

IN THE HIGH COURT OF SINDH AT KARACHI

Civil Revision Application No. 202 of 2026

*[Muhammad Asad v. Inspector General of Prisons &
Corrections Service Karachi]*

Applicant	: Through Mr. Omer Soomro, Advocate along with M/s Danish Nayyer & Abdul Haseeb Qazi Advocates
Respondents No. 1, 2, 3 & 6	: Through Syed Ali Ahmed Zaidi, Addl. Advocate General, Sindh along with Mr. Qamar Zaman Shah, Legal Coordinator, SPPRA
Respondent No. 4	: Through M/s Haider Waheed, Fahad Ali Hashmi & Romain Qamar Advocates
Respondent No. 5	: Through Mr. Muhammad Naeem Memon along with M/s Naeemullah Bhutto & Asif Ali Abro Advocates
Date of Hearing	: 24.09.2026
Date of Reasons	: 05.10.2026

J U D G M E N T

SAMAN RAFAT IMTIAZ, J.- The Applicant [Muhammad Asad] has filed this Civil Revision Application under Section 115, CPC against the Order dated 12.09.2026 passed by the VIIIth Additional District Judge, Karachi (East) whereby the Civil Miscellaneous Appeal No. 74 of 2026 was dismissed; and the Order dated 13.08.2026 passed by the IVth Senior Civil Judge, Karachi East, whereby the application of the Applicant under Order XXXIX, Rules 1 & 2 read with Section 151 CPC filed in Suit No. 2011 of 2026 was dismissed and the ad-interim order dated 13.07.2026 was recalled.

2. The Applicant, partner of Choudhry Ali Muhammad & Co., vide Suit No. 2011 of 2026 challenged his technical disqualification by the Respondent No. 2 [The Procurement Committee IV] from tenders for the supply of cooked food to District Prison Malir and Central Prison Hyderabad for the year 2026-2027. Earlier, this Court had suspended the Blacklisting Order dated 19.05.2026 against the Applicant and directed that Applicant be allowed to participate in the bidding process. Despite this, he was awarded 64 marks against the required 70 and declared technically disqualified, including zero marks for Performance Evaluation and Financial Data. The Applicant contended that the disqualification was unlawful as the Blacklisting Order

stood suspended and complete bank statements had subsequently been furnished manually. He challenged the disqualification before the Trial Court which initially restrained finalization of the procurement process. Respondents No.4 [Millat Hussain] and 5 [Khamiso Khan] were later impleaded as successful bidders. Meanwhile, the Blacklisting Order was set aside by Respondent No.1 [Inspector General of Prisons & Corrections Service Karachi] and the related constitutional petition was disposed of by this Court. By order dated 13.08.2026, the Trial Court dismissed the Applicant's injunction application and recalled the interim order, holding that no *prima facie* case, irreparable loss or balance of convenience had been established and observing that the Applicant had failed to submit complete bank statements within the prescribed time and had not availed the remedy under Rule 31 of the Sindh Public Procurement Rules, 2010 ("SPPRA Rules").

3. The Applicant challenged the Trial Court's order in Civil Miscellaneous Appeal No.74 of 2026. By the impugned order dated 12.09.2026, the Appellate Court dismissed the appeal holding that no arbitrary or improper exercise of discretion by the Trial Court had been shown. It observed that Rule 24 of the SPPRA Rules *prima facie* barred completion of the bid after the prescribed deadline and that the grievance regarding Performance Evaluation required examination of the record and could be raised before the Complaint Redressal Committee under Rule 31 *ibid.*, or any competent forum. It further held that no irreparable loss or balance of convenience had been established in the Applicant's favour. The interim order was recalled and Respondents No.1 and 2 were permitted to finalize the procurement process subject to the outcome of the suit.

4. Being dissatisfied, the Applicant filed the instant Civil Revision Application, contending that the Courts below failed to give effect to this Court's order dated 16.06.2026 and Respondent No.1's order dated 07.08.2026, wrongly treated the matter as one of late submission of financial documents, ignored the alleged unequal treatment of bidders and disputed Financial Evaluation Reports of Respondents No. 4 & 5, and permitted the procurement process to continue, thereby risking the suit becoming infructuous.

