



No. PPRA/AP-07/2026
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad
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ORDER

M/s EMCO Industries Limited

...the "Appellant"

Vs.

Faisalabad Electric Supply Company (FESCO)

...the "Respondent"

<u>Date of Hearing</u>	
02.03.2026	Mr. Waleed Khalid (Adv), Rana M. Amar Asif (Adv), Mr. Usman Akram Sahi (Adv), Mr. Saleem Rehman, CEO (EMCO), Mr. Saqib Aziz, General Manager (EMCO), Mr. Ali Haider, Manager (EMCO)
17.02.2026	(On behalf of Appellant)
02.02.2026	Mr. Taimoor Aslam (Adv), Mr. Mudassar Abbas (Adv), M. Sarfaraz Ahmad, M. Tayyab Sattar, Mr. Sarmad Hussein, Mr. Muhammad Iqbal Javed
	(On behalf of Respondent i.e., FESCO)
	M. Hanzala (AHC), Mr. Arsalan Izhar
	(On behalf of Resp. No. 2 i.e., M/s Shahzad Enterprises)

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
[TENDER NO.NCB-697/FESCO/PMU/GSC/2025-26 FOR THE
PROCUREMENT OF 23 SETS OF 132 KV LINE ISOLATORS AND 2 SETS OF
145 KV LINE ISOLATORS]

The Authority received an Appeal filed by M/s EMCO Industries Limited, through its authorised representative "the Appellant" on 15.01.2026 under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to M/s EMCO Industries Limited ("Appellant");



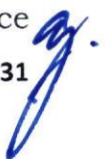
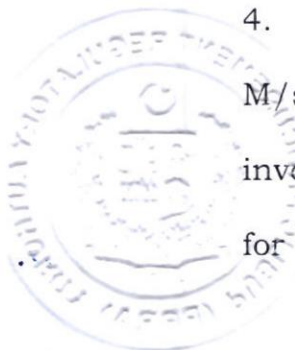
Faisalabad Electric Supply Company (FESCO); M/s Shahzad Enterprises (the “Respondents”), wherein it was directed to appear in person or through their nominated representatives or Counsel before the Authority on 02.03.2026 before the Appellate Committee in the Committee Room of Public Procurement Regulatory Authority (PPRA).

2. On the said date of hearing (02.03.2026), the representatives of the parties, i.e. M/s EMCO Industries Limited “Appellant”; Faisalabad Electric Supply Company (FESCO); M/s Shahzad Enterprises “Respondents” appeared before the Committee and presented their arguments at length. The Respondents provided written arguments to the Committee.

3. In Compliance with the notices issued (i) Mr. Saqib Aziz (General Manager S&M), Mr. Salman Rehman, Mr. Usman Akram Sahi (Advocate), Mr. Rana Amar Asif (Advocate) appeared on behalf of M/s EMCO; Mr. Taimoor Aslam Khan (Advocate), Mr. Sarmad Hussain, Mr. Sarfraz Ahmed, Muhammad Iqbal Javed appeared on behalf of M/s FESCO, Muhammad Hanzala (Advocate), Mr. Arsalan Izhar (Counsel) appeared on behalf of M/s Shahzad Enterprises on the said date of hearing and the subject Appeal was heard at length.



4. The representative of the Appellant submitted that M/s EMCO Industries Limited, established in 1954, has been involved in the manufacturing and supply of electric equipment for transmission, distribution system and substations since



1972. Throughout the decades, the Appellant has been at the forefront to indigenize products for use in the power sector and has been duly recognised as a Local Manufacturer by the Engineering Development Board (EDB) of multiple products, including Disconnect Switches/Isolating Switches. This is evident from the Customs General Order (CGO) which is issued by the Government of Pakistan, and the Appellant has been named as a local manufacturer of Isolating Switches (Air insulated) and Make and Break Switches for voltage up to 145Kv since 2008. Further submitted that from 2006 till current date, the Appellant has secured multiple orders and supplied over 1,500 sets of 132/145Kv Disconnect switches/isolators to multiple Electricity distribution Companies (DISCOs) including PESCO, LESCO, MEPCO, HESCO, QESCO, GEPCO, TESCO, SEPCO, FESCO, IESCO, and NTDC, earning multiple satisfactory performance certificates for disconnect switches/isolators.

5. The representative of the Appellant submitted that in October, 2025, Faisalabad Electric Supply Company (FESCO-Respondent) issued a tender-documents bearing Tender No.NCB-697/FESCO/PMU/GSC/2025-26 for the procurement of 23 sets of 132 KV line Isolators and 2 sets of 145 KV line Isolators. The bid submission date, as extended, was 04-11-2025. The subject tender in accordance with the prevailing law, envisaged and incorporated price preference provisions, as also enumerated in the SRO 827(1)/2001, dated 03-12-2001, (the SRO 827(I)/2001), issued by the Ministry of Commerce, Government of Pakistan.

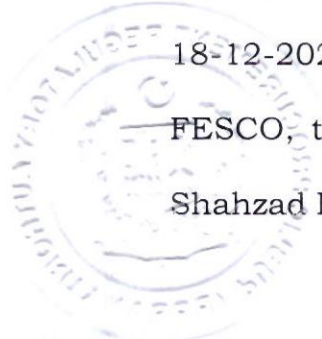
The Appellant submitted its bid on 03-11-2025. The Appellant specifically attached all documents in support of price preference being afforded to it and its eligibility to be extended to the same. Further added that when the bids were publicly opened on 04-11-2025, the prices announced were such that after accounting for the price preference, the Appellant would have been the Most Advantageous Evaluated Bidder. The comparison is as under:

ITEM / LOTS	Description	QTY	EMCO Industries Limited	Shahzad Enterprises
			FCS PKR	FCS PKR
1.	132 KV Line Isolators Series (Unit Price)	23	2,833,000	2,800,000
	Total Value of Item -I		65,,159,000	64,400,000
	Applying Price Preference @	25%		16,100,000
	Compared value of Item-I		65,159,000	80,500,000
	Bid price of EMCO is 23% lesser than Shahzad by applying price preference factor			
2.	132 KV Line Isolators (Unit Price)	2	2,833,000	2,800,000
	Total Value of Item-II		5,666,000	5,600,000
	Applying Price Preference @	25%		1,400,000
	Compared value of Item-II		5,666,000	7,000,000
	Bid price of EMCO is 23% lesser than Shahzad by applying price preference factor			

Bid price of EMCO is 23% lesser than Shahzad Enterprises by applying the preference factor.

Bid price of EMCO is 23% lesser than Shahzad Enterprises by applying the preference factor.

Further submitted that when the final evaluation report dated 18-12-2025 was uploaded on E-PADS website on 21-12-2025 by FESCO, the Respondent wrongly and unlawfully declared M/s Shahzad Enterprises as the Most Advantageous Bidder, evidently



as FESCO did not account for any price preference in terms of the subject tender while evaluating the bids.

6. The representative of the Appellant further submitted that aggrieved of the same, on 22-12-2025, the Appellant filed a formal grievance, vide letter dated 22-12-2025, before the Grievance Redressal Committee of FESCO, against the Evaluation Report under Rule 48(3) of the Rules. A hearing was conducted on 31-12-2025, in which the submissions of the Appellant were elaborated and acknowledged. Further added that on 02-01-2026, a brief decision of the GRC was uploaded on E-PADS, which stated that the request of M/s EMCO Industries Limited Lahore for grant of price preference is not justified, as the subject procurement was neither conducted through International Competitive Bidding nor any International Bidder participated in the competition. No formal decision has still been shared. FESCO vide letter bearing no. 2133/CE.(Dev.)PMU/FESCO dated 09-01-2026, delivered to the Appellant on 12-01-2026, has shared some fact-finding report of the GRC, which claims that the GRC has decided the matter in terms mentioned therein (the GRC decision). Further argued that in the interest of due process and transparency, before approaching any forums of appeal, the Appellant wrote a further letter dated 05-01-2026, indicating the violations of law involved and requested that the tender process be halted. FESCO has till date, not replied to or acted upon this letter, and it is

apprehended that FESCO intends to proceed with the procurement process.

