



No. PPRA/AP-13/2025
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 Kashmir Pharmacy

...the "Appellant"

Vs.

Government of Pakistan through Secretary Defence and Others

...the "Respondent"

Date of Hearing	Mr. Shaukat Ali Joyia (Advocate)
12.08.2025	<i>(On behalf of Appellant)</i>
	Mr. Shuja Ullah (Advocate)
	<i>(On behalf of Respondent No.02 i.e., PEMH)</i>

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004
[AGAINST THE IMPUGNED PUBLICATION DATED 19-03-2025, FOR RE-
TENDER]

The above mentioned learned counsel(s) of the parties tendered appearance before the Appellate Committee on the date of hearing fixed.

2. At the very outset, the learned counsel of the appellant i.e., M/s Kashmir Pharmacy submitted that their firm is working as LP Contractor in Government, Semi Government and Army Hospitals / institutions having best past performance. The Appellant has a spotless carrier during

the performance of all awarded contracts from all institutions including the institution of the Respondent No.2 i.e., Pak Emirates Military Hospital, Rawalpindi.

3. The counsel of the appellant also submitted that, the tender for daily LP Medicines of Pak Emirates Military Hospital, Rawalpindi for year 2025-2026 was published on 19.03.2025 in daily Jang Rawalpindi newspaper. The last date of submission of the tenders was 10.04.2025. The Appellant purchased the bidding documents, against Rs.15000/- for participation in the said tender.

4. The counsel of the appellant further submitted that they reviewed the bidding documents and found that some difficult terms and conditions included which are against Rule 32 and Rule 4 of the Public Procurement Rules, 2004 ("PP Rules, 2004") . The Appellant further observed some difficult and discriminatory conditions which were also added in the evaluation criteria of the tender documents.

5. The counsel of the appellant further added that, in this way, only one favorite Company will be able to fulfil the criteria of this tender, which leads to high rates and loss of billions of rupees to the public exchequer in the tenders of all 36 CMHs and PEMH in the country. In this way there is apprehension for unemployment in Public at Large and closing the door of the business of the petitioner which is

against the article 18 of the Constitution of Pakistan 1973. Moreover, in the last year of 2024-2025, the tender was awarded to the highest bidder through this criteria, resultantly the public exchequer has to bear a loss of 2 billion of rupees approximately. Furthermore, the impugned Bidding documents issued by the respondent No.2 are against the PPRA Ordinance 2002 as well as the PP Rules, 2004. Therefore, being aggrieved, the Appellant filed the instant Appeal.

6. On the other side, before entering into detailed arguments, learned counsel of the respondent no. 2 i.e., Pak Emirate Military Hospital (PEMH) raised preliminary objections regarding the instant appeal and submitted that the titled Appeal is not maintainable and is liable to be dismissed as the first forum of remedy under Rule 48(2) of Public Procurement Rules, 2004 was not exhausted by the appellant. Moreover, the Appellant filed a frivolous complaint to disrupt the smooth public tender process of Daily LP 2025-26 involving time bound financial implications in search for a stay order in bad faith.

7. The counsel of the respondent no. 2 also submitted that, on 07.03.2025, PEMH had issued an original tender (hereinafter referred to as the "First Tender"), which was subsequently published on 10.03.2025 on the PPRA website and in two national newspapers (one in English and one in

Urdu). Two parties initially purchased the tender documents, however, out of those two, only one party proceeded to submit a bid. Hence, the sole bidder was left without competition. In view of the limited response and in the interest of ensuring transparency and fair competition, the Pak Emirate Military Hospital (PEMH) decided to republish the tender (hereinafter referred to as the "Re-Tender") to attract a broader pool of bidders and to secure competitive bids.

8. The counsel of the respondent no. 2 further submitted that the appellant filed the subject appeal before this Authority, challenging the eligibility criteria of *first tender*, whereas, the same was already re-tender and issued on 22.04.2025 vide Tender No TS560924E on PPRA website, with the closing date set for 09.05.2025. Following the closure of the bidding process and the date of hearing before the Authority supra, an undated written complaint was received by the GRC of the Respondent No. 2 via postal mail from Kashmir Pharmacy which was received by the office of Respondent No. 2 on 15.05.2025, right after the deadline for submission of bids of re-tender which had already lapsed.

9. At the last, the counsel for Respondent No. 2 stated that since the tender, which forms the basis of the instant appeal, has already been scrapped by the procuring agency, therefore, the Appellant is left with no subsisting cause of action and possesses no lawful ground to agitate the matter

before this Committee, hence, requested for dismissal of the instant appeal.

10. After perusal of relevant record and preliminary arguments made by both the parties, the Committee observed that, as the said tender has already been scrapped by the procuring agency, therefore, the cause of action against the first tender has become infructuous. The re-tender has been issued afresh with extended participation opportunity. The Appellant neither participated in the re-tender nor raised timely objections against the re-issued documents prior to the bid submission deadline.

11. In light of above, the appeal in hand is hereby **dismissed being infructuous** and disposed of accordingly.



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



(Sheikh Arzaal 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 five (05) pages.

