



**F. No. PPRA/AP-61/2026**  
Government of Pakistan  
**Public Procurement Regulatory Authority**  
**[Appeal & Review Petition Secretariat]**  
1<sup>st</sup> Floor, FBC Building, G-5/2, Islamabad  
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**ORDER**

M/s GRC – ZKB – KDC (JV)

**...the “Appellant”**

Vs.

Water and Power Development Authority (WAPDA)

**...the “Respondent”**

|                               |                                                                                                                                                                                                                                               |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b><u>Date of Hearing</u></b> | Mr. Misbah Ul Mustafa (ASC), Mr. M. Shoaib Ilahi                                                                                                                                                                                              |
| <b>23.09.2026</b>             | <b>(On behalf of Appellant)</b><br>Syed Hassan Ali Raza (ASC), Mr. Abdul Haleem Memon (GM),<br>Sahibzada Asaf Sh. (Director Legal), Mr. Abdullah Mehsud,<br>Mr. M. Waleed Farooqui (AD Legal)<br><b>(On behalf of Respondent i.e., WAPDA)</b> |

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

The Authority received the titled Appeal on 31.08.2026, filed under Rule 48(7) of the Public Procurement Rules, 2004. The Authority on receipt of the Appeal issued notices to the parties wherein it was directed to appear in person or through their nominated representatives or Counsel before the Authority.

2. The above mentioned learned counsel(s) and representative(s) of the parties tendered appearance before the Appellate Committee (“the Committee”) and furnished their arguments at length.

3. At the very outset, learned counsel of the Appellant i.e., M/s GRC – ZKB – KDC (JV) submitted that the Appellant is a Joint Venture comprising M/s Ghulam Rasool & Company (Pvt.) Ltd., M/s Zahir Khan & Brothers and M/s Kundi Development Corporation (Pvt.) Ltd., collectively known as GRC-ZKB-KDC Joint Venture.

4. The counsel of the Appellant also submitted that the Respondent i.e., Water and Power Development Authority (WAPDA) invited applications for prequalification from constructors and Joint Ventures for the Chashma Right Bank Canal (Lift-Cum-Gravity) Project, particularly “Intake Structure along with Feeder Canal (RD 0+000 to RD 99+000) & Allied Structures”, and issued Prequalification Documents prescribing the applicable eligibility, qualification and evaluation criteria. The Appellant, comprising experienced construction entities, submitted its application in accordance with the prescribed requirements and expected evaluation strictly under the published criteria and principles of transparency, equal treatment and fairness.

5. The counsel of the Appellant further submitted that, during evaluation, WAPDA issued approximately five clarification letters concerning technical experience, turnover and subcontractor details, to which the Appellant responded fully and within time. However, WAPDA did not seek any clarification regarding Historical Contract Non-Performance, litigation history, or alleged non-disclosure by any JV member. Subsequently, vide letter dated 08.07.2026, WAPDA declared the Appellant “Disqualified (Not Qualified)” without disclosing reasons. On approaching the Committee, the Appellant was advised vide letter dated 16.07.2026 to seek disclosure of the grounds from WAPDA. Accordingly, the Appellant represented to WAPDA, which communicated the grounds vide letter dated 20.07.2026.

6. The counsel of the Appellant also submitted that the WAPDA's stated grounds invoked Sub-Clause 25.1 of the Instructions to Applicants read with Rule 18 of the Public Procurement Rules, 2004, alleging an "established record of submission of fake bid security" in another procurement involving SKB-KDC Joint Venture. Consequently, the Appellant was marked FAIL in Eligibility and Historical Contract Non-Performance, PASS in Financial Situation and Performance and Experience, and overall Disqualified. The Appellant maintained that none of these grounds constituted a valid basis for disqualification under the published Prequalification Documents.

7. The counsel of the Appellant further submitted that, the Appellant, thereafter filed complaint dated 27.07.2026 before WAPDA's GRC under Rule 48 of the Public Procurement Rules, 2004, challenging the legality, factual basis and procedural propriety of the disqualification. The GRC dismissed the complaint vide order dated 04.08.2026. According to the Appellant, the GRC order was passed summarily, without hearing the Appellant and without properly addressing its substantive grounds, and was therefore a non-speaking order merely endorsing WAPDA's decision. Hence, the present appeal under Rule 48(7).

