

ORDER SHEET

IN THE HIGH COURT OF SINDH KARACHI

C.P. No. D-7884 of 2017

DATE

ORDER WITH SIGNATURE OF JUDGES

1. For order on CMA No. 36451/2018
2. For hearing on CMA No. 32936/2017
3. For hearing of main case.

26.02.2019

**Present: Mr. Justice Muhammad Ali Mazhar
Mr. Justice Agha Faisal**

None present for the Petitioner

Mr. Jawwad Dero, AAG alongwith Ghulam Akber Lashari, State Counsel and D.M. Khan @ Imran Khan, Internee
Aftab Ahmed, Deputy Director Sindh Solid Waste Management Board, Government of Sindh and Syed Ali Raza, Director (Legal), Sindh Solid Waste Management Board, Govt. of Sindh, Karachi

Muhammad Ali Mazhar, J:- On 07.12.2018, Mr. Zafar Iqbal, advocate appeared for the petitioner and requested for time to seek instructions from the Chief Executive of the Petitioner, who was allegedly confined in District Prison, Malir, Karachi and at the request of learned Counsel for the petitioner, matter was adjourned to **16.01.2019** but on that date Mr. Zafar Iqbal, advocate for the petitioner was called absent and in the interest of justice, we adjourned this matter. Today, again the matter is fixed for hearing of main case but learned Counsel for the petitioner is called absent.

Mr. Aftab Ahmed, Deputy Director (Procurement), Sindh Solid Waste Management, Government of Sindh is present and he has shown us a copy of agreement dated 09.11.2016 executed with the Petitioner firm and he informed us that according to Clause-2 of the agreement, the agreement was valid for a period of 12 months, whereas petitioner in his petition sought the directions against the Respondents to extend the contract of the petitioner for further three years as mentioned in clause 4 of the conditions of the contract. We have seen the contract period mentioned in the conditions of the contract. In the bid document, it is stated in the Condition No. 4 that the agreement is valid for 12 months and it may be extended for 01 to 03 years subject to satisfactory performance of contractor. The order dated 21.11.2017 is

also reflecting that the learned Division Bench of this Court after reducing the controversy in writing, while issuing pre-admission notice, observed that competitive transparent process of public tenders is the requirement of law and in the SPPRA Rules whereas the petitioner on the contrary prayed that the invitation of fresh tenders by the Respondents is illegal and will cause huge loss to the government exchequer. In the order dated 21.11.2017, learned Division Bench further directed the Respondents to ensure that all the codal formalities shall be completed and relevant law and rules shall be observed in the tender process which shall be transparent in all respects and if the petitioner intends to participate in the fresh tender process, he may do so as per law/rules.

It is not our jurisdiction under Article 199 of the Constitution of Pakistan, 1973, to issue directions to the Respondents to extend the contract or not to invite the fresh tender under SPPRA Rules. Whether the petition served up to the mark or not; this also question of fact, which cannot be entertained in the constitutional jurisdiction. The petition is dismissed in *limine*

JUDGE

JUDGE

