

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD  
JUDICIAL DEPARTMENT

W.P. No. 1996 of 2019

M/s Cozmuler Engineering (Pvt.) Ltd. and another  
Vs  
Pakistan Public Works Department through Executive Engineer and  
another

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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03)    03-06-2019. Mr Jan Muhammad Khan Advocate, for the  
petitioners.  
Mr Tariq Mehmood Mirza Advocate, for PWD.  
Mr M. