



No. PPRA/RP-02/2025
Government of Pakistan
Public Procurement Regulatory Authority
(Appeal & Review Petition Secretariat)
1st Floor, FBC Building, G-5/2, Islamabad

<><><>

ORDER

M/s I.H. Malik & Co (Pvt.) Limited

...the "Petitioner"

Vs.

Multan Electric Power Company (MEPCO), etc.

...the "Respondent"

Date of Hearing	Syed Khawar Ameer Bukhari (ASC), Mr. Malik Shoaib (CEO), (On behalf of Petitioner)
13.05.2025	Mr. Saifullah Kaleem (XEN GSC), Barrister Malik Kashif Rajwana (On behalf of Respondent)

REVIEW PETITION UNDER RULE 19(3) OF THE PUBLIC PROCUREMENT RULES, 2004

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

2. At the very outset, learned counsel of the petitioner submitted that they filed Constitutional Writ Petition No.2232 of 2025 before the Hon'ble Lahore High Court, Multan Bench, Multan, praying therein that the impugned orders dated 02.01.2025 and 13.01.2025 passed by respondent No.3 and impugned letter dated 26.02.2025 issued by respondent No.4 may very kindly be declared illegal, ultra vires to Rule 19 of the Public Procurement Rules, 2004 and mechanism for

Blacklisting and Debarment of Bidders or Contractors Regulations, 2024 be set aside.

3. The counsel of the petitioner also submitted that the said writ petition came up for hearing before the Hon'ble Court, wherein, the Court passed an order dated 04.03.2025, the operative part of the said order is as follow:

“4. Admittedly, the Rules provide alternate remedy to the petitioner against the blacklisting within a period of 30-days from the date of communication of the order. This period appears to have expired. When confronted, learned counsel for the petitioner submits that the order of blacklisting was received alongwith the impugned letter dated 26.02.2025 issued by respondent No.4. This court is of the opinion that remedy under Rule 19(3) of the Rules read with Regulation No. 10 of the Regulations is efficacious. Therefore, this petition is disposed of with the observation that the petitioner may file review petition while challenging the impugned blacklisting order within the next 07-days alongwith application for grant of interim relief. If such an application is filed within the next 07-days and is taken up by the Review Committee, till such time that an order is passed on the said review petition, no adverse action whatsoever shall be taken against the petitioner”.

4. The counsel of the petitioner further submitted that the Hon'ble High Court has directed the petitioner to approach to this Authority / Committee within seven days vide order dated 04.03.2025, therefore, this review petition is well within time.

5. While arguing brief facts of the case, the counsel of the petitioner submitted that the respondent i.e., Multan Electric Power Company (MEPCO) floated tenders notices in national wide newspaper for hiring of contractors/firm/company for the “construction of residential colony including allied facilities at 132 KV Grid Station, Fatima Jinnah town, Multan (deposit work)” through work order bearing Memo No.7113-16/PD(GSC)/Works dated 01.11.2021. The project was completed on 10.01.2024 by the petitioner/contractor in all respects, however, up till now, the remaining payment about



29 million rupees of the work done by the petitioner has not been made to the petitioner. It is necessary to mention here that through letter dated 01.11.2021, the petitioner also sought confirmation of completion of work from the Project Director (GSC) Division MEPCO, Multan.

6. The counsel of the petitioner also submitted that through another work order bearing Memo No.5053-56/PD(GSC)Works dated 15.09.2023 for "construction of equipment foundations and allied works of 132 KV switch yard and control house building for conversion work from 66 KV to 132 KV Grid Station Dajal under MEPCO own resources". The petitioner has executed more than 50% work at the spot, however, up till now, no payment of the work done has been made to the petitioner/contractor.

7. The counsel of the petitioner further submitted that they also participated in Tender No.PK-MEPCO 387545-CW-RFB with regard to Procurement of Supply, installation, testing and commissioning for rehabilitation of 70 No.HT Feeders and the petitioner was declared lowest bidder. However, the then Engineer (Dev) PMU demanded an amount of PKR 02 million in cash with the guarantee that he would ensure the issuance of the work order and the petitioner acting in good faith to avoid delay in issuance of work order arranged the amount, however, despite fulfilling his demand the work order was cancelled, so, the petitioner requested for return of his amount but he refused, upon which, the petitioner moved an application to CEO, MEPCO, Multan, upon which inquiry committee meeting was held on 02.01.2025 but the same has not been finalized.

8. The counsel of the petitioner further added that the filing of the said application and inquiry, the petitioner was felt ill by Chief Engineer (Dev) PMU and he without due course of law vide order dated 02.01.2025 blacklisted the firm of the petitioner/contractor without jurisdiction and being not

competent and in continuation of order dated 02.01.2025, Chief Engineer (Dev) PMU vide order dated 13.01.2025, the period of blacklisting of firm of the petitioner was held three years from 02.01.2025.

