



No. PPRA/AP-23/2025
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 Black Steel International

...the “Appellant”

Vs.

Peshawar Electric Supply Company (PESCO), etc.

...the “Respondent(s)”

Date of Hearing	Mr. Nasir Mahmood, Mr. Junaid Ashraf
30.07.2025	(On behalf of Appellant)
	Mr. M. Hanzala (Advocate), Mr. Javed Khan (XEN MM), Mr. Sheraz Ullah
	(On behalf of Respondent)

APPEAL UNDER RULE 48(7) OF THE PUBLIC PROCUREMENT RULES, 2004 AGAINST THE DECISION OF THE GRIEVANCE REDRESSAL COMMITTEE (GRC) DATED 08-05-2025, REGARDING TENDER NO.CEx/PMU/PSDP/DW/2024-25/27 – SUPPLY OF STEEL POLES (SPD & SPG) OPENED ON 26-03-2025.

The above mentioned learned counsel 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 Black Steel International submitted that they filed this Appeal against the decision rendered by the GRC of the respondent (PESCO) in its meeting held on

07.05.2025, and issued on 08.05.2025, concerning the tender for Supply of Steel Poles (SPD & SPG). The Appellant submitted its Technical and Financial Bids in response to the said Tender, strictly in accordance with the Instructions to Bidders (ITB), eligibility criteria, and technical specifications outlined therein.

3. The representative of the appellant also submitted that the Respondents vide letter dated 24.04.2025, declared the Appellant as “Technically Non-Responsive” without disclosing any reasons, evaluation comments, or documentary basis for such a decision. The appellant also raised objections on declaring their competitor i.e, M/s Shahzad Enterprises, Lahore, as “Responsive” despite its, track record of non-performance, penalties, blacklisting and breaches of procurement ethics, which should be reviewed so as to maintain the spirit of the Public Procurement Rules, 2004.

4. The representative of the appellant further submitted that following Clauses of ITB were overlooked / skipped while evaluating the Technical Bid of the said bidder:

- *Clause-14-ITB (Instructions to the Bidder), According to the Clause, “The contract agreement / purchase bidder or manufacturer has defaulted / failed to supply any order to WAPDA/NTDC/DISCOs with in Last Five Years”.*
- *ITB-39 (General Performance of the Bidder), According to the Clause “The Purchaser reserves the right to obtain information regarding performance of the*



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bidders on their previously awarded contracts. The purchaser may in case of consistent poor performance of any Bidder as reported by the purchasers of the previously awarded contracts, inter-alia, reject his bid and proceed in accordance with Rule 19 of the Public Procurement Rules 2004 (Revised) to take such action as may be deemed appropriate under the circumstances of the case including black listing of such bidder and debarring him from participation in future bidding for supply of Goods”.

5. The representative of the appellant further added that they have fulfilled all mandatory and technical requirements as per the ITB criteria. Their eligibility, experience, financial soundness, and technical capability meet and exceed the benchmarks set forth in the tender documents. Their grievance letter dated 28.04.2025, outlines these aspects in detail and merits thorough re-examination and their disqualification based on a misread court order by M/s Shahzad Enterprises, Lahore.

6. The representative of the appellant also submitted that the GRC's decision deviates from the guiding principles of the PP Rules, which mandates transparency, accountability, and level playing field. Hence, being aggrieved filed this Appeal.

7. On the other side, learned counsel of the respondent i.e., Peshawar Electric Supply Company (PESCO) raised preliminary objections regarding the instant appeal and submitted that the instant Appeal filed by M/s Black Steel

International Ltd. ("the appellant") against the decision dated 08.05.2025 rendered by the Grievance Redressal Committee ("GRC") of PESCO. For the reasons set forth herein, it is humbly prayed that the Appeal, being incompetent, misconceived, and devoid of merit, may graciously be dismissed with costs.

8. The counsel of the respondent also submitted that the Appeal filed by the appellant lacks merit and any factual or legal foundation. The Appellant has failed to meet the mandatory bid requirements for responsiveness. The challenging of GRC's decision is without locus standi, misconceived, and amounts to an attempt to delay the procurement process and disrupt PESCO's operational needs. The decision of the GRC declaring the Appellant "Technically Non-Responsive" is lawful, justified, and strictly in accordance with the Instructions to Bidders (ITB) and the Public Procurement Rules, 2004.

9. The counsel of the respondent further submitted that the Rule 19 of the PP Rules, 2004 (as amended vide S.R.O. No. 834(1)/2021 dated 28.06.2021) provides a comprehensive mechanism for blacklisting / debarment of bidders by the Authority (PPRA) upon due process. The respondent department (PESCO) is bound to follow only such notifications issued by the PPRA. The name of M/s Shahzad Enterprises does not appear on the Authority's list of blacklisted /

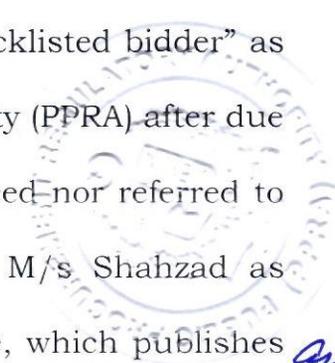


debarred firms published on its official website. Moreover, the instant Appeal raises no substantial legal or factual controversy. The sole issue agitated by the Appellant concerns alleged “blacklisting” of M/s Shahzad Enterprises, which remains wholly unsubstantiated and unproven.

