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**GOVERNMENT OF THE PUNJAB  
PUNJAB PROCUREMENT REGULATORY AUTHORITY  
SERVICES AND GENERAL ADMINISTRATION  
DEPARTMENT**

304-T, 3<sup>rd</sup> Floor Al-Falah Building, The Mall Lahore.

Dated Lahore, the 03<sup>rd</sup> June, 2021

**ORDER**

**No. L&M(PPRA)1-45(G)2019/BL/195** M/s. Wood Working Service Centre, TEVTA, Tipu Raod, Behind Moti Mehal Cinema, Rawalpindi (hereinafter called "firm/representer") in terms of Rule 21 (4) of Punjab Procurement Rules 2014 amended to date (PPR-14) has filed a representation against the order of blacklisting passed by Prosecutor General Punjab 1<sup>st</sup> Floor Kasuri Tower, 4-Fane Road, Lahore (hereinafter called "procuring agency/respondent") vide order bearing No. S-F/PGP/5-178/2017(P-II)-625-5036 dated 10.11.2020 (hereinafter called "impugned order") whereby the representer has been blacklisted for a period of fifteen (15) years.

 Brief facts giving rise to the instant representation are that the procuring agency executed two contracts amounting to Rs. 20,142,340/- and Rs. 3,391,000/- for procurement of furniture items for the office of Prosecutor General Punjab (PGP) and office of District Public Prosecutor, Faisalabad respectively on 31.05.2017. Accordingly two supply orders dated 01.06.2017 were issued for supply within a period of 120 days i.e. on or before 30.09.2017 which was extendable for a further period of 30 & 20 days respectively. On request of representer/firm an advance payment amounting to Rs. 19,918,067/- against the above said two supply orders were made by the procuring agency after obtaining approval from Finance

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Department. After lapse of 03 days from the stipulated period of 120 days the representer made a request vide letter dated 03.10.2017 to the procuring agency for pre delivery inspection of furniture items. The inspection committee of the procuring agency visited/inspected the furniture stock on 13.10.2017 and observed that 50% of furniture items were not prepared rather a small quantity of available items was inspected by the committee as per following details:-

**Furniture Items for Office of Prosecutor General Punjab Office**

Sr. No.	Name of Item	Total Items	50%	Items ready for inspection	% of prepared items w.r.t. total quantity	Remarks
1.	Executive Visitor Chair	600	300	120	20%	Found as per specifications
2.	Office Table (staff)	450	225	60	13.33%	i. Win Board, instead of Lamination Board has been used. ii. Tow open boxes missing. iii. One side drawer missing. iv. No monogram.
3.	Computer Table	80	40	80	100%	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
4.	Wooden Cupboard/Shelves for library	100	50	2	2%	Win Board, instead of Lamination Board has been used. Furthermore, wood footing as per specification is missing.
5.	File Racks Simple	160	80	0	0%	
6.	Office Table (officer)	165	82-83	0	0%	
7.	Steel Almirah	100	50	0	0%	

**Furniture Items for Office of District Public Prosecutor Faisalabad**

Sr. No.	Name of Item	Total Items	50%	Items ready for inspection	% of prepared items w.r.t. total quantity	Remarks
1.	Executive Visitor Chair	65	33	65	100%	Found as per specifications
2.	Office chair cane	60	30	60	100%	All items termatic. Not found as per specifications.
3.	Office Table (staff)	30	15	30	100%	v. Win Board, instead of Lamination Board has



						been used. vi. Tow open boxes missing. vii. One side drawer missing. viii. No monogram.
4.	Computer Table	05	2-3	05	<b>100%</b>	ii. Win Board, instead of Lamination Board has been used. v. No monogram.
5.	Office Table Prosecutor	51	25	0	<b>0%</b>	
6.	Steel Almirah	10	5	0	<b>0%</b>	
7.	Conference Table	1	1	0	<b>0%</b>	
8.	Conference Room chair	51	25	0	<b>0%</b>	
9.	Reception Table with chair	1	1	0	<b>0%</b>	

3. The inspection report was communicated to representer/firm vide letter dated 27.10.2017 with the request to rectify the above mentioned deficiencies and to prepare the remaining items for pre-delivery inspection but the representer/firm did not inform any further date for inspection/verification of rectifications. PGP issued a notice dated 31.10.2017 for inspection/verification of rectification on 03.11.2017 but the inspection committee once again observed that neither the deficiencies were rectified nor any manufacturing was in progress regarding the remaining items, detail is as follows:-

#### Furniture Items for Office of Prosecutor General Punjab Office

Sr. No.	Name of Item	Total Items	Items ready \ at the time of inspection dated 13.10.2017	Items ready at time of inspection dated 03.11.2017	Progress made during intervening period	Inspected items	Remarks
1.	Executive Visitor Chair	600	155	155	0	155	Found as per specifications. Hence 155 chairs may be accepted
2.	Office Table (staff)	450	60	60	0	60	i. Win Board, instead of Lamination Board has been used.

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							ii. Tow open boxes missing. iii. One side drawer missing. iv. No monogram.
3.	Computer Table	80	80	80		80	i. Win Board, instead of Lamination Board has been used. ii. No monogram.
4.	Wooden Cupboard/Shelves for library	100	2	30	28	30	Win Board, instead of Lamination Board has been used. Furthermore, wood footing as per specification is missing. Hence 30 cupboards/shelves for library may be rejected.
5.	File Racks Simple	160	0	1	1	1	Found as per specifications. Hence 01 rack accepted.
6.	Office Table (officer)	165	0	0	0	0	Nil
7.	Steel Almirah	100	0	0	0	0	Nil

*[Handwritten signature]*

**Furniture Items for Office of District Public Prosecutor Faisalabad**

Sr. No.	Name of Item	Total Items	Items ready at the time of inspection dated 13.10.2017	Items ready at time of inspection dated 03.11.2017	Progress made during intervening period	Inspected items	Remarks
1.	Executive Visitor Chair	65	65	65		65	Found as per specifications. Hence may be accepted.
2.	Office chair cane	60	60	60		60	All items termatic,

							hence may be rejected.
3.	Office Table (staff)	30	30	30		30	<ul style="list-style-type: none"> <li>i. Win Board, instead of Lamination Board has been used.</li> <li>ii. Two open boxes missing.</li> <li>iii. One side drawer missing.</li> <li>iv. No monogram.</li> </ul>
4.	Computer Table	05	05	05		05	<ul style="list-style-type: none"> <li>i. Win Board, instead of Lamination Board has been used.</li> <li>ii. No monogram.</li> </ul>
5.	Office Table Prosecutor	51	0	01	01	01	Found as per specifications. Hence 01 office table for officer may be accepted.
6.	Steel Almirah	10	0	0	0	0	
7.	Conference Table	1	0	0	0	0	
8.	Conference Room chair	51	0	0	0	0	
9.	Reception Table with chair	1	0	0	0	0	

4. The inspection committee on the basis of inspection report dated 13.10.2017 and 03.11.2017 submitted certain recommendations to PGP and after approval (by PGP) of the recommendations submitted/made by inspection committee, notices of revocation dated 22.11.2017 under clause 11.1 of the contracts were served upon the representer/firm and representer/firm was also directed to return the amount paid in advance by the procuring agency after deducting the cost of delivered and accepted furniture items. The representer/firm



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submitted justifications through letter dated 06.12.2017 and 15.12.2017 to the notices of revocation for non-performance of the contracts and requested to extend the delivery period which was rejected by the procuring agency and contracts dated 31.05.2017 were rescinded partially, vide letter dated 29.12.2017. In response to revocation letter dated 29.12.2017 the representer/firm vide letter dated 03.01.2018 intimated that out of advance payment amounting to **Rs. 19,918,067/-** furniture items worth of **Rs. 11,506,450/-** are ready for delivery and firm is ready to refund the remaining amount i.e. **Rs. 84,11,617/-** and further requested for extension in time of delivery of furniture till 25.02.2018. The representer/firm vide letter dated 08.01.2018 also requested for a meeting to discuss the issue, in response to request the matter was discussed and representer/firm was directed to supply the furniture items found as per specifications at the specified places but representer/firm once again failed to do so. Eventually the procuring agency rescinded the contract in whole vide letter dated 29.01.2018.

5. The representer/firm also filed a writ petition bearing No. 1306/2018 (titled as TEVTA v/s. Govt. of the Punjab through the office of Prosecutor General Punjab) before the Honorable Lahore High Court Rawalpindi bench on 13.06.2018 and civil suit in which the notices were issued for 23.11.2019 and subsequently the said suit was dismissed as withdrawn on 24.12.2019. Later on a show cause notice dated 14.11.2019 for blacklisting the representer/firm was issued but no reply was received. Consequently, the procuring agency blacklisted the representer/firm for a period of fifteen years on account of failure to perform his obligation under the contract dated 31.05.2017.

6. Both the parties in order to provide an opportunity of personal hearing on 22.02.2021 and 09.03.2021 was issued notice through the subpoena dated 17.02.2021 and 01.03.2021 with the direction to attend the office of the Managing Director PPRA to decide the matter as per law. Mr. Amir Ahmad Khan (Project Director appeared on behalf of M/s. TEVTA Wood Working Service Centre Rawalpindi and stated the representer has performed the contract on its part by manufacturing the furniture items and the dispute is only to the extent of specification of items manufactured. He argued that procuring agency did not invoke rule 68 of PPR-14 which provides that after coming into force of the procurement contract, dispute between the parties to the contract shall be settled through mediation or arbitration. The procuring agency passed the impugned order on malafide intention and opportunity of personal hearing has also not been provided. It was also submitted that procuring agency has discriminated the representer/firm, as in similar issues extension in delivery period has been granted by the procuring agency to the TEVTA Gujranwala and TEVTA Gujrat vide letter dated 24.05.2017 and 23.10.2017, however same benefit has not been extended to the representer/firm. The representer/firm is a public institution wherein dozens of people have been employed, the blacklisting of representer/firm will not only deprive the **government from revenue** but will make the families of employees to suffer due to lessening of work opportunity. The arbitrary blacklisting order is likely to result in the grievous financial loss to the representer/firm, loss of customers, reputation and market loss. It was further submitted that the representer/firm plays a pivotal role in the socio-economic betterment of the country and nation and representer/firm also entertains the students from public sector on stipend and other facilities and the impugned order passed by the procuring agency is not sustainable under the eye of law as the




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blacklisting duration is not covered under the applicable PPRA laws and is also violation of Article 18 of the Constitution of the Islamic Republic of Pakistan, 1973. While concluding his argument he submitted that impugned order dated 10.11.2020 for debarring for a period of **fifteen years to the public sector organization** may kindly be set aside with the direction to resolve the issue through arbitration.

