



No. PPRA/AP-10/2025
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 Trace Engineering & Consultant

...the "Appellant"

Vs.

Gujranwala Electric Power Company (GEPCO), etc.

...the "Respondent(s)"

Dates of Hearing	Mr. Nasir Mahmood (Executive Director) Mr. Junaid Ashraf (Deputy CEO) (On behalf of Appellant)
30.07.2025	
25.06.2025	
29.04.2025	Barrister Qasim Duggal, Mr. Muhammad Azam Malik (Advocate), Mr. Hamaad Ayub (DM, PS&C), Mr. M. Saleem, Mr. Imran Tufail (Addl. Manager) (On behalf of Respondent i.e.,)

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004 [AGAINST THE ILLEGAL DECLARATION OF TRACE ENGINEERING & CONSULTANT FROM "RESPONSIVE" TO "NON-RESPONSIVE" DURING THE BIDDING PROCESS REGARDING TENDER NO.CE/DEV/GEPCO /PMU/T&G/2024-25/NCB-STG-17 OPENED ON 17-11-2024 AT 11 AM [PROCUREMENT OF 200KV CAPACITOR CELLS]]

The above mentioned learned counsel(s) and representative(s) of the parties tendered appearance before the Appellate Committee and furnished their arguments at length.

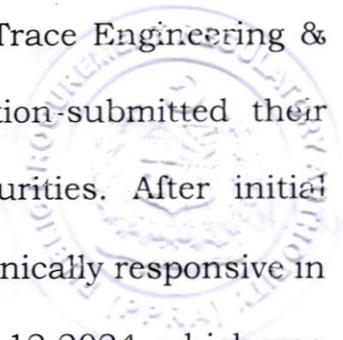
2. At the very outset, the learned representative of the appellant i.e., M/s Trace Engineering & Consultant submitted that the Manager (Procurement) PMU, GEPCO (the respondent) advertised the tender in question through Single Stage Two Envelope procedure. The bid opening date of the tender was 07.11.2024 at 11:00 am. As per the appellant's stance, they submitted the bid within the stipulated time and only two bidder participated in the said tender i.e.,
i) M/s Trace Engineering & Consultant, Lahore, and,
ii) M/s Mighty Corporation, Lahore.

3. The representative of the appellant also submitted that the Evaluation Committee of the respondent (GEPCO) declared the Appellant as "Responsive" vide its Technical Evaluation Report dated 04.12.2024. In the same report, M/s Mighty Corporation, Lahore was also declared as "Responsive".

4. The representative of the appellant further submitted that, M/s Mighty Corporation submitted a letter dated 05.12.2024 requesting the constitution of a GRC. However, the respondent (GEPCO) instead of notifying the GRC, internally reviewed the above-mentioned letter and silently declared the Appellant as "Non-Responsive". The said decision was notified to the Appellant vide letter dated 27.01.2025 unilaterally, and accordingly a second Technical Evaluation Report was uploaded on 27.01.2025 at GEPCO's website.

5. The representative of the appellant further added that they wrote a letter dated 27.01.2025 and requested the respondent for constitution of GRC, which was subsequently constituted on 30.01.2025, with a meeting scheduled for 03.02.2025. According to the appellant, their representative attended the said meeting / hearing however, they were not afforded a fair opportunity to present their case. The respondent (GEPCO) proceeded with the bidding process without duly considering the justifications provided by the appellant, despite their compliance with the qualification criteria. Consequently, the appellant's grievance petition was dismissed by the GRC, leading to the filing of the present Appeal.

6. On the other side, learned counsel of the respondent i.e., Gujranwala Electric Power Company (GEPCO) submitted that they issued a Tender Notice (Invitation for Bids) under Tender No. CE/DEV/GEPCO/PMU/T&G/2024-25/NCB-STG-17 for the procurement of 200 KVAR Capacitor Cells, to be opened on 07.11.2024 through open competitive bidding as per the Single Stage-Two Envelope procedure in terms of Rule 36(b) of the Public Procurement Rules, 2004. In response to the said advertisement, two firms M/s Trace Engineering & Consultants and M/s Mighty Corporation submitted their bids along with the required bid securities. After initial scrutiny, both bidders were declared technically responsive in the Technical Evaluation Report dated 04.12.2024, which was



duly uploaded on GEPCO's website in compliance with Rule 35 of the said Rules.

