

HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 755 of 2025

(*Nadir Ali Mahar v. Province of Sindh & others*)

Present:

Mr. Arbab Ali Hakro, J.

Mr. Abdul Hamid Bhurgri, J.

Date of hearing : **10.06.2025**

Date of decision : **10.06.2025**

Mr. Hamayoun Sheikh, Advocate for Petitioner.

ORDER

Arbab Ali Hakro, J. – Through this constitutional petition, the petitioner seeks directions for the implementation of the decision dated 15.04.2025, passed by the Review Committee under Rule 31(5) of the Sindh Public Procurement Rules, 2010 (“**Rules of 2010**”), concerning NIT No. XEN/HW-D/TC-509 dated 08.11.2024, issued by the Executive Engineer, Highways Division, Sukkur (Respondent No. 4).

2. Learned counsel for the petitioner contends that the petitioner, a contractor by trade, duly submitted a bid for the project enumerated at Serial No.50, titled Reconstruction of Road from National Highway to Gohram Khan Lashari Wandh (as referenced on Page 27 of the Court file). However, the subject work was not awarded to the petitioner pursuant to the pertinent Bid Evaluation Report. Learned counsel further avers that two competing bidders, namely M/s Abdul Hafeez Kolachi and M/s Ghulam Kamber & Brothers, impugned the procurement process under the relevant statutory framework of the Rules of 2010, thereby invoking adjudicatory review, which culminated in the Review Committee’s ruling dated 15.04.2025 (accessible at Pages 39 to 43 of the Court file), wherein the following directives were issued:

- (i) *The instant procurement proceedings shall be terminated immediately in terms of Rule-32(7)(f) of the SPP Rule, 2010 and shall initiate the process afresh by observing the SPP Rules and regulations in letter and spirit.*

- (ii) *Direct the Executive Engineer, Highways Division, Sukkur, to pay Rs.50,000/- to each Appellant from his pocket as compensation for cost incurred by the bidders/appellants on preparation of bid in terms of Rule-32(7)(e) of the SPP Rules, 2010 within seven (07) days from the date of issuance of this decision.*
- (iii) *The case shall be referred to the Competent Authority for initiation of disciplinary proceedings against the officials for not attending the meeting of the Review Committee under intimation to this Authority within fifteen (15) days.*

3. Learned counsel further avers that the Review Committee's determination stipulated a prescribed time frame of fifteen (15) days to initiate fresh procurement proceedings. However, upon Court query as to whether the fifteen (15) days' period pertained to the re-initiation of the procurement process or whether the specific durations of seven (07) and fifteen (15) days, as delineated in Conditions (ii) and (iii), respectively, of the Review Committee's order, were allocated for the disbursement of compensation and the commencement of disciplinary proceedings. Learned counsel, however, remained unable to furnish a cogent and legally tenable explanation in response to the Court's query.

4. Furthermore, when pressed for clarification on whether the petitioner had independently contested the impugned NIT before the Review Committee, the learned counsel unequivocally acknowledged that the petitioner had neither availed such remedial recourse nor had been a party to the adjudicatory proceedings before the Review Committee.

5. It is an established and indisputable principle that the Review Committee, having exercised its statutory mandate, has already rendered its determination dated 15.04.2025, which, by operation of Rule 32(11) of the Sindh Public Procurement Rules, 2010 ("**Rules of 2010**"), possesses the force of finality and is conclusively binding upon the procuring agency, thereby precluding any further challenge or deviation from its directives. The binding character of such a determination stems from the express statutory provision, which unequivocally delineates the Committee's Authority and adjudicatory competence, ensuring that its pronouncement carries the weight of legal enforceability upon the relevant administrative apparatus entrusted with procurement functions.

6. Furthermore, it is a firmly entrenched principle of law that the constitutional jurisdiction vested in this Court under Article 199 of the Constitution is not one of unfettered discretion but rather is circumscribed by well-defined jurisprudential parameters, including the requirement of *locus standi*, whereby only a legally aggrieved person, suffering direct, personal, and adverse legal consequences from the act, omission, or decision impugned, may invoke the extraordinary constitutional remedy of judicial review. In the instant matter, an evaluation of the petitioner's standing vis-à-vis the impugned Notification of Invitation to Tender (NIT). The subsequent adjudication by the Review Committee reveals that the petitioner neither participated in the proceedings before the Committee nor has demonstrated any tangible, immediate, and prejudicial impact upon his legal rights emanating from the said determination. Consequently, after a meticulous examination of the record, we are of the considered and judicially reasoned view that the petitioner does not satisfy the criterion of an aggrieved person as contemplated under the constitutional framework, thus rendering the petition untenable before this Court.

7. Additionally, it remains the statutory obligation of the procuring agency, as the implementing Authority, to ensure strict adherence and compliance with the Review Committee's directives, thereby effectuating its mandated procurement governance objectives. In view of the foregoing legal exposition, this Court finds no compelling justification warranting judicial interference, as the matter falls squarely within the domain of administrative execution. No *prima facie* case for exercising extraordinary constitutional jurisdiction is made out.

8. Accordingly, this petition, devoid of legal merit and maintainability, stands **dismissed** in *limine* alongside all pending miscellaneous applications.

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