5. The learned counsel for the Applicant drew the Court's attention to office order dated 19.05.2026 issued by the Superintendent / Officer In-charge of the District Prison & Correctional Facility Malir, Karachi on account of irregularities that were observed allegedly in the quality of chicken which were found underweight during a surprise visit to the District Prison & Correctional Facility Malir on 13.02.2026 by the Honourable Minister for

Prisons to highlight that the Applicant was blacklisted for a period of five years till 2031 pursuant to which he would not be entitled to participate in any tender, contract, auction or procurement process in the Sindh Prisons & Corrections Service Department, which was. He submitted that the Applicant filed Constitutional Petition No. D-3835 of 2026, in which by way of interim order dated 16.06.2026, the Applicant was allowed to participate in the bidding process without being influenced by the impugned order dated 19.05.2026. He submitted that said Constitutional Petition was disposed of by order dated 10.08.2026 in view of order dated 07.08.2026, whereby the said impugned order of blacklisting of the Applicant was set aside by the Respondent No. 1. He emphasized that the said withdrawal is a categorical acknowledgment of the illegality of the impugned order of blacklisting, as is evident from the order dated 07.08.2026. The learned counsel submitted that despite the interim order passed by this Court in the said constitutional petition that the Applicant was to be allowed to participate in the bidding process without being influenced by the order dated 19.05.2026, the Respondent No. 2 in its written statement has admitted that the blacklisting order was in fact considered by the Procurement Committee in evaluating the Applicant's bid, and that the Respondent No. 1 simply adopted the contents of the written statement submitted by the Respondent No. 2. He argued that the Respondents No. 1 & 2 were influenced by the illegal blacklisting order is also evident from the fact that in both the bidders qualification reports of District Prison Malir as well as of Central Prison Hyderabad, it has been noted in the relevant column by the Respondent No. 2 that no audited annual bank statements were submitted for the last three years from 01.07.2023 till April 2026, despite the fact that such statements had been provided by the time the said report was being prepared. He drew the Court's attention to the bid evaluation criteria for District Prison Malir, Karachi and for Central Prison Hyderabad to highlight that the Applicant was awarded zero out of a maximum of 20 for financial data by only taking into account one year's bank statement. He submitted that in fact, in respect of Central Prison Hyderabad, even by virtue of the incorrect calculation of dividing the bank statement of one year by three years, the Applicant at least should have been given 10 marks as such calculation puts him in the bracket of between 150 and 250 million. He explained that the effect of such mala fide error is that the Applicant was awarded only 64 marks on the technical bids. Had they been given even the minimum marks under financial data and performance evaluation, their bid would have the highest marks, as the other two bidders got 77 and 76 in District Prison Malir and 84 and 73 in case of Central Prison Hyderabad.

6. The learned counsel for the Respondent No. 4, who was the successful bidder in respect of District Prison Malir, submitted that the Applicant's bid documents were incomplete as, admittedly, the bank statements for the last three years were not provided by the deadline. He argued that under Rule 24 of the SPPRA Rules, bids are not to be considered if submitted beyond the due date for any reason whatsoever. He therefore emphasized that the Applicant's bid should not have been considered at all for this reason alone, and that it was only by showing grace to them that their bid was even considered. He also submitted that although Rule 24 submits that late bids will not be considered for any reason whatsoever, the Applicant has not even bothered to give any reason for its delay in submitting the requisite documentation within time. He relied on the instructions to bidders and general terms and conditions of the contract to highlight that bidders were required to submit / upload their technical proposals and financial proposals on or before 09.06.2026 (which was extended to 16.06.2026 by subsequent publication) and that no bid shall be accepted after the prescribed deadline for submission. He submitted that in such circumstances, there is no question of the bank statements submitted late to be taken into consideration. He emphasized that the bid evaluation for District Prison Malir, Karachi notes that the Procurement Committee thoroughly examined the mandatory requirements for qualification of the technical bid, but found several mandatory documents missing from Condition-2 of the bid documents, which has resulted in the technical disqualification of the bidder. He submitted that in such circumstances, the Applicant has no cause for grievance for being awarded zero out of 20 for financial data. He also explained the wisdom for requiring three years' bank statements by explaining that the idea is to look for consistency, for which purpose one year's bank statement is not sufficient. He argued that the above data shows that the score of zero was not given due to blacklisting as argued by the learned counsel for the Applicant, and as such he stressed that there was no mala fide involved. He argued that even otherwise, the order dated 07.08.2026 issued by Respondent No. 1 clarified that the said order shall not be construed as an exoneration from the allegations levelled against the Applicant, and that had they taken into account the reasons for the blacklisting order, albeit by an unauthorized person, they would be justified, but that the zero marks for financial data are evidently on account of the Applicant's failure to submit the bank statements in a timely manner and not due to any blacklisting. He also highlighted that despite such contents of the order dated 07.08.2026, whereby the blacklisting order was withdrawn, noting that such withdrawal does not in any way mean that the Applicant was exonerated of the allegations against him, and yet the constitutional petition filed by the Applicant was disposed of subsequently on 10.08.2026 on the

express satisfaction of the Applicant's counsel. He submitted that the blacklisting order was not withdrawn on merits but only because it had been passed by an incompetent person. He also submitted that the plaint filed by the Applicant does not mention mala fides, and that the case was changed on appeal, and was further changed before this Court in this revision, where for the first time the Applicant alleged mis-procurement. The learned counsel submitted that there is no declaration of mis-procurement under Section 32-A.