8. The counsel of the Appellant also submitted that the Procuring Agency was bound to evaluate the application strictly in accordance with the published Prequalification Documents and could neither introduce additional disclosure obligations nor impose eligibility requirements not contained therein. The alleged issue relating to SKB-KDC JV could not be treated as Historical Contract Non-Performance, as no Letter of Acceptance, Contract Agreement or Notice / Order to Commence had been issued in that procurement and no contractual performance had become due. Therefore, the

matter, even if assumed, arose before formation of any works contract and could not constitute contract non-performance in the absence of a specific applicable provision or final determination under the relevant debarment / blacklisting framework.

9. The counsel of the Appellant also added that, all declarations and forms furnished by the Appellant were accurate, complete and responsive to the information actually required. In particular, Clause 2.3 of Section III did not require disclosure of every pending litigation, dispute involving a JV member, allegation by WAPDA, or judicial proceeding irrespective of its relevance to financial capacity. The Appellant submitted Form CON-2 and the prescribed undertaking, and the pending KDC matter with WAPDA did not affect the Appellant JV's financial position or prospective long-term profitability. Similarly, under Clause 2.4, the Appellant truthfully confirmed that there was no consistent history of court or arbitral award decisions against it since 01.01.2015; the clause did not require disclosure of every pending case, allegation, notice or dispute involving a constituent member.

10. The counsel of the Appellant also submitted that although WAPDA sought several clarifications on other matters, it never confronted the Appellant with the decisive allegation concerning the alleged fake bid security or Historical Contract Non-Performance before relying upon it for disqualification. The Appellant was consequently denied a meaningful opportunity to explain the allegation, contrary to the principles of natural justice, *audi alteram partem* and Article 10A, to the extent applicable.

11. The counsel of the Appellant further submitted that WAPDA effectively treated the existence of an alleged dispute involving KDC, a constituent member of the JV, as an

independent ground of disqualification, although no such criterion appeared in the Instructions to Applicants, Eligibility Criteria, Form CON-2 or elsewhere in the Prequalification Documents. Had WAPDA intended to disqualify an applicant on the basis of a pending dispute or alleged misconduct of a constituent member in another procurement, such requirement ought to have been expressly incorporated in the Prequalification Documents and could not be introduced at the evaluation stage.

12. The counsel of the Appellant further argued that, without prejudice, the alleged fake bid-security matter is itself under legal challenge before the competent forum and has not attained finality. Its legality, correctness and consequences remain sub-judice. Therefore, WAPDA could not treat an un-adjudicated allegation arising from another procurement as an "established record" for imposing the civil consequence of disqualification in the present procurement. The Appellant maintained that, irrespective of the eventual outcome of the separate proceedings, its disqualification could not be sustained under the framework of the present procurement.

13. At the last, the counsel of the Appellant also submitted that, it had complied with the published requirements and demonstrated the required technical, financial and managerial capacity. Its exclusion on the basis of an un-adjudicated matter arising from another procurement, without clear authority in the published criteria and without affording an opportunity to respond, was contrary to the requirements of fair and transparent procurement. The Appellant accordingly challenged the legality, validity and propriety of the GRC order dated 04.08.2026 and sought appropriate redress under Rule 48(7) of the Public Procurement Rules, 2004.

14. On the other side, at the outset, learned counsel of the Respondent i.e., Water and Power Development Authority (WAPDA) raised a preliminary objection that the present Appeal was not maintainable in the name of GRC-ZKB-KDC JV, as it was an unincorporated JV comprising three separate legal entities GRC, ZKB and KDC and possessed no independent legal personality or juridical existence. ITA 4.2 merely permitted participation as a JV and did not confer upon it separate legal capacity to institute appellate proceedings. The constituent members were the proper legal entities and the Appeal was defective for mis-description / non-joinder. The Appellant had also failed to produce duly executed board resolutions, powers of attorney or other specific authorisations from each constituent member authorising institution of the Appeal. The Respondent further contended that the prescribed fee and procedural requirements under Rule 48(7) could not be circumvented by filing the Appeal in the name of the unincorporated JV.

