



No. PPRA/AP-31/2025
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 Gerry's International (Private) Limited

...the "Appellant"

Vs.

Pakistan Airports Authority

...the "Respondent(s)"

Date of Hearing	Mr. Farhat Abbas Sherazi (Advocate)
22.09.2025	(On behalf of the Appellant)
	Mr. Usama Jamshaid (Advocate), Rana M. Bilal Anwar (DD Legal), Mr. Arsalan Ghous (DD/Member GRC)
	(On behalf of the Respondent)

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004

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 outset, learned counsel for the appellant i.e., M/s Gerry's International (Private) Limited submitted that M/s Gerry's International (Pvt.) Limited, is a company

incorporated over four decades ago and possesses extensive expertise in the hospitality and allied sectors. It operates well-established international brands including IHOP, Costa Coffee (with multiple outlets in Pakistan and approximately 70 outlets in the United Kingdom), Commissaries, and several Premium Lounges, all of which are directly relevant to the subject Tender. In addition, the Appellant is engaged in IT, logistics, international courier services, travel agencies, visa facilitation for 40 diplomatic missions, ground handling, airport ancillary services management, and GSA for passengers and cargo. The Appellant clarifies that its subsidiary, *Gerry's Leisure Plus (Pvt.) Limited*, was established four years ago to manage domestic Costa Coffee outlets, and both entities share identical ownership and directorship, a fact that was expressly disclosed in the bid documents.

3. The counsel for the appellant also submitted that the respondent department floated the tender for "*Grant of license to establish and operate CIP Lounge at Jinnah International Airport, Karachi*". However, the appellant was technically disqualified by the respondent. After that they filed grievance before the respondent's Grievance Redressal Committee (GRC). The GRC issued its decision on 12.06.2025, thereby fixing 12.07.2025 as the last date for filing an appeal. However, the matter was *sub judice* before the Senior Civil Judge, Malir, until 25.07.2025 under temporary injunction, and subsequently before the District

Judge, Malir, who on 11.08.2025, directed the Appellant to approach this Authority. In compliance with the said judicial directive, the present appeal has been filed. The delay occasioned is attributable solely to pending court proceedings and the non-responsiveness of the Procuring Agency, for which condonation is prayed.

4. The counsel for the appellant further submitted that the bids for both entities were submitted and duly accepted on 08.04.2025. The technical results scheduled for 14.04.2025 were withheld and later communicated on 22.04.2025 via WhatsApp from an unidentified number, declaring the Appellant disqualified without any reasons or provision of the Technical Evaluation Report. Despite the Appellant's grievance filed on 23.04.2025 under Rule 48 of the PP Rules, 2004, the Procuring Agency proceeded to open financial bids on 23.04.2025 and awarded the contract. A reminder was issued on 30.04.2025, but no reply was received. On expiry of the statutory 10-days period under Rule 48(6), the Appellant sought injunctive relief on 05.05.2025, and on 07.05.2025, the Court directed the GRC to conduct proceedings in accordance with law.

5. The counsel for the appellant further added that, on 15.05.2025, the first GRC hearing was held with an incomplete quorum, attended only by two members along with representatives of the Commercial Team. The Appellant's

request to record its grievances was obstructed by one member, and its written submissions were refused, rendering the proceedings biased and procedurally defective. A subsequent detailed written response was filed on 16.05.2025, clarifying that extensive documents (approximately 200 pages including a corporate profile with over fifty years' experience) had been submitted, contrary to the Technical Report's observation of "Not Provided". On 22.05.2025, a second hearing was convened with a third GRC member joining virtually, who objectively acknowledged the Appellant's extensive credentials and questioned the failure of the Commercial Team to seek clarification under Rule 31 of the PP Rules, 2004.

6. The counsel for the appellant also submitted that, during the said proceedings, it was further admitted by the GRC representative that the Commercial Team does not substantively examine the contents of technical submissions, but merely verifies the presence of documents. This admission is in direct contradiction to the Technical Evaluation Report which marked critical documents as "Not Provided." Such contradictions raise serious questions about the evaluation process and render the findings unreliable. Notwithstanding these issues, on 12.06.2025, the GRC issued its decision signed solely by one member, disqualifying both Gerry's International and Gerry's Leisure Plus on grounds of alleged "collusion."