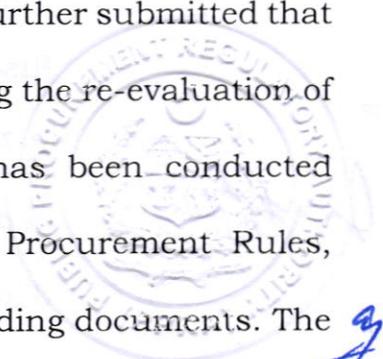
7. The counsel of the respondent also submitted that the respondent received a letter dated 15.12.2024 from one of the bidders M/s Mighty Corporation, raising objections to the technical responsiveness of M/s Trace Engineering & Consultants. It was pointed out that as per Section-III, Clause 11.1 of the experience in manufacturing / supply and three (03) years of satisfactory operational service of the offered equipment. M/s Mighty Corporation contended that M/s Trace Engineering was quoting 200 KVAR capacitors manufactured by M/s Shandong Taikai Power Electronics Co., Ltd., China, which manufactures internally fused capacitors. As per the relevant NTDC Specification No. P-78:2010, only externally fused capacitors are permissible. Furthermore, M/s Trace Engineering had provided an undertaking to conduct fresh type testing, which amounted to an admission that the offered product did not fulfill the required operational experience criteria. The same capacitors had been declared non-responsive by MEPCO, QESCO, and SPECO for failing to meet similar technical criteria.

8. The counsel of the respondent further submitted that, upon receipt of this objection / complaint, the Respondent revisited the evaluation process and initiated re-evaluation in light of the grievance. The matter was formally

reopened on 19.12.2024, and after due scrutiny, the Evaluation Committee re-assessed the technical credentials of the Appellant. Thereafter, vide letter dated 27.01.2025, M/s Trace Engineering & Consultants was informed that upon re-evaluation, their bid had been declared technically non-responsive. The decision was based on the failure to fulfill the three-year satisfactory operational service requirement as per Clause 11.1 of the Bidding Documents. The Appellant was also requested to collect the bid security accordingly.

9. The counsel of the respondent also submitted that, being aggrieved by the re-evaluation, the Appellant submitted a grievance letter dated 27.01.2025 to the respondent, which was duly addressed by the Respondent through a comprehensive reply dated 19.02.2025. It was clarified therein that the re-evaluation was carried out in light of the directions issued by GEPCO's Grievance Redressal Committee (GRC) pursuant to the legitimate and timely grievance raised by M/s Mighty Corporation under Rule 48(3) of the PP Rules, 2004. The GRC found merit in the points raised and directed the re-evaluation of the bid.

10. The counsel of the respondent further submitted that the entire procurement process, including the re-evaluation of the bid submitted by the Appellant, has been conducted strictly in accordance with the Public Procurement Rules, 2004, and the relevant clauses of the bidding documents. The

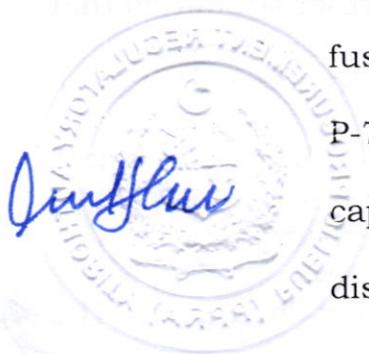


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re-evaluation was necessitated by legitimate concerns raised by another participating bidder, which were found to be relevant and directly related to the evaluation criteria.

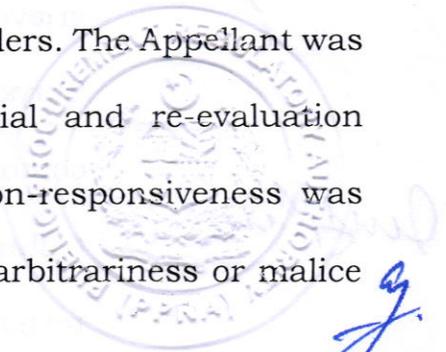
11. The counsel of the respondent also submitted that the Evaluation Committee and Grievance Redressal Committee (GRC) of the respondent acted within their lawful authority under the PP Rules, 2004. The GRC's direction for re-evaluation was not based on any mala fide intention but solely to ensure adherence to the principles of transparency, fairness, and equal opportunity in the procurement process. Moreover, the Appellant's assertion that it has been unfairly declared non-responsive is without merit. As per the bidding documents, Section-III, Clause 11.1, it was mandatory for the bidder manufacturer to provide evidence of at least 3 years of satisfactory operational performance for the offered equipment. The undertaking to perform fresh type tests is a clear admission that such operational history does not exist, thereby rendering the Appellant non-compliant with the mandatory requirement.

12. The counsel of the respondent further added that the Appellant's offered product i.e., 200kVAR capacitor (internally fused type), does not conform to NTDC Specification P-78:2010, which specifically requires externally fused capacitors. The offered item was previously rejected in other distribution companies (DISCOs) on the same grounds. The



reference to its rejection by MEPCO, QESCO, and SPECO serves as further evidence of its non-compliance with the technical and operational requirements. Further submitted that, the grievance raised by M/s Mighty Corporation was submitted within the time period stipulated under Rule 48(3) of the PP Rules, 2004 and was thus entertained lawfully, as per the established principles, a procuring agency is duty-bound to address all genuine grievances raised during the procurement process and rectify any errors or omissions in evaluation, if found.

