

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD.

C.P. No.D-1875 of 2025

Ghulam Abass Abassi Vs. Province of Sindh and others

DATE ORDER WITH SIGNATURE OF JUDGE

Before:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Petitioner

Ghulam Abass Abassi

Through Mr. Shahzeb Abbasi,

Respondents:

Province of Sindh & others

Through Mr. Rafiq Ahmed Dahri,

Assistant Advocate General

along with Abdul Sattar Jatoi,
Superintendent Engineer (respondent
No.4), Faisal Aftab Memon, Executive
Engineer (respondent No.5) and Ali Raza
Mangi, Ex. Executive Engineer (respondent
No.6), Public Health Engineering.

Date of hearing &

Decision: 21-10-2025

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ORDER

Nisar Ahmed Bhanbhro, J. Through the instant petition, the petitioner has
prayed for following reliefs:

*“(A) This Honourable Court may be pleased to declare the act of
respondent 3, 5 & 6 is illegal & unlawful.*

*(B) That this Honorable Court may kindly pleased to declare the
impugned letters TC No. GM/PHED 1688 of 2025 Dated 17-07-2025
& No. GM/PHED 136 of 2025 Dated 04-06-2025 issued by the Office
of the Chief Engineering (DEC;), Public Health Engineering*

Department Hyderabad (Respondent No 03) as illegal, unlawful, void, ab initio, unjustified and unconstitutional and set aside the same.

(C) That this honorable court may kindly be pleased to direct the respondent No. 3,5 & 6 to act strictly in accordance with law.

(D) That This Honourable Court may be pleased to direct the respondent No. 1 to initiate disciplinary action against the respondents No.3,5 & 6 for violation of SPPRA Rules"

2. Learned counsel for the petitioner argued that the petitioner was proprietor of M/S G.A.A duly approved government contractor, supplier and consultant firm; and was a regular tax payer; that Petitioner had filed complaints against the respondents regarding misuse of authority in relation to NIT No.160 of 2025 dated 06.02.2025; that Petitioner filed Petition No D 1740 of 2025 (Re Ghulam Abass Vs. PO Sindh & others) against the illegal award of contracts through NIT No 160 of 2025 before this Court; that this Court suspended the Bid Evaluation Report despite of that respondents posted the Bids on website of SPPRA; that complaints and petition filed by the Petitioner annoyed the respondents, who, without affording the opportunity of hearing initiated proceedings for blacklisting Petitioner's contractor company unilaterally, that respondent No.3 vide its letter dated 17.07.2025 forwarded a recommendation to respondent No.1 for approval of blacklisting the Petitioner Company; that the proceedings of blacklisting were conducted behind the back of the Petitioner, thus illegal, without any lawful authority, violation of the principles of natural justice and liable to be set aside; he lastly prayed to set aside the impugned letter dated 17.07.2025 by allowing this petition.

3. Conversely, learned Assistant AG argued that the petitioner failed to perform his contractual obligations in accordance with law; hence, the authority was constrained to black list the petitioner's company; that the Petitioner's Company was involved in acts of cheating, malpractices and avoided to complete the contracts awarded; that action taken by the authority was justified and well within the bounds of law. He therefore prayed to dismiss the Petition.

4. Heard arguments and perused the material made available before us on record.

5. Perusal of the record reflects that vide letter dated 17.07.2025, the Chief Engineer (Dev.), Public Health Engineering Department, Hyderabad, / Respondent No 3 sought approval from the Secretary to the Government of Sindh, Public Health Engineering & Rural Development Department, Karachi / Respondent No 1 for blacklisting the petitioner's company under Rule 35 of the SPP Rules, 2010. The allegation against the petitioner was that he was engaged in fraudulent and corrupt practices for ulterior motives to harass and blackmail the officers. It was stated in the letter dated 17.07.2025 that such practices could not be tolerated in any procurement process and, to uphold the rule of law, blacklisting of the petitioner was deemed necessary.

6. Under Rule 35 of the SPP Rules, 2010, procuring agency can carry out investigation on its own motion or information laid before it to determine, whether there is sufficient cause for blacklisting a contractor, consultant or supplier. If the procuring agency is satisfied that such a cause exists, it shall initiate the proceedings of blacklisting in accordance with the procedure laid down in regulations to be issued by the Authority; Rule 35 reads as follows:

“35. Blacklisting of Suppliers, Contractors and Consultants. -

(1) The following shall result in blacklisting of suppliers, contractors, or consultants, individually or collectively as part of consortium:

(a) conviction for fraud, corruption, criminal misappropriation, theft, forgery, bribery or any other criminal offence;

(b) involvement in corrupt and fraudulent practices while obtaining or attempting to obtain a procurement contract;

(c) final decision by a court or tribunal of competent jurisdiction that the contractor or supplier is guilty of tax evasion;