7. The counsel for the appellant also added that, following the said decision, the Appellant pursued legal remedies before the courts. On 03.07.2025, contempt was filed as the GRC had acted contrary to judicial directions, and stay orders were extended. Moreover, on 25.07.2025, the Senior Civil Judge dismissed the case, and an appeal was thereafter filed before the District Judge Malir on 01.08.2025. After hearing on 07.08.2025, the District Judge dismissed the appeal on 11.08.2025, directing the Appellant to approach this Authority, leading to the filing of the instant appeal.

8. Lastly, the counsel for the appellant also submitted that their disqualification was arbitrary, procedurally flawed, and contrary to the principles of transparency and fairness mandated under the PPRA Rules. The absence of a proper evaluation, the failure to provide reasons, the non-recording of grievances, incomplete quorum of the GRC, and the issuance of a decision signed by only one member cumulatively constitute mis-procurement. The Appellant therefore seeks appropriate relief, including setting aside the impugned decision of the GRC, hence this appeal.

9. On the other side, at the outset, learned counsel for the respondent i.e., Pakistan Airport Authority, raised preliminary objections regarding the instant appeal and submitted that the Appellant has approached this Hon'ble Authority with unclean hands and mala fide intent. It is

contended that the instant appeal is an afterthought and a whimsical attempt to abuse the process of law, having exhausted other forums before turning to this Authority.

10. The counsel for the respondent also submitted that the Appellant has misused multiple forums, first by filing a grievance before the GRC, thereafter invoking the jurisdiction of the Civil Court and subsequently the District Court, and only upon losing at all these stages, has approached the present forum. Accordingly, no case for condonation of delay is made out. The counsel for the Respondent emphasized that the matter has become infructuous, since the contract has already been awarded to the successful bidder following due process under the PP Rules, 2004. Moreover, interference at this stage would disturb settled rights and cause unnecessary disruption to an ongoing contractual arrangement.

11. The counsel for the respondent further submitted that the Appellant engaged in collusive bidding by submitting two bids through its associated companies, *Gerry's International Pvt. Ltd.* and *Gerry's Leisure Plus Pvt. Ltd.*, both having identical shareholding and beneficial ownership. Such conduct falls squarely within the definition of collusion and collusive practices prohibited under procurement law, as well as under competition law. Reference is made to precedents where the Competition Commission of Pakistan has imposed significant fines on collusive bidders. The Appellant itself, in

its Memo of Appeal, has admitted the common ownership of both entities, thereby substantiating the charge of collusion.

12. The counsel for the respondent further added that the appeal is hopelessly time-barred. It is well-settled law that pursuing the wrong forum does not stop the clock of limitation. The Appellant had two clear statutory opportunities, firstly, to file an appeal before this Authority after lapse of the 10-days GRC period, and secondly, after the issuance of the GRC decision dated 12.06.2025. Moreover, the present appeal was filed on 13.08.2025, long after expiry of the prescribed limitation period. Mere pendency before civil courts cannot justify this delay, as the principle of "special law prevailing over general law" applies, and Rule 48(7) of the PP Rules, 2004 provides an exclusive forum.

13. The counsel for the respondent also submitted and denied the allegations of bias or irregularity in the proceedings of the GRC. It is submitted that the GRC acted transparently, in strict compliance with PP Rules, 2004. The Appellant was provided notice, hearings, and opportunities to file written submissions. If the Appellant was dissatisfied, it ought to have directly approached PPRA instead of diverting to civil courts. The Civil Court and the Appellate Court have both already upheld the propriety of the GRC proceedings through concurrent findings, and this Authority must tread cautiously in disturbing such judicially endorsed processes.

14. The counsel for the respondent further added and submitted that, under settled jurisprudence, the jurisdiction of civil courts is ousted where a special tribunal is constituted by statute, unless mala fides or lack of jurisdiction is clearly demonstrated. Reliance is placed on *Abbasin Cooperative Bank v. Hakeem Hafiz Muhammad Ghaus* [PLD 1997 SC 31], *Searle IV Solutions v. Federation of Pakistan* [2018 SCMR 1444], and *Syed Zainul Abideen v. FBR* [PLD 2021 Sindh 130], which affirm that where a special mechanism exists, recourse to ordinary courts is barred, save in exceptional circumstances. The Appellant's reliance on civil jurisdiction was therefore misconceived.

