



No. PPRA/AP-41/2025
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 Zarif Khan Hussainzai & Brother

...the "Appellant"

Vs.

Federal Government Employees Housing Authority & Others

...the "Respondent"

Dates of Hearings	Dr. Waseem Ahmad Qureshi (ASC), Mr. Wahid Iqbal (Advocate), Mr. Zarif Khan, Mr. Hasan Raza (Manager), Mr. Salar Khan
29.12.2025	
20.11.2025	
03.11.2025	(On behalf of Appellant)
	Mr. Azmatullah Aftab (PD), Syed M. Hassan
	(On behalf of Respondent (FGEHA))
	Mr. Naeem Mahmood Aslam (Advocate), Mr. Faisal Mahmood (CEO), Mr. Qaiser Ali (Manager Contract), Mr. Danyal Murtaza (Contract Officer)
	(On behalf of Respondent No.5 i.e., Amanat Hussain & Co. - Maqbool Associates (JV))

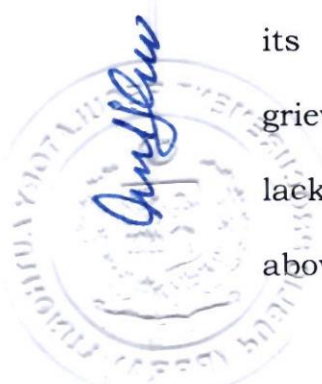
APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004

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 very outset, learned counsel of the appellant i.e., M/s Zarif Khan Hussainzai & Brother submitted that they participated in the tender process initiated by Respondent No.2 i.e., Federal Government Employees Housing Authority (FGEHA), for the project titled "Construction of Kashmir Avenue

Apartments (Phase-I, Tower-A), Mauve Area, Sector G-13/4, Islamabad.” In strict compliance with the bidding documents, the appellant submitted all mandatory and supporting documents, including bid security, experience credentials, audited financial statements, equipment details, tax returns, and other qualification-related information. The appellant, therefore, fully met the eligibility and qualification criteria prescribed in the tender documents and under the Public Procurement Rules, 2004.

3. The counsel of the appellant also submitted that, despite complete compliance, the appellant was arbitrarily disqualified by the Technical Evaluation Committee on 26.02.2025 without assigning of any reason, which is per se violative of the principles of transparency and fair competition. Contrarily, Respondent No.4, M/s Kingere Builders (Pvt.) Ltd., was awarded 70.1 marks, notwithstanding the admitted fact that the same firm had previously been awarded the subject project and its contract was subsequently terminated due to poor performance and lack of capability. Aggrieved by this unexplained disqualification, the appellant approached the Grievance Redressal Committee (GRC); however, the GRC, vide its decision dated 13.06.2025, rejected the appellant's grievance solely on the erroneous premise that the appellant lacked experience of constructing buildings of G+9 storeys or above.



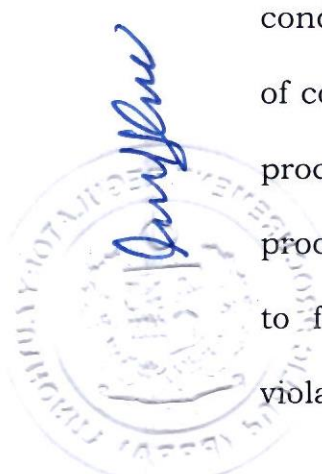
4. The counsel of the appellant further submitted that, while the appellant was preparing to challenge the said GRC decision in appeal, Respondent No.2, vide letter dated 18.07.2025, informed the appellant that the GRC had been reconstituted on the recommendation of the Ministry of Housing and Works and summoned the appellant for a hearing on 21.07.2025. The appellant duly appeared and produced all relevant documentary evidence in support of its experience and technical capability. Nevertheless, Respondent No.2 again conveyed, through letter dated 18.09.2025, that the appellant did not possess the requisite experience, thereby reiterating the earlier stance without addressing the appellant's submissions in a reasoned manner.