15. The counsel of the Respondent submitted that the matter relates to the procurement of "Intake Structure along with Feeder Canal (RD 0+000 to RD 99+000) & Allied Structures" under Chashma Right Bank Canal (Lift-Cum-Gravity) Project, Contract No.1 CRBC(LCG)/ICB-01. The procurement was initially advertised on 24.10.2024, pursuant to which M/s Saadullah Khan & Brothers (SKB) and Kundi Development Corporation (KDC) submitted a JV bid along with Bid Security Guarantee No. CRRD00131 dated 10.04.2025, purportedly issued by NBP. WAPDA sought verification vide letter dated 24.04.2025, whereupon NBP, vide letter dated 25.04.2025, confirmed that no such guarantee had been issued by its Corporate Branch, Lahore and that the purported signatories were not posted there. NBP subsequently, vide letter dated 09.05.2025, advised that the guarantee be treated as a "Fake Instrument." Consequently, WAPDA, vide letter

dated 26.05.2025, declared the SKB-KDC JV bid non-responsive under ITB Clauses 3.1, 19.4 and 29.4 and subsequently issued Show Cause Notice dated 25.06.2025 under Rule 19 of the Public Procurement Rules, 2004. SKB-KDC challenged the same before the Civil Court, Lahore, where the proceedings remain pending and an order regarding status quo was passed. WAPDA thereafter decided to annul the bidding process and re-initiate procurement.

16. The counsel of the Respondent also submitted that the Project was re-advertised on 05.11.2025 and Pre-Qualification Documents were issued. Under ITAs 4.2, 6.3, 11.1, 13.1, 14.1 and 15.1, each applicant, including every member of a JV, was required to furnish complete, accurate and truthful information and documentary evidence regarding eligibility and qualifications. ITA 22.1 empowered the Employer to reject a non-responsive application, while ITA 25.1 required evaluation strictly against the published criteria. ITA 26.1 further reserved the right to reject applications or annul the prequalification process, whereas ITA 25.1 of Section II specifically provided for rejection / disqualification where submitted documents were found forged, bogus or in-genuine.

17. The counsel of the Respondent further submitted that Section III, Sub-Factors 2.3 and 2.4, required disclosure of pending litigation and litigation history through Form CON-2 and the prescribed undertaking. The relevant provisions required accurate information concerning litigation / arbitration, and Form CON-2 was to be completed for the Applicant and each JV member. Accordingly, KDC, as a constituent member of the GRC-ZKB-KDC JV, was independently bound to furnish truthful and complete information.

18. The counsel of the Respondent further submitted that the Appellant i.e., GRC-ZKB-KDC JV, comprising M/s Ghulam Rasool & Company (GRC), M/s Zahir Khan & Brothers (ZKB) and KDC in shares of 55%, 30% and 15%, respectively, submitted its Pre-Qualification Application on 07.12.2025. KDC expressly selected "No Litigation History" in Form CON-2 and furnished an undertaking declaring, inter alia, that it had never been blacklisted, involved in litigation, debarred or rendered ineligible. However, KDC was admittedly involved in pending proceedings arising from the earlier procurement involving the SKB-KDC JV and the disputed bid security. The said litigation was neither disclosed in Form CON-2 nor in the accompanying undertaking.

19. The counsel of the Respondent also submitted that the Pre-Qualification Evaluation Report dated 15.06.2026 specifically recorded the aforesaid non-disclosure and incorrect declarations. The Evaluation Report noted that KDC was in direct dispute / litigation with WAPDA concerning submission of the fake bid security during the earlier procurement of the same package and that the relevant information had not been disclosed. The matter was considered by the concerned WAPDA offices, including GM(C&M), GM(CCC), Law Division and the Project Office. Upon clarification sought by the Consultants, WAPDA, vide email dated 05.05.2026, advised that the GRC-KDC-ZKB JV application for ICB-01 should not be considered for further evaluation in view of the established record concerning the earlier fake bid security. The revised Evaluation Report consequently declared the Applicant FAIL and DISQUALIFIED under ITA 25.1 and Rule 18 of the Public Procurement Rules, 2004 under the category of Historical Contract Non-Performance.