7. The representative of the Appellant further submitted that the GRC decision fails to take into account that the subject tender itself explicitly provided that domestic preference shall be applicable. In this regard, reference is made to Section III of the bidding documents of the Subject Tender which specifies the Evaluation and Qualification Criteria. The starting sentence of Section III expressly provides that in addition to evaluation parameters stated in clause 34 of ITB, the following evaluation criteria and method shall be used for the purpose of evaluation of this tender. Clause 6 of Section III relates to domestic preference and mandates that domestic preference shall be applied in accordance the SRO 827(I)/2001. Clause 6 is reproduced below:

"6. Domestic preference:

Domestic preference shall be applicable in accordance to SRO. 827(I)/2001, dated 03-12-2001 issued by Ministry of Commerce, Government of Pakistan.

In the comparison of evaluated bids, the Goods manufactured in Pakistan, will be granted a margin of preference in accordance with the following procedure that:

- a) The bidder shall have established to the satisfaction of the employer the that manufacturing cost of such Goods include a domestic value addition equal to at least 20% of the ex-factory Bid price of such Goods.



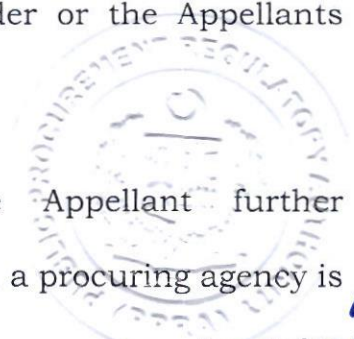
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- b) The saving in foreign exchange is not less than the amount of price preference.
- c) It is ensured that in each case of such preference, the total import requirement for producing the supplies tendered for locally manufactured items has been indicated by the bidders.
- d) Price preference shall be allowed as under:
 - i. Having minimum of twenty per cent value addition through indigenous manufacturing price preference shall be fifteen percent.
 - ii. Having over twenty per cent and up to thirty percent value addition through indigenous manufacturing price preference shall be twenty percent.
 - iii. Having over thirty percent value addition through indigenous manufacturing price preference shall be twenty five percent.

Further submitted that it is clear from the above that while evaluating bids in the subject tender, domestic preference was to be applied. However, in complete disregard, to the requirements of Section III, clause 6, and the SRO 827(I)/2001, FESCO issued the Evaluation Report without applying any domestic preference. The evaluation report and the GRC decision are patently illegal and contrary to the bidding documents and mandatory requirements of the law. The GRC decision does not even mention the above provisions of the subject tender or the Appellants assertions in this respect.

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8. The representative of the Appellant further submitted that as per Rule 23 of the Rules, a procuring agency is



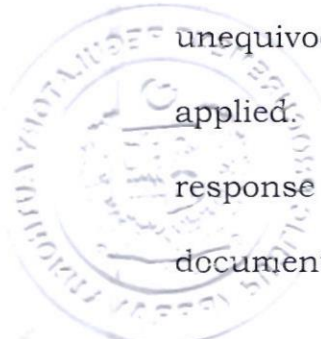
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required to formulate precise and unambiguous bidding documents. The Bidding Documents of the subject tender precisely and clearly indicated in Clause 6 of Section III that “domestic preference shall be applicable in accordance with SRO 827(I)/2001, dated 03-12-2001”. Therefore, disregarding the same while evaluating the bids is unlawful and illegal. The GRC decision is accordingly liable to be declared as illegal and unlawful. Rule 29 of the Rules expressly stipulate that a procuring agency is required to formulate an appropriate evaluation criteria listing all the relevant information against which a bid is to be evaluated. It is further stated that such evaluation criteria shall form an integral part of the bidding documents. Failure to provide for an unambiguous evaluation criteria in the bidding documents shall amount to misprocurement. Rule 29 reads as follows:

“29. Evaluation Criteria:

“Procuring agency shall formulate an appropriate evaluation criteria listing all the relevant information against which a bid is to be evaluated. Such evaluation criteria shall form an integral part of the bidding documents and failure to provide an unambiguous evaluation criteria in the bidding documents shall amount to misprocurement”.