5. The counsel of the appellant further added and submitted that, consequently, the appellant preferred an appeal before the Public Procurement Regulatory Authority (PPRA) as well as before Respondent No.2. During pendency of the appeal, the appellant came to know that Respondent No.2 intended to open the financial bids in favour of a preferred bidder, compelling the appellant to approach the Hon'ble Islamabad High Court through Writ Petition No.3811/2025. The Hon'ble Court was pleased to restrain Respondent No.2 from opening the bids till decision of the appeal. However, PPRA returned the application vide letter dated 08.10.2025 on technical grounds relating to format and fee, while Respondent No.2 subsequently took the contradictory position that the

letter dated 18.09.2025 was not a GRC order but a fresh technical evaluation report, thereby rendering the appeal allegedly non-maintainable.

6. The counsel of the appellant also submitted that, in view of the said stance, the appellant requested Respondent No.2 to constitute a fresh GRC to adjudicate the grievance arising from the new technical evaluation. Although Respondent No.2 initially acceded to this request and constituted a three-member committee vide letter dated 21.10.2025, the appellant was, upon arrival for the scheduled hearing on 22.10.2025, handed another letter of the same date reducing the committee to two members. Moreover, despite the hearing being scheduled for 3:00 p.m., the appellant was compelled to present the case at 11:00 a.m., thereby depriving the appellant of a meaningful and effective opportunity of hearing.

7. The counsel of the appellant also added and submitted that, the respondent, vide order dated 23.10.2025, astonishingly declared its own proceedings as *coram non judice* without deciding the appellant's grievance on merits. The entire conduct of Respondent No.2, including repeated reconstitution of committees, contradictory positions regarding the status of proceedings, and denial of a fair hearing, demonstrates procedural impropriety, mala fide intent, and a clear attempt to favor a particular bidder. Such conduct is in flagrant violation of the principles of due process, transparency, and



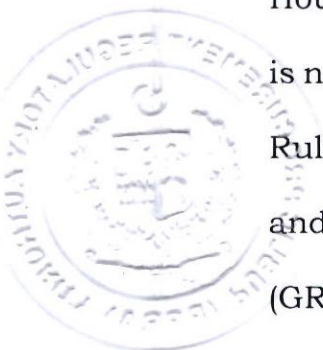
fair competition enshrined in the PPRA Ordinance, 2002 and the Public Procurement Rules, 2004.

8. At the last, the counsel of the appellant also submitted that the ground of disqualification relating to lack of experience is wholly misconceived and unsupported by the record. The appellant furnished complete documentary proof of execution of high-rise building and large-scale projects, including a 12-storey building with 226,000 SFT covered area completed on 01.01.2023, multi-storey complexes (Packages 1-4 and 5) with covered areas of 540,000 SFT and 508,000 SFT respectively, and Islamabad's second-largest mosque covering 102,000 SFT. Despite fulfilling all experience and qualification requirements stipulated in the bidding documents, the appellant was unlawfully disqualified to extend undue favour to Respondent No.4. Hence, the impugned orders dated 18.09.2025 and 23.10.2025 are illegal, arbitrary, and liable to be set aside, with a direction to Respondent No.2 to conduct fresh proceedings strictly in accordance with law and the PP Rules, 2004, hence this appeal.

9. At the very last, the counsel of the appellant also raised a specific objection regarding the expiry of bid validity and contended that the bid validity period had already lapsed in clear violation of Rule 26 of the Public Procurement Rules, 2004. It was argued that Rule 26 categorically restricts the extension of bid validity to only one instance, and that too for

a period not exceeding the original bid validity, without exception. The counsel further submitted that, as per the bidding documents, the original bid validity period was prescribed as 120 days, which was due to expire on 26.06.2025. While Rule 26 permits the procuring agency, under exceptional circumstances, to seek a one-time extension of bid validity equivalent to the original validity period, such extension cannot, in any event, exceed 120 days. It was further contended that even if an extension had been sought by the procuring agency from the qualified bidders, the same could legally be granted only once and strictly within the maximum limit of 120 days, and any continuation of the procurement process beyond this statutory limit was unlawful and without legal effect. The counsel of the appellant further relied upon the Rule 38 of the Public Procurement Rules, 2004 which states that *"the bidder with the most advantageous bid, if not in conflict with any other law, rules, regulations or policy of the Federal Government, shall be awarded the procurement contract, within the original or extended period of bid validity"*.