9. The counsel of the petitioner further argued that the Project Director of the respondent has illegally issued a letter dated 26.02.2025 to the bank, for forfeiting bank guarantee dated 29.05.2023 and bank guarantee dated 30.08.2023 with request to transfer the same to MEPCO account, besides another bank guarantee dated 02.01.2024.

10. Furthermore, the counsel of the petitioner also submitted that the impugned orders regarding blacklisting/debarring alongwith imposition of penalties and cost was done by Chief Engineer (Dev) PMU without issuance of a proper Show Cause notice, as required under Rule 19(1) of the Public Procurement Rules, 2004 read with clause 11 of the Multan Electric Power Company (MEPCO) Debarment Procedure and not affording the opportunity to the petitioner to reply or to be heard, therefore, the impugned blacklisting/debarring letter and orders are unlawful, illegal. Moreover, the counsel of the petitioner submitted that the impugned orders of blacklisting / debarring and imposition of penalties was done by the respondent without exhausting the forum of Arbitration as is mandatory under Rule 19(1)(b) of the Public Procurement Rules, 2004 read with Rule 49 of the same.

11. At the last, the counsel of the petitioner further submitted that the Chief Engineer (Dev) of the respondent has no jurisdiction and competent to blacklist any firm, the impugned decisions are not only contravened, established norms but also demonstrates clear misuse of the authority, warranting immediate intervention by this Hon'ble Authority. The allegations leveled against the petitioner company are fabricated and are devoid of procedural integrity, hence, the



impugned orders dated 02.01.2025 and 13.01.2025 and letter dated 26.02.2025 have been issued illegally and without any legal justification, which are liable to be set aside.

12. At the very last, the counsel of the petitioner further added that, vide Notification dated 28.03.2024, the Public Procurement Regulatory Authority has made the "Mechanism for Blacklisting and Debarment of Bidders or Contractors Regulations, 2024", according to which the blacklisting order means a formal administrative order issued by the procuring agency after adopting all the codal formalities in accordance with Rule 19 of the Public Procurement Rules, 2004, however, Chief Engineer (Dev) PMU prior to passing the impugned orders, was not adopted the procedure provided under Rule 19 *ibid*, on this score alone, the impugned order is liable to be set aside. Moreover, the impugned order of blacklisting / debarring and imposition of penalties was done by the respondent without exhausting the forum of Arbitration as is mandatory under Rule 19(1)(b) of the Public Procurement Rules, 2004 read with Rule 49 of the same Rules, therefore, impugned orders are illegal, and are liable to be cancelled / set aside.

13. On the other hand, learned counsel of the respondent i.e., Multan Electric Power Company (MEPCO) denied all the assertions made by the counsel of the petitioner and raised preliminary objections regarding the maintainability of the instant review petition. The counsel of the respondent argued that the subject petition is time barred as provided under Rule 19(3) of the Public Procurement Rules, 2004. Hence, liable to be dismissed on this ground.

14. The counsel of the respondent submitted that the petitioner i.e., M/s I.H. Malik & Co. Multan (blacklisted firm) filed writ petition No. 2232 of 2025 before the Hon'ble Lahore High Court, Multan Bench on fallacious and misleading assertion and submitted false affidavit to support it (misstatement by counsel of the petitioner before Hon'ble Court

that blacklisting order was received on 26.02 2025 instead of 08.01.2025).

15. The counsel of the respondent also submitted that the work for "Construction of residential colony including allied facilities at 132KV Grid Station Fatima Jinnah Town, Multan" was awarded to petitioner vide Work Order No. 7113-16 dated 01.11.2021 with completion period 180 days and effective date notified as 04.11.2021 leading to completion date as 02.05.2022. The work is still incomplete after expiry of more than 1000 days and contractor representation to PPRA is absolutely incorrect and is negated with full force. The department issued series of notices to the petitioner for timely completion of work and rectification of existing divergences due to execution of substandard work which is evident from the below noted table.