7. With regard to the performance evaluation for District Prison Malir, the learned counsel submitted that the Applicant was rightly given zero marks out of a maximum of 20, as penalties have been imposed against them six times previously, which is evident from the performance of past and running contractors of supply of cooked food to the prison inmates dated 22.06.2025 available on the record, which shows that from 2023 till 2026, six fines were imposed upon the Applicant. He drew the Court's attention to 5(iii) under performance evaluation, according to which every penalty / fine imposed entails deduction of 10 marks from 20, and in case of warning is issued, five marks are to be deducted from 20 marks. He therefore submitted that the performance evaluation does not suffer from any mala fides, and the zero marking is due to the Applicant's own lapses.

8. He argued that the Applicant has approached this Court with unclean hands by bypassing the remedies provided under SPPRA Rules, for which they had ample time between their technical rejection on 06.07.2026 and the contract granted to the successful bidders on 12.09.2026, as the Grievance Redressal Committee under Rule 31 is to announce its decision within 7 days, and in case of failure to do so, the complaint shall stand transferred to the Review Committee who under Section 32 is required to pass a decision within 10 days from submission of appeal. Apart from the suppression of material facts, he submitted that such expeditious and efficacious remedy has been bypassed by the Applicant only to procure a stay and frustrate the rights of the successful bidders by prolonging the matter, during which time they will continue to supply by virtue of stay orders, and by the time the suit is decided, the one-year contract period would have ended. The learned counsel for Respondent No. 4 emphasized that all the arguments submitted on behalf of the Applicant are outside the scope of a revision, which has a narrow scope.

9. The learned counsel for Respondent No. 5 adopted the arguments of the learned counsel for Respondent No. 4. In addition, he submitted that he referred to the minutes of the meeting of Respondent No. 2, whereby it was decided that only those documents that had been duly uploaded on the

SPPRA e-PADS Portal before the technical bid opening were considered admissible for evaluation, and the request to accept additional documents submitted in physical form after the technical bid opening could not be acceded to, and that as the bank statement uploaded by the Applicant at the time of technical opening was found to be incomplete, the firm was declared technically disqualified. He also referred to Rule 41(7), which provides that all bids submitted after the time prescribed, as well as those not opened and read out at bid opening due to any procedural flaw, shall not be considered and shall be returned without being opened. Similarly, he pointed out from instructions to bidders that the note provides that if bidder(s) fails to submit (upload) any of the above-mentioned mandatory documents on the date and time of submission of tender, he shall be automatically disqualified for opening his financial proposal and his financial proposal shall not be entertained for opening. Lastly, he submitted that after being awarded the contract, Respondent No. 5 provided lunch, for two days and therefore, they are the ones who stand to suffer irreparable loss if injunction is granted to the Applicant.

10. The learned counsel for Respondent No. 1 highlighted that the blacklisting order was passed on 19.05.2026, whereas it was challenged by the Applicant by filing the Constitutional Petition after almost one month of delay on 16.06.2026 although SPPRA Rules provide for a mechanism and remedy to challenge blacklisting orders as well. He argued that this shows a consistent pattern of the Applicant to bypass statutory remedies, which if condoned by this Court, would render SPPRA virtually redundant. He submitted that no grounds for bias have been made out by the Applicant, and that there is no allegation that the impugned order has not considered any of the arguments presently being raised by the Applicant before this Court nor any illegality has been pointed out in the impugned orders, which have not even been referred to by the Applicant. He relied upon an unreported order dated 02.12.2025 passed by the Islamabad High Court in Civil Revision No. 288 of 2025.

11. While exercising his right of rebuttal, the learned counsel for the Applicant submitted that Rule 24 only talks about submission of bids and not bidding documents, whereas in the instant case, the Applicant filed the bid within time, and therefore, Respondent No. 2 erred in not considering the bank statements of the Applicant for the earlier two years, despite the fact that they were already provided and were available on the relevant date. He also submitted that all of the penalties referred to by the learned counsel for Respondent No. 4 are to be treated as one because they arise from one contract, and one appeal is pending against them, and further that the

imposition of penalty is subject to approval of the DIG, and therefore cannot be taken into consideration for the purposes of performance evaluation till such approval comes through.