20. The counsel of the Respondent further added that, the disqualification was not based merely upon the existence of litigation or upon the earlier bid security as an independent ground. The material consideration was KDC's failure to disclose the pending proceedings and its express declaration of "No Litigation History", together with the corresponding undertaking containing materially inaccurate information. The reference to the earlier procurement was relevant to establish the factual circumstances of the pending proceedings and the materiality of the information which KDC was required to disclose.

21. The counsel of the Respondent also submitted that the Appellant's contention regarding absence of clarification was misconceived. Clarifications under ITA 21.1 were confined to specific matters identified as unclear and did not require WAPDA to seek clarification regarding every aspect of an application, particularly where the Applicant had itself furnished an express declaration. The obligation to submit complete, accurate and truthful information rested upon the Applicant, and a material misrepresentation could not subsequently be cured through clarification or retrospective explanation.

22. The counsel of the Respondent also submitted that the Appellant was not disqualified without reasons. The Pre-Qualification Evaluation Report dated 15.06.2026 expressly recorded the reasons for its failure. Further, pursuant to the Appellant's request under ITA 28.1, WAPDA, vide letter dated 20.07.2026, communicated the detailed reasons for its failure to qualify, which were *pari materia* with those recorded in the Evaluation Report. The Appellant thereafter availed its remedy before the GRC, which, vide decision dated 04.08.2026, declined the relief sought.

23. The counsel of the Respondent further submitted that, the GRC correctly found that the principal issue was the non-disclosure of pending litigation and inaccurate information concerning KDC. The GRC considered the procurement record, Form CON-2, the undertaking and the applicable procurement framework and concluded that the omission constituted materially incomplete / inaccurate qualification information attracting ITA 25.1 and Rule 18. The Appellant's assertion that the GRC acted summarily, mechanically or without reasons was therefore denied. Further added that, the Appellant's request dated 07.05.2026 to exclude KDC and continue as GRC-ZKB JV could not be entertained. ITA 30.1 concerns changes in the structure of an Applicant after prequalification and invitation to bid, whereas the Applicant had not yet been prequalified. Moreover, exclusion of KDC would materially alter the Applicant's legal identity and technical / financial standing and could not be permitted as a clarification under Rule 31(1) of the PP Rules, 2004.

24. The counsel of the Respondent further argued and submitted that the instant appeal under Rule 48(7) is confined to the grievance considered by the GRC and cannot be used to introduce matters or grounds not properly agitated before it. The Appellant could not characterise the express requirements of Section III, Sub-Factors 2.3 and 2.4, Form CON-2 and the prescribed undertaking as an undisclosed criterion merely because its application failed to comply therewith. These requirements applied equally to every applicant and each constituent member of a JV.

25. The counsel of the Respondent also submitted that, the disqualification of the Appellant was based upon an unpublished or additional criterion. The requirements concerning litigation history, pending litigation, Form CON-2,

undertakings, forged / bogus documents and Rule 18 were all part of the published procurement framework. WAPDA neither introduced a new standard nor retrospectively enlarged the disclosure obligation. The issue was not whether every pending litigation automatically rendered an applicant ineligible, but whether KDC had truthfully disclosed the information expressly required under the Pre-Qualification Documents. Its declaration of "No Litigation History" despite pending proceedings rendered the information materially inaccurate.

26. The counsel of the Respondent further submitted that the Appellant's technical, financial or managerial qualifications could not cure the material non-compliance. The Application Submission Form dated 08.12.2025 itself represented that all information, statements and descriptions contained therein were true, correct and complete. The principles of natural justice did not confer a right to retrospectively rectify a material misrepresentation. The Appellant was informed of the reasons for disqualification and was afforded an opportunity to challenge the same before the GRC. The earlier procurement was not finally adjudicated by WAPDA in the present proceedings, it was considered only insofar as it established the factual background of the pending proceedings and the inaccuracy of KDC's declarations.