In the present procurement process, the bidding documents unequivocally stipulated that domestic preference was to be applied. On this basis, the Appellant submitted its bid in response to the subject tender and duly appended all relevant documents where in prior instances, such preference had been

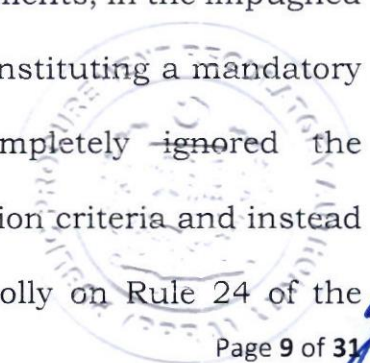


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extended by DISCOs to the Appellant. At the time of public opening of bids, the prices announced were such that, upon application of the prescribed domestic preference, the Appellant would have been declared as the Most Advantageous Evaluated Bidder. However, contrary to the express evaluation criteria, which was an integral part of the bidding documents, no domestic preference was applied, which is evident from the evaluation report. The said action amounts to disregarding the evaluation criteria, which, under Rule 29 constitutes an integral and binding part of the bidding documents. The Respondent has acted in violation of Rule 29 of the Rules, rendering the Evaluation Report and GRC decision unlawful. Violation of any of the Rules in the procurement process including Rule 29 of the Rules makes the evaluation Report and the GRC decision liable to be set aside in light of the jurisprudence of the Superior Courts of Pakistan. Reliance is placed on the judgement titled Messrs Muhammad Hanif and Co. Versus Chief Engineer North, PAK PWD and 3 others (2023 CLC 443).

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9. The representative of the Appellant further submitted that the GRC, while deciding on the Grievance filed by the Appellant, has failed to discuss, mention or even refer to Clause 6 of Section III of the bidding documents, in the impugned GRC decision. Despite the said clause constituting a mandatory evaluation requirement, the GRC completely ignored the obligation to apply the prescribed evaluation criteria and instead erroneously sought to place reliance wholly on Rule 24 of the



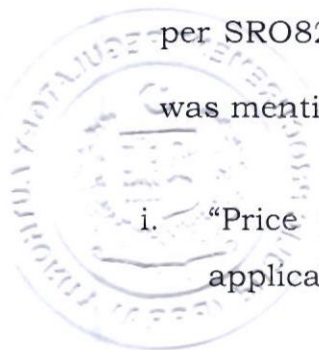
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Rules, which is not applicable to the present matter. In this regard, paragraph 3 of SRO 827(I)/2001, which is relevant and expressly mandates price preference to be applied, is reproduced as under:

3. *“ Price preference to be accorded.: Only in cases of procurement by the government and in case of procurement by other public sector agencies, bidders tendering for engineering goods produced in Pakistan shall be accorded a price preference in rupees up to a specific percentage (in proportion to the value addition) of the lowest quoted landed cost of an item of foreign origin with similar specifications as mentioned in the tenders.*

10. The representative of the Appellant contended that a bare perusal of the aforesaid provisions makes it abundantly clear that the “preference” mentioned under Rule 24 of the Rules is conceptually and legally distinct from the price preference mentioned under SRO827 (I)/2001. The GRC, however, failed to appreciate this crucial distinction. The Respondent/GRC not only failed to correctly understand and apply the relevant statutory provisions and bidding documents, but also acted in a manner that is arbitrary, unreasonable, and contrary to settled principles of public procurement law. The Appellant through various communications including letter dated 10-11-2025, to FESCO, reminded and highlighted that it had to apply price preference as per SRO827 (I)/2001 in the subject tender. In the said letter, it was mentioned that:

i. “Price preference on domestically manufactured goods is applicable in subject FESCO Tender. As per directive of Power





