

**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

C.P No.D- 602 of 2020

Present:

Justice Zafar Ahmed Rajput.

Justice Amjad Ali Sahito.

Date of hearing: 07.07.2020.

Date of order: 07.07.2020.

Mr. Zameer Ahmed Bhutto, Advocate for petitioner.

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ORDER

ZAFAR AHMED RAJPUT, J: Through instant petition, the petitioner seeks the following relief(s):-

- “a) To cancel the procurement process of NIT bearing No.TC/G-55/1987 of 2019 dated 18.12.2019 as same was result of mis-procurement in contravention of Sindh Public Procurement Rules, 2010.*
- b) To suspend the operation of work orders 13.05.2020 issued by respondent No.6 to respondent No.13 to 17 of tenders mentioned in NIT bearing No.TC/G-55/1987 of 2019 dated 18.12.2019, as all of them are the highest bidders as per the offered call deposit of 5% mentioned in the cooperative statements dated 06.05.2020.*
- c) To declare that without fixation of fresh schedule of bid opening date and time is in violation of Rule 15, 17(1A) of SEPPRA Rules and awarding of contract without fresh public notice was mis-procurement and is in contravention of the SEPPRA rules hence illegal and liable to be cancelled.*
- d) To declare that respondent No.6, had no authority to apply the extension of bid validity as respondent No.6 had no power to deal with financial and technical matters as per notification A-1/7-2/2020 dated 22.04.2020.*
- e) Declare that bid process cannot be processed until reconstituting the procurement committee and complaint redressal committee in accordance with rule 31(2) of SEPPRA Rules.*
- f) Direct the respondent No.1 to 8 to fresh NIT, and conduct fresh procurement process strictly in accordance with Sindh Public Procurement Rules, 2010.*
- g) Direct the respondent No.4 to ensure the implementation of SEPPRA rules 2010 within its letter and spirit to carry out the purposes of this act, in the fresh NIT as per Sindh Public Procurement Rules, 2010.*

It has been contended by the learned counsel that the respondent No.6 has assigned the tenders to highest bidders by depriving the lowest bidders and thereby caused a huge loss to public exchequer. It has further been contended that alleged mis-procurement is in contravention of provisions of Sindh Procurement Act, 2009 and Rules framed there under in 2010. He added that NIT was fixed for opening on 08.01.2020 and 21.01.2020 for scrutiny purpose of Technical Proposal of all the participants by the respondent No.10 by hoisting adjournment letters on the SEPPRA website, which prove that neither the Technical Proposal was finalized nor financial proposals were opened within the schedule mentioned in NIT. It has also been contended that the extension of validity of bid was obtained by the respondent No.6 who was posted on OPS in violation of Notification No.A-1/7-2/2020 dated 22.04.2020, whereby the respondent No.6 had restrained the said respondent from dealing the technical and financial matters. Hence the subject tenders were assigned to bidders in violation of Rule 15 of SEPPRA Rules, 2010. On query, the learned counsel however, admits that the petitioner is also a contractor but he did not participate in the subject NIT.

It appears that vide NIT dated 11.12.2019, the tenders of 08 sealed works were called by the respondent No.10 being the then Executive Engineer, Hala Division, Hala under single stage two envelop procedure from all the contractors / firms who were registered with Pakistan Engineering Council in the field as per SEPPRA Rules (Amended 2017) wherein many contractors participated. The petitioner is also a contractor but he was not amongst them. It further appears from perusal of Comparative Statements annexed with the memo of petition as Annexure 'A-7 to A-15' at Pages 55 to 69 that the Procurement Committee recommended the name of contractor / firm who was the lowest one, not the highest one as claimed by the petitioner. Further, it appears from perusal of the Minutes of Financial Bid available as Annexure 'A-16 to A-17' at Pages 79 to 83, that sealed envelopes of the qualified contractors were opened in their presence and bid amount was read out loudly by the

Chairman Procurement Committee and the attendance of the contractors were also obtained and hence the work orders for the respective works were issued on 13.05.2020. This being the facts of the matter, we have found that the petitioner has no locus standi to maintain this petition; that the aggrieved contractors have not raised any objection over the acceptance of the bids of qualified contractors nor they have approached to Complaint Redressal Committee under Rule 30 of SEPPRA Rules, 2010. Hence, this petition being devoid of merit was dismissed in limine by our short order dated 07.07.2020 and these are the reasons thereof.

JUDGE

JUDGE

Tufail