27. At the last, the counsel of the Respondent, in support of their position, relied upon PLD 2017 Islamabad 115, 7C's Corporate Services v. Oil and Gas Development Company Limited & others, regarding the legal capacity of an entity to sue or be sued, Suit No. 08 of 2023, Syed Tahir Imam Rizvi v. Province of Sindh & others, concerning misrepresentation of litigation history, and 2012 CLD 706, Bakht Faraz Construction Company v. Federation of Pakistan, concerning rejection of a bid on account of submission of false documents.

The Respondent accordingly submitted that the Appellant's application was disqualified strictly in accordance with the published Pre-Qualification Documents and Rule 18 of the PP Rules, 2004, that the GRC rightly upheld the Procuring Agency's decision vide order dated 04.08.2026, hence request for dismissal of the instant appeal.

28. The Appellate Committee heard the learned representatives of the parties and examined the available record i.e., written replies, impugned GRC decision dated 04.08.2026, Final / Prequalification Evaluation Report, Prequalification Documents, relevant correspondence and applicable provisions of the Public Procurement Rules, 2004.

29. At the first, the Appellate Committee ("the Committee") observed that, Rule 18 of the Public Procurement Rules, 2004 mandates disqualification where information submitted regarding qualification is found false, materially inaccurate or incomplete. Rules 29 and 30 require clear evaluation criteria to be incorporated in the bidding documents and mandate evaluation strictly in accordance therewith. Rule 31 permits only such clarification as does not alter the substance of the bid, while Rules 33 and 34 provide for rejection of bids and re-bidding where warranted. Rule 48(3) prescribes the period for lodging procurement grievances.

30. The Committee also observed that the requirements are reflected in the Prequalification Documents i.e., ITA 6.3 required Applicants to examine and comply with all instructions, forms and terms; ITA 13.1 and 14.1 required prescribed eligibility and qualification information; ITA 22.1 permitted rejection of a non-responsive or inadequately supported application; and ITA 25.1 required evaluation only on the specified criteria and provided for rejection / disqualification in case of forged, bogus or in-genuine

documents. Section III, clauses 2.1, 2.3 and 2.4, specifically addressed non-performing contracts, pending litigation and litigation history, including the requirement to provide accurate information concerning litigation / arbitration and its impact upon qualification.

31. The Committee, therefore, finds that disclosure of litigation and furnishing of truthful and complete qualification information were express requirements of the Prequalification Documents and did not constitute a new or subsequently introduced eligibility criterion. The Applicants were bound by the tender documents and could not depart from the prescribed requirements.

32. The Committee further observed that, the record shows that M/s Kundi Development Corporation ("KDC"), through affidavits dated 07.12.2025, declared that it had not been declared a defaulter, blacklisted, debarred, disqualified or rendered ineligible by any Government / public-sector authority and had not been involved in corrupt or fraudulent practices or subjected to adverse action in connection with litigation / proceedings.

33. The record further shows that an earlier procurement involved SKB-KDC Joint Venture, in which a bid-security instrument attributed to National Bank of Pakistan was submitted. Upon verification, NBP reportedly informed WAPDA that the instrument had not been issued by NBP and described it as a "Fake Instrument", where after WAPDA rejected the bid and initiated proceedings. KDC challenged the matter before the competent civil forum and the resultant litigation remained pending.

34. The present matter does not require determination of the merits or finality of that earlier dispute. The relevant question is whether the pending litigation was required to be

disclosed in the present prequalification application and whether KDC accurately disclosed its position.

35. The Committee also observed that, the Respondent's case, supported by the record, is that KDC selected "No Litigation History" in Form CON-02 and did not disclose the pending proceedings involving WAPDA. The Committee finds that, in view of the express requirements concerning pending litigation, litigation history and accurate qualification information, such omission was material. KDC was required to disclose the existence of the litigation and was not required to admit liability therein. The distinction between disclosure of litigation and admission of the allegations is material.

36. Accordingly, the Committee finds that the non-disclosure of the pending proceedings, coupled with the declaration of "No Litigation History", constituted materially incomplete and inaccurate qualification information. Rule 18 was therefore attracted. The disqualification was based not merely on the existence of litigation but on its non-disclosure and the inaccurate qualification declaration. The principles relied upon by the Respondent from *Syed Tahir Imam Rizvi v. Province of Sindh & Others*, Suit No.08 of 2023, decided on 17.03.2023, and *Bakht Faraz Construction Company v. Federation of Pakistan*, 2012 CLD 706, are consistent with the principle that material misrepresentation or false / inaccurate information may justify rejection / disqualification.