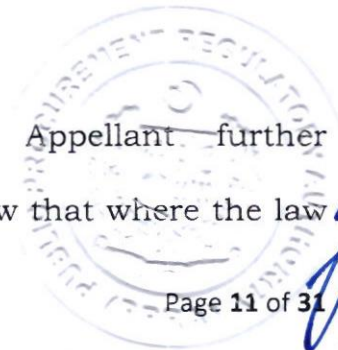
Planning Monitoring Company through letter dated 30-03-2002, SRO827 (I)/2001 and EDB Letter dated 10-10-2022, which are being make it mandatory to apply price preference on locally manufactured products”.

- ii. The Appellant is doing 55% local value addition in the subject items and EDB has declared that the Appellant is doing more than 30% value additions in manufacturing of the subject items, and as a result, the same is eligible for price preference of up to 25% as per the SRO 827.
- iii. Evaluation Reports from various DISCOs showed that price preference to the Appellant was given over the other bidder who offered imported equipment. These documents were also provided to FESCO in the Appellant’s bid submission. Further added that the subject items being offered by Shahzad Enterprises is imported from China and is not manufactured locally.
- iv. A price comparable table showed the bid prices of each bidder after applying price preference. After its application, the bid price of the Appellant gets 23% lesser than the bid price of Shahzad. The subject items in the subject tender are listed in the CGO-03-2024(at Sr. No. 986), CGO-04-2022 (at Sr. No. 929), etc. and EMCO is the local manufacturer of the same.

Despite reminding FESCO of the above mandatory requirements, no weightage was given to Appellant’s lawful request of applying price preference as per SRO827 (I)/2001 in the evaluation process of bids. These matters are also not discussed in any capacity in the GRC decision.



11. The representative of the Appellant further submitted that it is a settled principle of law that where the law



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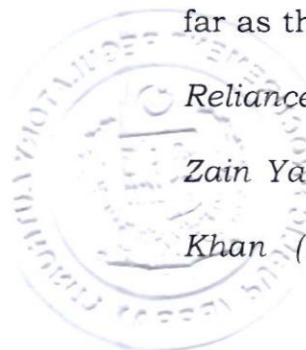
prescribes that a particular act must be performed in a particular manner, it must be done strictly in that manner; any deviation constitutes non-compliance with the legislative intent. *Reliance is placed on the judgement Secretary, Ministry of Finance, Finance Division, Government of Pakistan and others versus Muhammad Anwar (2025 SCMR 153).*

Further added that it is a settled principle of law that any superstructure built on sham base cannot be sustained. Any such superstructure is liable to be struck down. In the present case, since the evaluation process was based on misreading and non-reading of the law and the mandatory evaluation requirements, the resulting declaration of Shahzad Enterprises as the most advantageous evaluated bidder cannot be upheld and is accordingly liable to be set aside. Reliance is placed on the judgements titled Muhammad Rashid Khan Versus Muhammad Wajahat Ameer Khan and others (2023 CLC 1750), Ghulam Mustafa Lund Versus National Accountability Bureau (PLD 2024CSC 54), and Mst. Nawab Bibi Versus Hakim Ali and others (2024 CLC 895).

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12. The representative of the Appellant further submitted that even cases involving departmental appeals were covered by Section 24-A of the General Clauses Act, 1897 in so far as they attract quasi-judicial functions.

Reliance is placed on the judgements of the Supreme Court titled Zain Yar Khan Versus the Chief Engineer, C.R.B.C. WAPDA, D.I. Khan (1998 PLC(C.S.) 1484), Secretary Ministry of Health,



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*Government of Pakistan, Islamabad Versus Dr. Rehana Hameed
(2010 SCMR 511).*

The GRC decision is directly in violation of Section 24-A of the General Clauses Act, 1897, which clearly necessitates that public authorities must exercise reasonably, fairly, justly and provide reasons for the orders / direction. FESCO has failed to adhere to the evaluation criteria and mandatory requirements of law, particularly the SRO827(I)/2001, and to provide a reasoned decision.

