



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD (L-II)/SPPRA/CMS-1829/2020-21/

2050

Karachi, dated the 10<sup>th</sup> February, 2021

To,

Vice Chancellor,  
Shaheed Mohtarma Benazir Bhutto Medical University,  
**Larkano.**

Subject: **DECISION OF REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY.**

The undersigned is directed to refer to the subject cited above and to enclose herewith a copy of the Authority's Review Committee decision **M/s Sindh Construction Company v/s Shaheed Mohtarma Benazir Bhutto Medical University, Larkano**, held on 23.12.2020, for taking further necessary action in compliance of referred decision, under intimation to this Authority, at the earliest.

ASSISTANT DIRECTOR (LEGAL-II)

*A copy is forwarded for information and necessary action to:*

1. The Secretary to Government of Sindh, Health Department.
2. The Professor of Pharmacology, SMBBMU Larkano.
3. Assistant director (I.T), SPPRA (**with advice to post the decision on the Authority's website in terms of Rule-32(11) of SPP Rules, 2010**)
4. The Staff Officer to the Chairman / Members Review Committee.
5. The Appellant.



GOVERNMENT OF SINDH  
SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY



NO.AD(L-II)/SPPRA/CMS-1338/2019-20 / 2050 Karachi, dated the February 2021

**BEFORE REVIEW COMMITTEE OF SINDH PUBLIC PROCUREMENT REGULATORY AUTHORITY UNDER RULE-32 OF SPP RULES 2010.**

**(REVIEW APPEAL)**

*M/s Sindh Construction company*  
Versus  
*Shaheed Mohtarma Benazir Bhutto Medical University*

**(NIT ID # T00596-20-0007 DATED 28.09.2020)**  
**(Complaint on item No. 3 i.e. Supply of Furniture & Fixture)**

**FACTS AND BACKGROUND**

The appellant, M/s Sindh Construction Company, lodged a complaint (vide letter dated 14<sup>th</sup> October 2020) to the Chairman, Complaints Redressal Committee (CRC) – copy endorsed to this Authority and others – in respect of the Notice Inviting Tender (NIT) # **T00596-20-0007 dated 28.09.2020** floated by the Planning Procurement & Logistic Officer, Shaheed Mohtarma Benazir Bhutto Medical University Larkana *'the procuring agency'* for procurement of Furniture & Fixture.

2. The appellant raised concerns with regard to procurement method adopted by the procuring agency, unclear and ambiguous description of items in Bill of Quantities (BOQ). The appellant therefore approached CRC to cancel the tender and re-invite the same openly and transparently as per SPP Rules. This Authority vide letter dated 16<sup>th</sup> October, 2020 also forwarded the appellant's complaint to the CRC with an advice to furnish views / comments in the referred matter and update this Authority regarding current status of subject procurement, at the earliest.

3. Subsequently, the appellant vide letter No. nil dated nil received in this Authority on 26<sup>th</sup> October, 2020) preferred an appeal by stating that the CRC had failed to decide the appellant's matter within the stipulated period hence the appellant requested the Authority to place the matter before the Review committee in terms of Rule-31(5) of SPP Rules, 2010.

4. Resultantly, the appellant's case was processed and considered / taken-up by the Authority's Review Committee for hearing in its meeting scheduled on 09.12.2020 at 12:00

p.m., notices, in this regard, were issued to the parties concerned vide this Authority's letter dated 02.12.2020 to appear before the Committee on the scheduled date, time and venue in terms of Rule-32(6), (8) & (10) of SPP Rules, 2010. In Compliance Mr. Darya Khan, Contractor / Appellant appeared before the Committee; whereas the procuring agency did not attend the meeting due to which the Committee decided to provide another opportunity to the procuring agency for appearing before the Review Committee in its next meeting, scheduled on 23.12.2020 for defending the position/ case. Notices were again issued to the parties vide this Authority's letter dated 21.12.2020. In compliance, Mr. Darya Khan, Contractor/Appellant appeared before the Committee; however, the procuring agency again did not attend the meeting.

### **REVIEW COMMITTEE PROCEEDINGS**

5. The meeting started with the recitation of verses from the Holy Qur'an. The Chairperson of the Review Committee commenced the meeting by welcoming all the participants of the meeting. Then, the chair asked the appellant to present the case/ version over the instant procurement issues/ grievances.

### **APPELLANT'S VERSION**

6. Mr. Darya Khan (the appellant) apprised the Review Committee that specifications of some of the items mentioned in the bill of quantities were not clear, the appellant therefore, approached the authorized person of PA mentioned in the NIT regarding clarification of specifications prior to the submission/ opening of bids as per Rule-23 of SPP Rules, 2010. However he did not receive any response from the procuring agency. He added that several types of items are available in the market and all of them have different prices and specifications. He mentioned that due to the unclear specifications in the bidding documents nor PA had furnished clarifications of the items. He quoted the best quality goods having high rates in his bid. The bids were received/ opened by the Procurement Committee (PC) on 13.10.2020 and Bid Evaluation Report uploaded by Procuring Agency on 18-11-2020 on PPMS Website in which his firm did not declare lowest evaluated bidder. Thereafter he approached the CRC for redressal of his grievance which also failed to decide the matter within stipulated time.

