and other Financial Proposal. Envelope containing Technical Proposal is opened first, upon evaluation, if technical proposal of the contract firm or company is found deficient, the company will not remain eligible to participate in the next round of opening of Financial Proposal.

6. Adverting to the issue raised by the Petitioner that Executive Engineer Public Health Engineering who was head of the procurement was placed under suspension and relieved of the charge thus he could not have performed the duty as head of the Procurement Committee. The contention does not find support from record, it evidences that on suspension of Mr Ali Raza the Executive Engineer Public Health Engineering Division Jamshoro on 05.06.2025, new incumbent Mr Faisal Aftab resumed the duties and carried further the procurement process. The transfer of an officer will not in any manner result in mis-procurement as the new incumbent would carry on the process in accordance with law, unless there is any violation of law and rules apparent on record.

7. The Petitioner has assailed the procurement proceedings under the equitable writ jurisdiction of this Court, whereas SPP Rules 2010 provide a specific remedy against the decision of procurement committee. Rule 31 embodied the mechanism to file a complaint before the Complaint Redressal Committee (CRC) within seven days. The CRC is mandated to decide such complaints within stipulated time of seven days, if CRC fails to decide the complaint, or renders its decision, in former case the complaint gets transferred to Review Committee and in the latter case aggrieved party may avail the remedy of appeal before Review Committee as envisaged under Rule 32 of SPP, Rules 2010. The petitioner failed to exhaust this statutory remedy provided under the law and directly approached this Court under its writ jurisdiction.

8. Since tender process involves technical assessment, which can be done and scrutinized by the specialized forums constituted under the law, which are the best fact-finding forum, least to say this Court cannot assume the role of investigator in such technical matters, and CRC and Review Committee are the appropriate for a provided under the law to be approached for redress of the grievance against any decision of the Procuring Agency. The CRC and Review Committee are consisted of officers and the professionals having expertise in the relevant field thus best suited to examine procurement-related disputes. The petitioner's failure to exhaust the adequate and efficacious remedy envisaged under the law renders this petition not maintainable, otherwise, perusal of the pleadings reveals that the disputed questions of fact are involved, which fall outside the writ jurisdiction of this Court to embark upon.

9. The writ jurisdiction of this Court is not a solution to all the sufferings. The writ jurisdiction of this Court is available in cases where the actions on the part of a person discharging its functions in connection with the affairs of the federation or province resulted in miscarriage of the justice and militated the fundamental rights of the citizen and remedy provided under the law was not adequate in nature. In the present case, Petitioner has failed to point out any illegality, infirmity or irregularity in the procurement process that offended his fundamental rights. On the contrary non-filing of the complaint

and appeal by the Petitioner stamped the procurement process, which after issuance of the work orders in favor of the successful contractors attained finality, thus cannot be disturbed without affording the right of hearing to successful bidders who are not party in the instant petition.

10. For the foregoing reasons, this petition being incompetent and devoid of merits is dismissed along with listed applications. However, the petitioner is at liberty to file a complaint before the Complaint Redressal Committee within fifteen days from the date of this order, which shall be decided by the CRC strictly in accordance with law and the SPP Rules, 2010.

Office is directed to send Copy of this Order to Respondents for compliance. Additional Registrar to ensure compliance.

JUDGE

JUDGE

Irfan Ali
Approved for reporting
Hyderabad
21.10.2024p