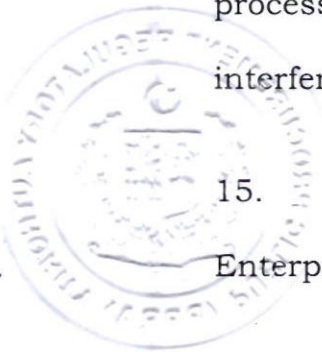
13. The representative of the Respondent (M/s Shahzad Enterprises) submitted that the Appellant's entire course of action, from the filing of the initial grievance to the present appeal, constitutes an abuse of process. The apparent objective is to obstruct the legitimate bidding process and impeded the procuring agency from awarding the contract, particularly in view of the undisputed fact that the Appellant did not emerge as the lowest evaluated bidder.

14. Further submitted that the tender in question was floated as National Competitive Bidding, not International Competitive Bidding, and no international bidder participated. The domestic preference under the SRO and Rule 24 of the PPRA Rules is inapplicable, as correctly held by the GRC. The PPRA Rules, being the later and specific legislation enacted in 2004 (and the said Rule in 2021 through amendment) under the Public Procurement Regulatory Authority Ordinance, 2002, prevail over

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the SRO issued in 2001 in case of any conflict, as established in judicial precedents where it was held that subordinate legislation like SROs cannot override statutory rules or enactments. The bidding documents, including Clause 6 of Section III, cannot expand or contradict the scope of the PPRA Rules, as Rule 4 mandates that all procurements shall be conducted in accordance with the Rules, and any inconsistency in bidding documents must yield to the statutory framework. The Evaluation Report dated 18-12-2025 and the GRC decision are reasoned, transparent, and in accordance with law. The Appellant's reliance on Clause 6 of Section III of the Bidding Document is misplaced, as said clause is subject to the primary framework of Rule 24 (2), which limits price preference to scenarios involving international competition. The bidding documents cannot confer rights beyond the PPRA Rules, and any purported incorporation of the SRO must be interpreted restrictively to align with Rule 24(2), which clearly intends preferences only in International Competitive Bidding contexts, not National Competitive Bidding. Respondent No. 2 (M/s Shahzad Enterprises), having been declared as the Most Advantageous Evaluated Bidder on the basis of the lowest evaluated cost without any preference, has a vested right in the process, including the issuance of purchase order, and any interference would cause irreparable loss.

Shahzad



15.

The representative of the Respondent (M/s Shahzad Enterprises) further submitted that the Appellant's alleged local

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manufacturer status, granted by the Engineering Development Board (EDB) via certificate dated 17-02-2025, is contested on the ground of importing Semi-knocked down (SKD) components from China while availing exemptions under the 5th Schedule of the Customs Act, 1969, by declaring the items as not locally manufactured. This dual benefit (price preference in tenders and duty exemptions) harms the national exchequer and contradicts the Appellant's claim, as highlighted in custom cases filed by entities like M/s MK Engineering Works. The pending Sindh High Court matters (SCR No. 304 of 2025 and 305 of 2025) renders the Appellant's status sub-judice. Specifically, the Customs Appellate Tribunal, in its amended rectification order dated 06-02-2024 in Customs Appeal No. K-7376/2021, allowed the rectification application and declared the EDB's certification of the Appellant (EMCO) as a local manufacturer null and void, finding that EMCO does not manufacture the components parts locally but imports them in SKD form and assembles them, without producing evidence of local manufacturing. This Rectification Order was challenged by EMCO in Special Customs Reference (SCR) No. 304/2025 (C.M. No. 1289/2024 for interim relief) before the Sindh High Court, where the stay order has been vacated, thereby allowing the Tribunal's order to take effect without interim suspension. As per Section 10 of the Code of Civil Procedure, 1908 (res sub-judice principle), and judicial precedents it was held that no Court or forum shall proceed with a matter substantially in issue if it is pending before a competent

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