7. Mr. Umer Adil Kamal (Deputy Director, (B&F)) and Mr. Ijaz Ahmad Bhatti (Assistant Director, (B&F)) appeared on behalf of the procuring agency and emphasized on the contents of the impugned order. It was argued that the representer/firm was badly failed to perform the contractual obligation despite repeated chances were given to the representer/firm and instant matter clearly falls under the ground "**consistently failed to perform his obligation under the contract**" as provided under rule 21(1) of PPR-14 and firm has rightly been blacklisted, therefore, instant representation is liable to be set aside.

8. Parties heard, available record on the file and reply of the procuring agency on the representation made by the representer/firm has been examined and following has been observed:-

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- i) It has been established that representer/firm has failed to perform the obligation under the contract therefore; the ground of blacklisting for not performing the contract upto the mark has been fully established against the representer/firm.
  - ii) Before passing the impugned order the procuring agency issued a show cause notice No. S-F/PGP/5-178/2017(P-II)-852-7950 dated 14.11.2019. However, the procuring agency neither issued any personal hearing notice nor afforded the opportunity personal hearing to the representer/firm as required under para-5 & 6 of the schedule providing blacklisting mechanism or process appended to PPR-14 which stipulates that:-



"5. In case the bidder or contractor submits written reply of the show cause notice, the procuring agency may decide to file the matter or direct issuance of a notice to the bidder or contractor for personal hearing.

6. The procuring agency shall give minimum of seven days to the bidder or contractor for appearance before the specified officer of the procuring agency for personal hearing."

In view of above and since impugned order has been passed for an unreasonable period of fifteen years, cannot be considered to have been passed in accordance with the prescribed rules/procedures and therefore same is not sustainable under the eye of law.

9. Since representer/firm is also a public sector organization which is also generating revenue therefore, blacklisting of such institution might not be appropriate and in such a situation where the proper procedure of blacklisting as provided under PPR-14 has not been observed. Therefore, the same protanto is liable to be set asided. Because **due process of law** would mean that every act should be in accordance with the law on the subject (**Reliance 2016 CLC 408**). In another case Supreme Court has held that where a procedure has been provided for doing a thing in a particular manner that manner and in no other way or it should not be done at all (**PLD 2011 SC 927**). Government powers must be exercised within the constraints of rules whatever they may be, must be uniformly applied (**PLD 2009 SC 879**). Furthermore, there are a number of judgments of superior courts where the Honorable courts have set aside the blacklisting orders passed without observing substantive due procedure and therefore, impugned order is also not sustainable in the eye of law.

10. Allowing for the above and since the representer/firm is ready provide the required furniture items to which the procuring agency is also willing to accept,

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keeping in view the principle of **value for money** and considering the fact that the representer/firm has already received the payment in advance. Owing to the facts that prescribed procedure for blacklisting has not been adopted, period of blacklisting (15 years) is unreasonable and both the representer/firm and procuring agency are public sector organization, in exercise of the power conferred under Rule 21(4) of PPR-14 read with Section 17-A (3) of Punjab Procurement Regulatory Authority Act, 2009 the impugned order passed by the Prosecutor General Punjab 1<sup>st</sup> Floor Kasuri Tower, 4-Fane Road, Lahore (procuring agency) is set aside with the direction to the representer/firm to provide the supply of furniture items strictly as per required specification to the **entire satisfaction** of procuring agency **within 120 days** of the issuance of this order failing which the procuring agency shall be at full liberty to proceed against representer/firm as per prescribed rules/procedures.

11. Any party aggrieved from this order may file a representation before Chairman PPRA/Chief Secretary Punjab within thirty days under rule 21 (5) of PPR-

14.

**BY THE ORDER OF  
MANAGING DIRECTOR PPRA**

CC:

1. The Secretary, Govt. of the Punjab Public Prosecution Department Punjab Lahore.
2. The Prosecutor General Punjab, Lahore.
3. The Chairperson, Govt. of the Punjab TEVTA.
4. The Chief Operating Officer, Govt. of the Punjab TEVTA.
5. The General Manager (Procurement), Govt. of the Punjab TEVTA.
6. M/s. Wood Working Service Centre, TEVTA, Tipu Raod, Behind Moti Mehal Cinema, Rawalpindi.
7. PA to MD PPRA.
8. Office copy.

*Abdul Salam*  
SENIOR LAW OFFICER  
PPRA S&CAD

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