Sr.#	Notice No. & Date	Subject
1.	No.431-33 dt: 05.06.2023	Work inordinately delayed and completion of facilities
2.	No.114-16 dt: 03.08.2023	Completion of facilities and pending works
3.	Sub Engineer letter dated 18.09.2023	A. CAT-V Remaining Works=22 Nos. B. CAT-IV Remaining works=21 Nos. C. CAT-III Remaining works- 20 Nos. D. Allied Civil Works Remaining= 18 Nos.
4.	No. 216-17 dt: 06.10.2023	Completion of remaining works
5.	No.262-66 dt: 06.10.2023	Completion of remaining works
6.	No.490-92 dt: 07.05.2024	Completion of remaining / pending works
7.	No.503-05 dt: 15.05.2024	Completion of remaining works
8.	No.563-67 dt: 05.06.2024	Completion of remaining works
9.	No.2509-10 dt: 25.06.2024	Completion of pending works
10.	No.61-63 dt: 12.11.2024	Completion of pending works
11.	Final Notice No.189-99 Dt: 27.11.2024	Completion of pending works

16. The counsel of the respondent further submitted that, an enquiry committee was constituted to assess the volume of remaining work in accordance with BOQ and the committee has calculated the amount of remaining leftover work and substandard work to Rs. 9.54 Million. Moreover, the work for Construction of equipment foundation and allied works and CHB for conversion at 132KV Grid Station MEPCO Dajal was awarded to petitioner vide Work Order No 5053-56 dated 15.09.2023 with completion period 150 days and effective date notified as 27.09.2023 leading to completion date as

23.02.2024. At present, only 20% work has been executed at the site and contractor has wilfully suspended the work. The department issued following series of notices to the petitioner for timely completion of work but petitioner absolutely failed to comply with the instructions of department.

Sr.#	Notice No. & Date	Subject
1.	2287-89 dt: 25.11.2023	Commencement of work
2.	7093-95 dt: 13.12.2023	Commencement of work
3.	7242-44 dt: 26.12.2023	Commencement of work
4.	658-60 dt: 22.02.2024	Commencement of work
5.	995-98 dt: 12.03.2024	Commencement of work
6.	4918-19 dt: 03.06.2024	Slow progress
7.	2486-88 dt: 24.06.2024	To re-start suspended work
8.	968-71 dt: 20.09.2024	To accelerate the pace of work
9.	2448-46 dt: 02.10.2024	To accelerate the pace of work
10.	4557-58 dt: 11.11.2024	Slow progress of work
11.	1711-13 dt: 04.12.2024	Erection of electrical material and completion of project
12.	Final notice vide No.5090-93 Dt: 30.12.2024	Completion of remaining work

17. The counsel of the respondent further added that the petitioner was blacklisted in view of consistent failure to provide satisfactory performance and indulging in criminal breach of trust and on the standing recommendations of government audit. Further added that the Project Director (GSC) MEPCO issued letter dated 26.02 2025 for forfeiture of performance securities of the petitioner in accordance with contract agreement "Remedies & Powers" Clause 58(d). Moreover, the counsel of the respondent also submitted that, regarding the demand of amount of PKR 02 Million in cash by the then Chief Engineer (Dev) PMU MEPCO, it is apprised that the enquiry proceedings through MEPCO officers is underway to conclude the matter. Furthermore, as confessed by the petitioner / contractor for giving bribery amounting to Rs 02 Million that is against the integrity pact submitted by the contractor and against the conditions of contract of the projects mentioned at Sr. No. 2 & 3 at condition no. 67, wherein, it is pointed out that "if the contractor or any of his sub-contractor, agents or servants shall offer or give or agree to offer or give to any person any bribe, gifts, gratuity or commission as an inducement or reward for doing or forbearing to do any action in relation to the contract or

any other contract with the Employer or for showing or for bearing to show favour or disfavour to any person in relation to the contract or any other contract with the employer then the employer may enter upon the site and expel the contractor therefrom and provision of clause 58 hereof shall apply as if such entry and explosion had been made pursuant to that clause."

18. At the last, the counsel of the respondent also submitted that the Chief Engineer (Development) PMU, MEPCO Multan has full jurisdiction and is empowered to blacklist a firm on account of poor performance and criminal breach of trust. The Chief Engineer (Dev) PMU has invoked his powers as conferred under Rule 19(2)(b) of the Public Procurement Rules, 2004. It is pertinent to mention here that in the said both contract agreements no provision of arbitration was available. Moreover, it is also relevant to point out that the MEPCO blacklisting policy was approved in April-2024, whereas, the above mentioned 02 projects have been awarded to the contractor before this approved blacklisting / debar policy and did not include in the contract agreement of said works. Hence, the same approved policy is not implementable against the both contracts. Hence, requested for dismissal of the instant review petition.