15. The counsel for the respondent also submitted and pointed out that delay in GRC proceedings were largely attributable to the Appellant's own conduct, including non-attendance, premature recourse to civil litigation, and mala fide attempts to obstruct the process. Moreover, the Appellant's collusive participation has already cost the public exchequer approximately PKR 28.6 million per month, totaling PKR 85.8 million by 25.07.2025, demonstrating both financial loss and ill intent.

16. The counsel for the respondent further submitted that the GRC's decision dated 12.06.2025 was validly issued, disqualifying both bidders for collusion. The decision, though signed by one member, was duly approved by the GRC in

accordance with law. Financial bids of the Appellant were never opened due to its technical disqualification, and clarifications under Rule 31 of the PP Rules are discretionary, not mandatory.

17. At the last, the counsel for the respondent also submitted that the instant appeal be dismissed summarily as being not maintainable, time-barred, and infructuous. The Appellant's conduct amounts to collusive bidding, abuse of process, and mala fide obstruction of lawful procurement and dismissal with costs is requested to discourage frivolous and vexatious litigation.

18. After perusal of all available record and arguments made by all the parties, the Appellate Committee ("the Committee") observed that, the Respondent announced the technical evaluation results on 22.04.2025 and proceeded to open the financial bids on the very next day, i.e., 23.04.2025. However, under Rule 48(3) of the Public Procurement Rules, 2004 ("PP Rules"), any bidder aggrieved by any act of the Procuring Agency, subsequent to the submission of its bid, is entitled to lodge a written complaint within seven (07) days of the announcement of the technical evaluation report and within five (05) days of the issuance of the final evaluation report. In the present matter, by opening the financial bids immediately after announcing the technical results, the Respondent effectively curtailed the Appellant's statutory

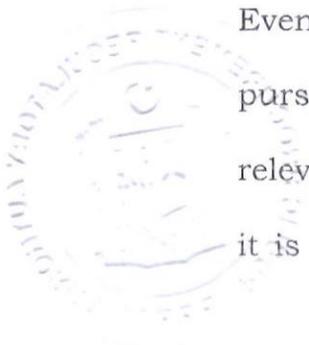
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right to challenge the technical evaluation, which constitutes a clear violation of the aforesaid Rule.

19. The Committee also observed that, in terms of Rule 7A of the PP Rules read with the e-Pak Procurement Regulations, 2023, all procuring agencies are mandatorily required to conduct procurement proceedings through the e-Pak Acquisition and Disposal System (EPADS). However, in the present case, the Respondent, Pakistan Airport Authority, carried out the subject procurement process manually, in disregard of the aforesaid Rule and Regulations. Such deviation amounts to a violation of the mandatory provisions of law and falls within the ambit of *mis-procurement* as envisaged under Rule 50 of the PP Rules.

20. However, on the other hand, the Committee Also observed that the GRC rendered its decision on 12.06.2025, and under Rule 48(7) of the PP Rules, the statutory limitation for filing an appeal was thirty (30) days i.e., up to 12.07.2025. The Appellant, however, filed / instituted the instant appeal on 18.08.2025, much beyond the prescribed limitation. The Appellant sought to justify this delay on the ground of pendency of proceedings before the different courts. Eventually, the relevant courts advised the appellant to pursue its statutory remedy before the competent authority / relevant forum in strict accordance with the provisions of law, it is a settled principle of law that pendency before a wrong



forum or choosing the wrong forum for redressal of grievance does not condone the limitation as specified. Therefore, the appeal is thus, time-barred as per the said PP Rule.

21. In light of above, the Committee is of the considered view that, the instant appeal is badly barred by limitation under Rule 48(7) of the Public Procurement Rules, 2004, and no sufficient cause for condonation has been established. Consequently, the appeal stands **dismissed being not maintainable** 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 eleven (11) pages.