10. On the other hand, learned representative of the respondent no. 02 i.e., Federal Government Employees Housing Authority (FGEHA) submitted that the present appeal is not maintainable under Rule 48(7) of the Public Procurement Rules, 2004, as the Appellant has failed to impugn any valid and subsisting decision of the Grievance Redressal Committee (GRC), which alone is appealable before the PPRA. The



Appellant seeks to assail actions of the Director General, the Bid Opening Committee, and the Technical Evaluation Committee, which do not fall within the appellate jurisdiction of the PPRA. The appellate forum under Rule 48 can only be invoked after exhaustion of the mandatory grievance mechanism under Rule 48(6) of the PP Rules, 2004, which the Appellant deliberately failed to do. In the absence of a lawful challenge to the GRC decision dated 13.06.2025, the appeal is incompetent and liable to dismissal in limine.

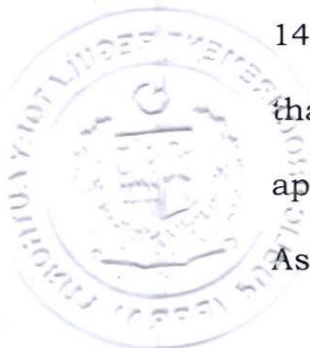
11. The representative of the respondent no. 02 also submitted that, it is an admitted fact that the Appellant participated in the tender and submitted bidding documents; however, such admission is limited strictly to the submission of documents only, and not to their contents, accuracy, completeness, or validity. Upon detailed scrutiny, the documents submitted by the Appellant were found deficient and non-compliant with the mandatory eligibility requirement of completed G+9 storey building experience, as prescribed in the bidding documents. The Appellant is erroneously attempting to equate "volume of work" with "complexity of work," which is impermissible under the evaluation criteria and Appendix-M to the bid documents.

12. The representative of the respondent no. 02 further submitted that the Appellant's assertion that it was disqualified on 26.02.2025 is factually incorrect and

misleading. The said date corresponded only to the Bid Opening. The First Technical Evaluation Report was issued on 27.05.2025 after approximately three months of detailed verification and scrutiny. The Appellant was therefore not summarily disqualified, and the evaluation process was conducted transparently and strictly in accordance with the PP Rules, 2004.

13. The representative of the respondent no. 02 further added and submitted that the Grievance Redressal Committee, in its meeting dated 13.06.2025, rightly upheld the Technical Evaluation Report, concluding that the Appellant failed to meet the mandatory G+9 storey completed building requirement. While a Second GRC was later constituted on the directions of the Ministry of Housing & Works, the same was formed after expiry of the prescribed 30-day limitation period for filing an appeal before PPRA against the First GRC decision. Subsequently, the Second GRC proceedings were lawfully halted pursuant to the PPRA Short Order passed in a separate appeal. The Appellant never challenged the First GRC decision before PPRA, giving rise to a legitimate presumption that it accepted the same.

14. The representative of the respondent also submitted that, in compliance with the directions of the PPRA in the appeal filed by JV M/s Amanat Hussain & Co. and Maqbool Associates, the Procurement Committee issued the Final



Technical Evaluation Report dated 18.09.2025. This report was not a GRC decision and, under the PP Rules, no appeal lies against a technical evaluation report without first invoking the GRC under Rule 48(3) of the PP Rules, 2004. The Appellant failed to file any grievance against the Final Technical Evaluation Report and instead bypassed the statutory remedy by approaching the Islamabad High Court through Writ Petition No. 3811/2025, which was disposed of with directions duly complied with by FGEHA.

15. The representative of the respondent no. 02 further submitted that, in pursuant to the Honorable High Court's order, FGEHA constituted a Hearing Committee, which afforded the Appellant a full and fair opportunity of hearing. Minor administrative rescheduling of time or committee composition caused no prejudice, as the Appellant appeared through counsel and was heard at length. The Committee, through a Speaking Order dated 23.10.2025, correctly held that Respondent No. 02 was *Coram Non Judice*, as the grievance redressal mechanism under Rule 48 vests exclusive jurisdiction in the GRC and PPRA, and not in any internal forum of the procuring agency.