### **REVIEW COMMITTEE'S OBSERVATIONS/ FINDINGS**

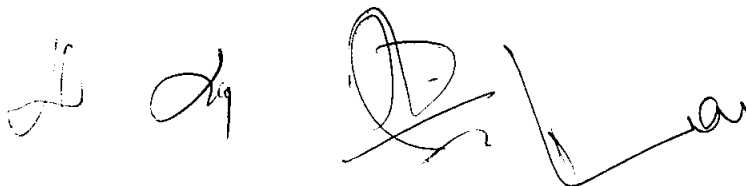
7. After hearing the appellant at length and scrutiny of the procurement record, the Review Committee observed the following:

- (a) Despite providing two chances of defending their case, the Procuring Agency preferred not to attend the meeting of Review Committee which is violation of SPP Rule-32(8) of SPP Rules, 2010 (Amended 2019) – "*It*



shall be mandatory for the Appellant and Head of Procurement Agency or his nominee not below the rank of BS-19 to appear before the Review Committee as and when called and produce documents, if required''

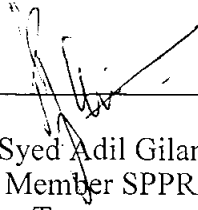
- (b) The Procuring Agency was required to respond to the query(ies) of the bidder within three calendar days and such clarifications should have been provided to all parties who have obtained bidding documents as required under Rule-23(1). However, the procuring agency failed to respond to the queries of the bidder, hence Rule-23 (1) of SPP Rules, 2010 (Amended 2019) has been violated.
- (c) The Procuring Agency's CRC was required to decide the appellant's grievances within seven days and intimate the decision to the appellant as well as Authority within three working days in terms of Rule-31(5) of SPP Rules, 2010. The procuring agency's CRC failed to convene the meeting which is the violation of Rule-31(5) of SPP Rules, 2010 (Amended 2019).
- (d) The appellant had confirmed before the forum that Procuring Agency has awarded the contract but the Procuring Agency has not posted the Contract Documents – Contract Evaluation Report, Form of Contract and Letter of Award and Bill of Quantities or Schedule of Requirement – on the Authority website which were required to be posted on the Authority's website within fifteen (15) days of signing of contract in terms of SPP Rule-50 read in conjunction with Rule-10 of SPP Rules 2010.
- (e) The Procuring Agency was required to award the procurement contract after the announcement of CRC decision or until the expiry of appeal period or the final adjudication by the Review Committee. However, the Procuring Agency – as informed by the appellant – had awarded the contract without disposing of his complaint, which is the clear violation of Rules-31 (5) (6) and (7) of SPP Rules, 2010 (Amended 2019).
- (f) The procuring agency was required to provide complete specification in the bidding documents/ bill of quantities as required under Rule-13(1). However, in the absence of clarification/justification regarding the completeness of specification from the procuring agency, despite allowing hearing opportunities, *prima facie* the specifications of items/ BOQs were not clearly defined as per SPP Rules-13 (1) of SPP Rules, 2010 (Amended 2019).

The image shows four distinct handwritten signatures or initials in black ink, arranged horizontally. From left to right: the first is a stylized 'L' with a vertical line; the second is a cursive 'D' with a horizontal line; the third is a large, bold, circular signature; and the fourth is a long, sweeping signature that ends in a small 'a'.

## REVIEW COMMITTEE DECISION

8. In view of the above foregoing findings/observation and after due deliberation, the Review Committee notice the attitude / response of PA to the important forum of Review Committee of SPPRA Board needs to be looked into and unanimously

- (i) declared the instant procurement as "**Mis procurement**" in light of Rule-32(7)(g) of SPP Rule, 2010 read with section -2(i) of SPP Act;
- (ii) decided to refer the matter to the Competent Authority for initiating disciplinary proceedings against the officer(s)/official(s) responsible for mis-procurement in term of Rule-32(A)(2) of SPP Rules, 2010; and
- (iii) ordered the payment of compensation i.e. Rs20,000/=(Rupees twenty thousands only) by the officer(s) responsible for mis-procurement for cost incurred by the bidder on preparation of bid.



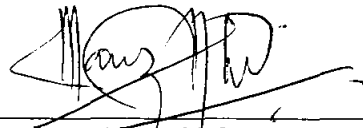
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(Syed Adil Gilani)  
Private Member SPPRA Board  
Representative Transparency International  
**(Member)**



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(Engr. Munir Ahmed Shaikh)  
**(Independent Professional)**  
**Member**



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Mr. Manzoor Ahmed Memon  
Private Member SPPRA Board  
**(Member)**



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(Mr. Riaz Hussain Soomro)  
Managing Director  
Sindh Public Procurement Regulatory  
Authority  
**(Chairman)**