10. The counsel of the respondent further added that the Appellant was fully aware of its non-responsiveness, having failed to comply with the bid requirements prescribed under ITB Clauses 43 and 44. Specifically, the Appellant did not submit the requisite type test report and failed to furnish an acceptable experience certificate, thereby justifying its declaration as “Non-Responsive.”

11. The counsel of the respondent also submitted that the date of the court order was incorrectly stated due to a typographical error. As regards the alleged blacklisting of M/s Shahzad Enterprises, it is submitted that no such documents were ever presented before the GRC. Reliance on documents pertaining to other DISCOS, such as MEPCO and LESCO, does not preclude PESCO from independently evaluating M/s Shahzad’s bid. Further, it is pertinent to mention that **Rule 2(b) of the PP Rules, 2004** defines a “blacklisted bidder” as one declared untrustworthy by the Authority (PPRA) after due process. The Appellant has neither produced nor referred to any PPRA notification / order declaring M/s Shahzad as blacklisted. The Authority’s official website, which publishes

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both active and archived blacklisted entities, contains no such entry against M/s Shahzad Enterprises. Hence, the Appellant's plea is baseless.

12. The counsel of the respondent further added that, no documentary evidence was provided by the appellant side before PESCO during bid submission or evaluation stage regarding alleged non-performance, penalties, or procurement breaches of M/s Shahzad Enterprises. On the contrary, M/s Shahzad Enterprises submitted two valid performance certificates in line with the bidding requirements, which were duly verified and considered by the Evaluation Committee.

13. The counsel of the respondent also submitted that the Appellant failed to provide contract agreements or purchase orders relating to supply of equipment conforming to NTDC-approved standards / specifications within Pakistan. While the manufacturer may have supplied to international clients, the Appellant has not demonstrated compliance with the tender-specific requirements. In contrast, M/s Shahzad Enterprises furnished multiple purchase orders reflecting prior supplies to various DISCOs in accordance with the NTDC standards, thereby meeting the qualification criteria.

14. The counsel of the respondent further argued and submitted that the Appellant failed to submit satisfactory performance certificates for the specified material. The two certificates submitted lack necessary particulars and were



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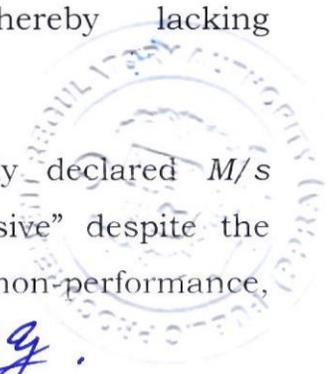
unsupported by purchase orders, rendering them unverifiable. Conversely, M/s Shahzad Enterprises submitted performance certificates strictly in conformity with the tender conditions. Furthermore, the Appellant failed to submit the mandatory type test report with its technical bid, as required under NTDC standards. Instead, the Appellant merely furnished a conditional undertaking that type testing was “in progress” under an IESCO purchase order. No verifiable documentation was submitted to establish that such testing was underway or to indicate its timeline. This uncertainty posed a clear risk of procurement delay. Conversely, M/s Shahzad Enterprises submitted a valid type test report with its bid, fulfilling the requirement, hence, requested 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 Appellant’s grievance primarily rests on two grounds:

i. That the Appellant was declared “Technically Non-Responsive” without detailed reasoning or disclosure of evaluation comments, thereby lacking transparency.

ii. That the Respondent wrongly declared M/s *Shahzad Enterprises* as “Responsive” despite the Appellant’s allegations of prior non-performance, penalties, and alleged blacklisting.



16. The Committee also observed that the Appellant has relied upon Clauses 14 and 39 of the Instructions to Bidders (ITB), contending that these were overlooked by the Evaluation Committee in declaring M/s Shahzad Enterprises as responsive. However, the Appellant has not produced conclusive documentary evidence of blacklisting or any PPRA notification debarring M/s Shahzad Enterprises from participating in public procurement. The PPRA website and record also reveal no such blacklisting order.

17. The Committee further observed that the Respondent contended that the Appellant's bid was found non-compliant with mandatory requirements of ITB Clauses 43 and 44, specifically for failure to furnish an acceptable type test report and verifiable performance / experience certificates as per tender conditions. These shortcomings were material in nature, directly affecting the responsiveness of the bid. The Committee also noted that while the Appellant has argued that type testing was "in progress" under an IESCO purchase order, no authenticated or verifiable evidence was furnished to substantiate this claim at the evaluation stage. Contrary to this, M/s Shahzad Enterprises submitted both valid type test reports and performance certificates which were duly verified by the Respondent.

18. The Committee also observed that the allegations of non-performance or penalties against M/s Shahzad

Enterprises pertain to other procuring agencies such as LESCO and MEPCO and, do not constitute binding grounds to disqualify the bidder in the absence of a formal Authority's blacklisting. Therefore, the Committee is of the considered view that the GRC order dated 08.05.2025 does not suffer from material illegality. The declaration of the Appellant as "Technically Non-Responsive" is supported by record based on deficiencies in mandatory technical requirements, whereas the objections regarding the eligibility of M/s Shahzad Enterprises remain unsubstantiated.

19. For what the reasons and observations mentioned above, the Appellate Committee declares that the Appeal filed by the appellant is devoid of merit. The decision of the Grievance Redressal Committee (GRC) of the respondent (PESCO) dated 08.05.2025 is hereby upheld. Hence, the Appeal in hand stands **dismissed** 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 nine (09) pages.