12. Heard the learned counsels for the parties and perused the entire record with their assistance. Rule 24 of Sindh Public Procurement Rules, 2010 is reproduced herein below.

“24. Submission of Bids

*(1) Bids shall be submitted on the place, date and time and in the manner specified in the tender notice and **bidding documents** and any bid **submitted late due to any reason whatsoever, shall not be considered by the procurement committee;***

(2) [The Bidders may submit bids on the bidding documents issued by the procuring agency or downloaded from the Authority's website along with tender fee if any by mail or by hand.]”

13. It is clear that Rule 24 mandates submission of bids on the date and time as specified in the tender notice and further that bidding documents submitted late due to any reason whatsoever shall not be considered by the Procurement Committee. In view thereof, it is very clear that the rule is not restricted only to submission of bids by the date specified in the tender documents but includes bidding documents as well. In *Gemalto Middle East FZ-LLC v. Federation of Pakistan through Secretary Finance Division, 2020 CLD 151*, the Islamabad High Court held that where a procuring agency requires bids or pre-qualification documents to be submitted within a stipulated deadline, a bidder cannot be permitted to satisfy the essential requirement of the deadline by supplementing its bid or pre-qualification documents along with documents after the deadline. Admittedly, bank statements for three years were not provided by the Applicant by the date specified in the tender, by which date only one year's bank statement was provided whereas the requirement was admittedly for three years. Therefore, *prima facie*, the Respondents No. 1 & 2 were not liable to consider the bank statements provided by the Applicant after the deadline as per the tender which was extended thereafter. In such circumstances, the Applicant has failed to make an arguable case against the zero marks given to it for Financial Data.

14. Admittedly the performance evaluation score was not raised in the plaint and was mentioned for the first time in the Applicant's rejoinder to the counter affidavit filed by Respondents to the Applicant's application for before the Trial Court, which indicates that the same was an afterthought. But even otherwise, the imposition of penalties on six occasions is also not denied. Even if the Applicant's argument is accepted that warnings that culminated in imposition of fine merged into each other, it cannot be denied that fine was

imposed six different times. The argument that since they all the fines pertain to the same contract would amount to one instance of imposition of fine entailing only deduction of 10 marks is unsubstantiated and without merit. Neither any rule nor principle is cited in support of such proposition, nor does the performance evaluation criteria provide for any such caveat. Even logically, it does not appeal to the prudent mind that six penalties imposed on a contractor for one single contract should be treated as a single instance of imposition of fine / penalty for purposes of deducting marks in the performance evaluation. Similarly, the learned counsel failed to convince the Court that till such time that the DIG approves the imposition of fine / penalty, it cannot be taken into consideration while evaluating the performance of the Applicant for a fresh tender. Therefore, the Applicant has failed to make an arguable case against the zero marking for Performance Evaluation also.

15. Since the score given to the Applicant for the financial data as well as for performance evaluation appears to be, *prima facie*, with cogent reason, the Applicant has failed to make out an arguable case that the scores were given arbitrarily or with mala fide reason. Even otherwise, the Applicant has failed to convince this Court that any mala fides exist on the part of the Respondents against the Applicant. It does not appeal to the prudent mind that mala fides can be attributed to Superintendent / Officer In-charge of the District Prison & Correctional Facility Malir, Karachi because he passed a blacklisting order which he was not competent to issue particularly in the absence of any prior enmity against the Applicant. It has also not been appropriately explained why and how the said person would wield so much influence on the remaining members of Respondent No. 2 that they would be convinced to exercise their powers against the Applicant only to perpetuate his mala fide intent. The learned counsel submitted that although there is no prior enmity between the Applicant and the Respondents, however, they with mala fide intentions wish to award the contract to their blue-eyed boy. However, *prima facie* there is no evidence that the Respondent Nos. 4 or 5 are the blue-eyed boys of the Respondents

16. In view of the foregoing, I am of opinion that the Applicant failed to make out a *prima facie* case for an injunction in its favour. No illegality has been pointed out in the concurrent orders of the lower Court dismissing the Applicant's stay application, and therefore, the instant Civil Revision was dismissed by my short order dated 24.09.2026 and these are the reasons for the same.

**[SAMAN RAFAT IMTIAZ]
JUDGE**

Imran