37. The Committee further observed that the Appeal has been instituted in the name of GRC-ZKB-KDC Joint Venture. The record does not satisfactorily establish that the Joint Venture possesses an independent juristic personality separate from GRC, ZKB and KDC, that all constituent members authorized institution of the Appeal in its name, that the person instituting the Appeal had specific authority to represent each constituent member, or that the constituent

members were properly impleaded in their individual capacities.

38. A Joint Venture may constitute a contractual arrangement for performance of a particular project, but its capacity to institute proceedings in its own name depends upon its legal character and the authority conferred by law or the governing agreement. The principle relied upon by the Respondent finds support in *7C's Corporate Services v. Oil and Gas Development Company Limited and others*, PLD 2017 Islamabad 115 (2017 IHC 69). The mere authority of a constituent member or representative to correspond with WAPDA for procurement purposes does not, without more, establish authority to institute appellate proceedings concerning the legal rights and liabilities of all members. The Appeal is, therefore, filed without legitimacy for want of demonstrated legal capacity and authority.

39. With regard to limitation, WAPDA informed the Appellant vide letter dated 08.07.2026 that its prequalification application had been declared "Disqualified (Not Qualified)". The Appellant sought further reasons on 16.07.2026, and WAPDA, vide letter dated 20.07.2026, communicated detailed grounds, including reliance upon ITA 25.1, Rule 18 and non-disclosure of litigation arising from the earlier procurement. The Appellant thereafter approached the Respondent / GRC on 27.07.2026.

40. The subsequent request for reasons did not postpone the accrual of the grievance or create a fresh cause of action. The adverse decision had already been communicated on 08.07.2026 and the letter dated 20.07.2026 merely furnished reasons for that decision. No lawful basis for extension, condonation or exclusion of the prescribed period has been established. The grievance was, therefore, time-barred under Rule 48(3) of the Public Procurement Rules, 2004.

41. The Committee further finds that the request to remove KDC from the Joint Venture and continue the procurement as GRC-ZKB JV cannot be accepted. At the prequalification stage, the identity and composition of the Joint Venture were material to its qualification. A subsequent alteration of its composition, particularly after discovery of a material qualification deficiency attributable to KDC, would materially change the identity and qualification basis of the Applicant and cannot constitute a permissible procedural correction. The GRC, therefore, committed no illegality in declining the proposed removal of KDC. Rule 31 likewise does not permit a material misrepresentation or substantive qualification deficiency to be cured by altering the application after submission.

42. In view of the foregoing, the Committee concludes that the grievance was time-barred; the Appeal was additionally instituted without satisfactory demonstration of the Joint Venture's independent juristic personality or requisite authority; the requirements regarding litigation disclosure and truthful qualification information were expressly contained in the Prequalification Documents; KDC failed to disclose the pending litigation and furnished materially incomplete / inaccurate information; Rule 18 was consequently attracted; and removal of KDC would materially alter the composition and qualification basis of the Joint Venture. The issue before the Committee is the non-disclosure and inaccurate declaration, and not adjudication of the merits of the earlier dispute concerning the alleged fake bid-security instrument.

43. The Appellant has failed to establish any violation of the applicable procurement framework or the principles of transparency, equal treatment and procedural fairness

warranting interference with the decision of WAPDA or the GRC.

44. For what the reasons and observations mentioned above, the Appeal in hand is hereby **dismissed as not maintainable and devoid of merit**. The impugned decision dated **04.08.2026** passed by the Grievance Redressal Committee is **upheld**.



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



**(Abdul Majeed)**  
Sr. Specialist (M&E)  
(Member)



**(Hasnat Ahmed Qureshi)**  
Managing Director (PPRA)  
(Chairman of the Committee)

**Dated:** 24<sup>th</sup> September, 2026

*Each page of the order has been signed by all members of the Committee. The order comprises seventeen (17) pages.*