16. The representative of the respondent no. 02 also added and submitted that the Appellant's claimed projects were lawfully rejected after verification. The Syed Gold Mall (12-Storey) project was incomplete beyond structural works, with

façade, MEP services, and finishing works still pending, and therefore did not qualify as a completed G+9 project. The Daanish Schools Packages (1-4) comprised multiple low-rise buildings and did not meet the single high-rise or financial threshold requirement. The Rabi/Rania/Yusra projects were verified as G+6, G+5, G+3, and non-high-rise respectively, while the Pak Secretariat Mosque was merely a B+G+1 renovation project. These misrepresentations attract disqualification under Rule 18 of the PP Rules read with Para-11 of the NIT. Accordingly, the Appellant failed to meet the Mandatory Experience Record, and the impugned evaluation is lawful, transparent, and strictly in accordance with the bidding documents, hence request for dismissal of the instant appeal.

17. On the other side, learned counsel of the respondent no. 05 i.e., M/s Amanat Hussain & Co. – M/s Maqbool Associates (JV) raised preliminary objections regarding the maintainability of the instant appeal and submitted that the present appeal is wholly misconceived, incompetent, and not maintainable under Rule 48(7) of the Public Procurement Rules, 2004. The statutory appellate jurisdiction of the PPRA is strictly confined to appeals arising out of a *decision of the Grievance Redressal Committee (GRC)* after exhaustion of the mandatory pre-appeal remedy under Rule 48(6) of the same rules. The Appellant, however, seeks to assail internal communications, determinations of the Bid Opening and Evaluation Committee, and proceedings before the Director



General of the Procuring Agency, none of which constitute an appealable decision under Rule 48(7). In the absence of a valid and subsisting GRC decision forming the foundation of the appeal, the present proceedings are void ab initio and liable to be dismissed in limine.

18. The counsel of the respondent no. 05 also submitted that the Appellant had already availed the statutory remedy before the GRC, which, after due examination, found the Appellant technically non-responsive for failure to meet the mandatory specific experience requirement of having successfully completed at least one high-rise building of G+9 or above, as explicitly prescribed in the bidding documents. The said GRC decision was uploaded on EPADS on 13.06.2025. The Appellant admittedly did not challenge this decision before the PPRA within the prescribed limitation period of thirty (30) days, which expired on 12.07.2025. Having allowed the limitation to lapse, the Appellant cannot resurrect a time-barred grievance through collateral proceedings, representations, or misdirected appeals.

19. The counsel of the respondent no. 05 further submitted that, on merits as well, the Appellant was rightly declared technically non-responsive. The projects relied upon by the Appellant do not satisfy the mandatory criteria. The only project claimed as a G+9 building—*Syed Gold Mall*—is factually incomplete to date, despite being shown as completed in 2023,

and video evidence of the incomplete structure has already been submitted to the PPRA IT Department. The Appellant therefore failed to establish completion of any qualifying high-rise project and secured only 57 marks against the mandatory threshold of 70 marks under the evaluation criteria, rendering it ineligible. The three additional projects cited under general experience namely the Danish Schools Project, the Mosque Project, and the alleged three multi-storey towers also failed to meet the prescribed criteria, either due to individual contract values being below Rs. 1,000 million, irrelevance to high-rise construction, different locations being improperly clubbed as one project, or doubtful completion status as prime contractor.

20. The counsel of the respondent no. 05 further argued and submitted that the Appellant's conduct throughout reflects abuse of process. Instead of pursuing the statutory grievance mechanism in accordance with Rule 48, the Appellant bypassed the GRC and invoked the writ jurisdiction of the Hon'ble High Court, while concealing the fact that no lawful complaint had been filed before the GRC within limitation. Even before this forum, the Appellant has admitted that no complaint was filed under Rule 48(6). The Hon'ble Court merely directed that any appeal, if filed, be decided before award of contract and restrained opening of financial bids; it did not confer jurisdiction where none exists. The subsequent Hearing Committee constituted on 21.10.2025 rightly held itself to be *coram non judice*, as neither the Director General nor any

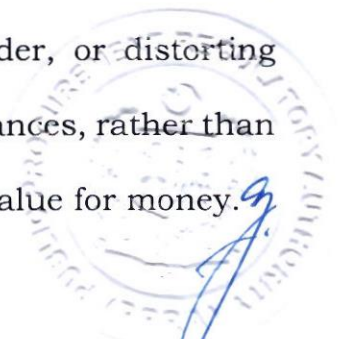
committee other than the GRC possesses appellate authority under the PPRA framework.

