

**ORDER SHEET**  
**HIGH COURT OF SINDH, KARACHI**

---

C.P. No.D-2138 of 2020

| <b>Date</b> | <b>Order with signature of Judge</b> |
|-------------|--------------------------------------|
|-------------|--------------------------------------|

**Present**

**Mr. Justice Muhammad Ali Mazhar.**

**Mr. Justice Amjad Ali Sahito.**

M/s WSKB & Company .....Petitioner

Versus

Province of Sindh & others..... Respondents

**Date of hearing 26.01.2021**

Raja Jawad Ali Sehar advocate for the petitioner a/w M/s. Ghulam Akbar Panhyar and Shakeel Ahmed advocates.

Peer Syed Asadullah Shah Rashidi advocate for the respondent No.5 a/w Mr. Samil Malik Khan advocate.

Mr. Jawad Dero, Addl. A.G.

Qamar Zaman Shah, Law Officer, SPPRA.

Riaz Hussain Soomro, Managing Director, SPPRA.

Bashir Ahmed Shaikh, Special Secretary, Public Health Engineering Department, Government of Sindh.

\*\*\*\*\*

**Muhammad Ali Mazhar, J:** The case of the petitioner is that after Complaint Redressal Committee decision, the petitioner approached to the SPPRA and filed an appeal before the Review Committee under Rule 32 of Sindh Public Procurement Rules, 2010.

2. Learned counsel for the petitioner argued that no notice of hearing of appeal was issued nor any decision was communicated, whereas, the representative of SPPRA submitted the alleged refusal letter dated 13.03.2020 along with reply which shows that appeal was dismissed being time barred. According to Rule 32 of Sindh Public Procurement Rules, 2010, if the bidder is not satisfied with decision of the procuring agency's Complaints Redressal Committee he may

lodge an appeal to the Review Committee within ten days provided that he has not withdrawn the bid security. Under sub-Rule (5) certain prerequisites are mentioned to submit along with the appeal, whereas, under sub-Rule (9) it is provided that in case the appellant fails to appear twice despite service of notice of appearance, the appeal may be decided ex-parte. Whereas, sub-Rule (10) explicates that the Review Committee shall hear the parties and announce its decision within ten working days of submission of appeal, however, in case of delay, reasons thereof shall be recorded in writing.

3. The core issue for the decision in this case before us whether on filing of appeal this can be rejected without providing any opportunity of hearing to the appellant or not. Though this is a different scenario that the petitioner alleges that the letter of rejected was not communicated to the petitioner, whereas, according to SPPRA reply, the letter was communicated that appeal is time barred but without hearing.

4. In order to decide this anomaly, we directed the Managing Director, SPPRA to appear in person. He submits that the task of hearing of appeals was assigned to five Members Committee. The appeal of the petitioner was considered time barred, therefore, it was not fixed for hearing and rejection letter was issued to convey the petitioner without hearing. The Managing Director, SPPRA failed to point out any specific Rule in the Sindh Public Procurement Rules, 2010 whether the right of audience in appeal could be deprived and the rejection letter could have been issued simplicitor. Learned AAG is also of the view that since the appeal was not considered within time, therefore, the rejection letter was issued but such type of procedure is alien to the Rules in hand. The proper procedure has been laid down under Rule 32 and if the appeal was considered to be time barred at least the right of opportunity of hearing should have been provided to the petitioner to satisfy on the question

of limitation, if any, lapsed before presentation of appeal to SPPRA which has not been done in this case. Whenever any authority is constituted under the Law to perform the duties of quasi judicial nature, then it is obligatory on them to apply their mind and due process of law also. The petitioner was not afforded any opportunity to submit explanation with regard to limitation and again their counsel submits that appeal was presented within time. At this juncture, learned counsel for the respondent No.5 submits that work order has been issued in favour of the respondent No.5 and he requests that SPPRA may be directed while hearing appeal of the petitioner, the respondent No.5 should also be issued notice to appear and place their point of view.

5. As a result of above discussion, the rejection letter dated 13.03.2020 is set aside with the directions to the Appellate Authority (SPPRA) to decide the appeal of the petitioner within ten (10) days after providing ample opportunity of hearing to the petitioner and the representative of the Procuring Agency and respondent No.5 and pass speaking orders. Petition is disposed of accordingly along with pending application.

JUDGE

JUDGE