19. After perusal of all relevant record and arguments made by both the parties, the Committee observed that, it is a fact that the instant review petition filed on **07.03.2025** in light of the direction of an order dated 04.03.2025 passed by the Hon'ble Lahore High Court, Multan Bench in a writ petition No 2232 of 2025, filed by the petitioner against its blacklisting order dated 02.01.2025 passed by respondent. However, the record reveals that, the petitioner i.e., M/s I.H. Malik & Co (Pvt.) Limited itself wrote a letter no. IHM/MEPCO/595 dated 08.01.2025 to Chief Executive Officer, MEPCO, wherein, they admitted that the blacklisting order received on **08.01.2025** and also raised serious concerns regarding the said blacklisting



order. In this regard, the Committee also observed that the petitioner was bound to file a review petition within thirty (30) days from the communication of the blacklisting order as prescribed under Rule 19(3) of the Public Procurement Rules, 2004 and regulations made thereunder. Therefore, the instant review petition is *time barred*.

20. Further, on the other hand, it is also a fact that the respondent issued a letter dated 01.01.2025 on the subject of "enquiry committee meeting" wherein, the petitioner was directed to attend the said meeting on 02.01.2025. After that, on the next day i.e., 02.01.2025 the respondent department issued letter / Office Order wherein, the petitioner was blacklisted for an undefined period. Later on, the respondent issued another Office Order dated 13.01.2025 in continuation of their previous Office Order dated 02.01.2025 and modified / amended their own order issued previously, and mentioned the period of blacklisting of the petitioner i.e., for three (03) years.

21. In this context, after thorough examination of the relevant record the Committee noticed that the respondent neither issued any Show Cause Notice to the petitioner nor provided any opportunity of hearing to defend himself. Moreover, the respondent department passed the said impugned order dated 02.01.2025, in a hasty manner by violating the spirit of Rule 19 of the Public Procurement Rules, 2004 as well as the principle of natural justice. The Committee also pointed out that the respondent also violated the principle of "***Audi alteram partem***" which means that no one should be condemned unheard.

22. The Committee further noticed that, as per the stance of the respondent, at the time of issuance of said blacklisting order, the respondent department did not have any blacklisting policy / mechanism. Whereas, Rule 19(1) of the Public Procurement Rules, 2004 states that "*the procuring agency shall*

devise a comprehensive mechanism for blacklisting and debarment of bidders for a specified time in accordance with regulations made by the Authority.” It is relevant to mention that the said Rule 19(1) was inserted vide S.R.O. No. 834(I)/2021 dated 28.06.2021, and the respondent was under obligation to follow the same in true letter and spirit, therefore, the justification of the respondent regarding absence of blacklisting policy / mechanism at that time, is not justified.

23. In light of the above, the Committee is of the view that numerous violations have been made by the respondent while passing the said blacklisting order, therefore, the said order seems to be illegal and void. It is relevant to mention here that a principle of limitation against the void order has already been established in a superior court judgment and reliance is made on the judgment titled **Qazi Munir Ahmad Vs. Rawalpindi Medical College and Allied Hospital and others [2019 SCMR 648]** “no period of limitation ran against a void order.” The Honourable Court clarified that a void order, being a nullity, can be challenged at any stage, and the doctrine of limitation does not bar such challenges.

24. The Committee is also of the considered view that, with regard to the alleged fallacious and misleading assertions made by the petitioner and the submission of a false affidavit before the Hon’ble Lahore High Court, Multan Bench, in Writ Petition No. 2232 of 2025, particularly, the claim that the blacklisting order was received on 26.02.2025 instead of 08.01.2025, such conduct, is a serious matter. However, adjudication of such alleged misconduct falls within the jurisdiction of the Hon’ble Court itself, or other competent forums. Similarly, with regard to the petitioner's admission of payment of money amounting to PKR 2 million to the then Chief Engineer (Dev), PMU, MEPCO, for, *prima facie*, some wrongful gain in another procurement process, the Committee noticed

that this constitutes a grave violation and falls under the ambit of corrupt and fraudulent practices.

25. However, on the issue of corruption or misstatements, the respondent, may initiate proceedings against the petitioner and ex-official of the respondent, before the appropriate forum in accordance with the relevant provisions of law falls within the ambit of corrupt and fraudulent practices in addition to the Public Procurement Rules, 2004.

26. Keeping in view the abovementioned reasons as well as in the light of judgment of the Honourable Supreme Court, the **blacklisting orders dated 02.01.2025 and 13.01.2025**, as well as the **letter dated 26.02.2025** issued by the respondent (Multan Electric Power Company - MEPCO), are **hereby declared illegal, void, without lawful authority**, and are accordingly **set aside**. Therefore, the Review Petition is **accepted** and stands **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)

Note: A copy of this order is being forwarded to Director-IT, PPRA, Islamabad) for implementation of this order and to **de-list the petitioner's company i.e., M/s I.H. Malik & Co (Pvt.) Limited** from the list of active blacklisted / debarred firms on PPRA's website.

Each page of the order has been signed by all members of the Review Petition Committee. The order comprises of eleven (11) pages.

22
12
12
12