(d) willful failure to perform in accordance with the terms of one or more than one contract;

(e) failure to remedy underperforming contracts, as identified by the procuring agency, where underperforming is due to the fault of the contractor, supplier or consultant;

(2) Procuring agency may, on its own motion, or information provided by any party, carry out an investigation to determine,

whether there is sufficient cause for blacklisting a contractor, consultant or supplier. If the procuring agency is satisfied that such a cause exists, it shall initiate the process of blacklisting in accordance with the procedure laid down in regulations to be issued by the Authority;

(3) As a result of the scrutiny process, as mentioned above in sub-rule (2), the procuring agency may take one of the following decisions;

(a) contractor or consultant or supplier may be blacklisted;

(b) contractor or consultant or supplier may be debarred temporarily, specifying the time period;

(c) contractor or consultant or supplier may be blacklisted if he fails to take the specified remedial actions within a specified time period;

Provided that the procuring agency shall duly publicize and communicate its decision to the Authority, other Government departments, and also hoist on its own website.

[(4) Any party being aggrieved by the decision of the procuring agency may submit an appeal to the Authority, which shall refer the matter to the Review Committee, which shall decide the matter as provided in sub-rules (5) to (11) of rule 32;]

7. A plain reading of the above rule makes it clear that a fact-finding inquiry / investigation is a prerequisite to establish whether a contractor, consultant, or supplier is involved in fraudulent practices. The record, however, does not indicate that any such inquiry/investigation was conducted. Letters dated 03.06.2025 and 11.07.2025 issued by the Executive Engineer (Dev.), Public Health Engineering Division, Jamshoro/ Respondent No 5 and letter dated 04.06.2025 issued by the Superintending Engineer (Dev.), PHE Circle Hyderabad/ Respondent No 4 were relied upon by the Chief Engineer Development / Respondent No 3 to seek approval for blacklisting the Petitioner's company, yet no formal inquiry or investigation was held nor any material was brought on record to substantiate the allegations of fraudulent or corrupt practices against the petitioner's company or petitioner was given a chance of hearing during blacklisting proceedings.

8. It is further evident from the record that the petitioner was condemned unheard prior to the issuance of the letter dated 17.07.2025 and the preceding correspondence by the subordinate officers. The fair trial and to be dealt with in accordance with law and by due process of law are the inalienable rights of every citizen. Article 4 of the constitution enunciates that every citizen is subject to equal protection and to be dealt with in accordance with law. Article 10 - A embodied that the fair trial was the right of every citizen. Record transpires that fundamental rights of the Petitioner were compromised as he was condemned unheard and his right to do business articulated under article 18 of the constitution was impinged upon, which vitiated entire proceedings.

9. Though order of blacklisting passed under Rule 35 of SPP, Rules 2010 was appealable before Review Committee in terms of Rule 32 of the said rules. This Court sparingly interferes in the matters where statutory remedy was available under the law, but in the case of Petitioner, the doctrine of exception would not hold good as the Petitioner was condemned unheard and entire proceedings were taken behind his back, which resulted in violation of petitioner's fundamental rights and miscarriage of justice. Admittedly the substructure was without foundation and the superstructure built thereon would automatically crumble. If the Petitioner is knocked out on the ground of availability of alternate remedy, his case would be highly prejudiced, as the alternate remedy will not provide efficacious and speedy justice. This Court, is the custodian of fundamental rights of the citizens, its powers of judicial review remain unfettered when executive authority acts in violation of law that results in breach of fundamental rights and grave injustice. This court unhesitatingly interferes in the matters involving protection of fundamental rights when impugned actions on the part of executive authority were beyond the bounds of law and taken with malice and ulterior motives as is the case of the Petitioner. When confronted to the above factual and legal position, Learned Assistant A.G frankly conceded that the entire proceedings for blacklisting the petitioner's company were held in violation of law, thus were not sustainable.

10. For what has been discussed herein above, it can be safely concluded that the proceedings for blacklisting the petitioner's company were initiated

with mala fide intentions to subdue petitioner, thus were perverse, illegal and beyond the bounds of law. Thus, a case to exercise the powers of judicial review under article 199 of the Constitution of Islamic Republic of Pakistan of 1973, is made out. Consequently, this petition is allowed. The impugned letter dated 17.07.2025 issued by Chief Engineer (Dev) Public Health Engineering Hyderabad/ Respondent No 3 is hereby set aside. However, the respondent department shall be at liberty to initiate proceedings *de novo*, strictly in accordance with law, and the SPP Rules, 2010, that too by providing ample opportunity of defense to the Petitioner.

The Petition stands disposed of in above terms, along with listed applications. Office to send copy of this order to the Respondents

JUDGE

JUDGE

Irfan Ali

Approved for reporting

Hyderabad

Dated 21.10.2025