13. The counsel of the respondent also submitted that the Respondent had no vested interest in declaring any bidder as responsive or non-responsive. The procurement process was carried out impartially in the public interest, strictly in line with the PP Rules, and in accordance with the evaluation criteria defined in the bidding documents. Moreover, the Appellant, having failed to meet the mandatory criteria of the bidding documents, cannot now claim any legal right to have its bid accepted. The PP Rules do not permit waiver of essential eligibility or technical requirements, and any deviation from the same would amount to violation of procurement laws and cause discrimination against other bidders. The Appellant was given due consideration during initial and re-evaluation stages. The final determination of non-responsiveness was purely on technical grounds, with no arbitrariness or malice involved.



14. At the last, the counsel of the respondent further argued and submitted that the Appellant lacks clean hands before this Authority, having knowingly participated in the bidding process while offering a product that did not meet the mandatory technical and operational requirements. The self-admission in the form of an undertaking to perform a fresh type test for externally fused 200kVAR capacitors itself disqualifies the Appellant under the bidding documents. Moreover, the Appellant has concealed material facts by failing to mention that the same product has been previously declared non-responsive by multiple DISCOs including MEPCO, QESCO, and SPECO. This non-disclosure further disentitles the Appellant from any equitable relief, hence request for dismissal of the instant appeal.

15. After perusal of all relevant record and arguments made by both the parties, the Appellate Committee observed that the procurement called in question was carried out under the **Single Stage Two Envelope Procedure** in terms of **Rule 36(b)** of the Public Procurement Rules, 2004. Initially, both participating bidders were declared technically responsive by the Evaluation Committee. However, pursuant to a written grievance raised by the competing bidder i.e., M/s Mighty Corporation highlighted specific concerns regarding the conformity of the appellant's offered product with the technical requirements, therefore, the procuring agency revisited the evaluation.

16. The Committee also observed that as per **Section-III, Clause 11.1** of the Bidding Documents, it was mandatory for bidders to demonstrate at least five (05) years of relevant experience in manufacturing / supplying the equipment and a minimum of three (03) years of satisfactory operational service of the offered equipment. Furthermore, the NTDC Specification No. **P-78:2010** expressly mandates that **externally fused capacitors** must be offered. However, in the instant case, the appellant i.e., M/s Trace Engineering & Consultant, offered 200 KVAR capacitors manufactured by M/s Shandong Taikai Power Electronics Co., Ltd., China, which are **internally fused**. Moreover, the appellant submitted an undertaking to carry out fresh type testing, which indicates that the offered equipment lacked the required operational history. Therefore, the offered equipment failed to meet the essential technical specifications and operational experience criteria.

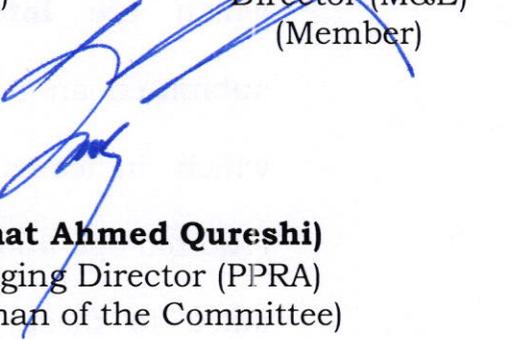
17. The Committee also refers to **Rule 30(1)** of the PP Rules, 2004, which mandates that **“all bids shall be evaluated in accordance with the evaluation criteria and other terms and conditions set forth in the prescribed bidding documents”**. As the appellant's offered product failed to meet the prescribed specifications and operational service criteria, the Evaluation Committee acted within the limits of the procurement rules in declaring the bid of the appellant as non-responsive.

18. Based on the foregoing, the Appellate Committee is of the considered view that the procuring agency's decision to declare the appellant as technically non-responsive is in accordance with the Public Procurement Rules, 2004, and the terms of the bidding documents.

19. For what the reasons and observations mentioned above, the appeal in hand is hereby **dismissed** being devoid of merits and disposed of accordingly.


(Dr. Muhammad Aslam Waseem)
Director General (Legal)
(Member)


(Sheikh Afzaal Raza)
Director (M&E)
(Member)


(Hasnat Ahmed Qureshi)
Managing Director (PPRA)
(Chairman of the Committee)

Each page of the order has been signed by all members of the Appellate Committee. The order comprises of ten (10) pages.