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21. The counsel of the respondent no. 05 also submitted that the appeal is defective for non-joinder of necessary parties, particularly the Bid Opening and Evaluation Committee, whose determination is sought to be challenged. Moreover, the appeal is a repetition of issues already adjudicated by the competent forum and is plainly an afterthought aimed at delaying and frustrating the procurement process. Such conduct undermines transparency, fair competition, and public interest and cannot be countenanced under procurement law.

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22. The counsel of the respondent no. 05 further submitted that with regards the objection relating to bid validity, neither the PP Rules, 2004 nor the bidding documents prohibit a bidder from voluntarily extending its bid validity or revalidating its bid security. Rule 26(3) of the PP Rules, 2004 and IB-14.2 of the bidding documents govern extensions sought by the procuring agency and are silent on voluntary, bidder-initiated extensions. Silence cannot be construed as prohibition. Respondent No. 05 has lawfully and voluntarily extended its bid validity up to 31.01.2026 and revalidated its bid security without altering price, prejudicing any bidder, or distorting competition. Such voluntary compliance advances, rather than offends, the principles of transparency and value for money.



23. At the last, the counsel of the respondent no. 05 further added and submitted that, being the lowest evaluated and most advantageous bidder (respondent no. 05), is lawfully entitled to award of the contract under IB-29. The procurement has already been cancelled twice, and further delay will harm public interest, escalate costs, erode bidder confidence, and prejudice allottees. Respondent No. 05 has suffered substantial financial exposure, including bid security of Rs. 125 million locked since February 2025, solely due to administrative and judicial proceedings. Applying the settled principle *actus curiae neminem gravabit*, recognized inter alia in 2007 SCMR 554, no party should suffer for acts of courts or public authorities. Any further postponement or abandonment at this final stage would unjustly penalize the most compliant bidder and undermine the integrity of the procurement system, hence request for dismissal of the instant appeal.

24. It is relevant to mention that the counsel for Respondent No. 05 filed written submissions regarding last date of hearing i.e., 29.12.2025, wherein, it was submitted that the present appeal filed by the Appellant is not maintainable under Rule 48(7) of the PP Rules, 2004, as no grievance was ever filed before the GRC against the Technical Evaluation Report dated 18.09.2025, and the Appellant instead chose to invoke constitutional jurisdiction of the Honourable Islamabad High Court, thereby waiving the statutory remedy under PPRA; consequently, the appeal does not emanate from any lawful

GRC decision, is hopelessly time-barred, and the accompanying application for condonation of delay is not maintainable in law, as the PP Rules do not empower this Committee to condone delay and settled Supreme Court precedents require satisfactory explanation for each day of delay, reliance is made on 2025 CLD 540, 680; PLD 2025 SC 60; 2002 SCMR 1903. Further, the Appellant sought to raise the issue of bid validity, which is neither part of its pleadings nor emerged from GRC proceedings, and cannot be entertained in light of settled law that parties are bound by their pleadings, reliance is made on 2015 SCMR 1698; Muhammad Iqbal v. Mehboob Alam, 2015 SCMR 21. Even on merits, Respondent No. 05 voluntarily extended its bid validity up to 31.01.2026 without prejudice, which is lawful under Rule 26(3) PP Rules and IB-14.2 of the Bidding Documents, and such voluntary extensions constitute non-material procedural aspects waivable under IB-26.3 (2012 SCMR 455), particularly as the procurement process remained suspended for nearly 180 days due to litigation and administrative proceedings beyond Respondent No. 05's control. Therefore, the appeal is liable to be dismissed as incompetent, time-barred, and misconceived.

25. After perusal of all relevant record and arguments made by all the parties, the Appellate Committee noted that, the appellant participated in the procurement process under scrutiny and was subjected to a technical evaluation. The First Technical Evaluation Report (TER) was issued on 27.05.2025.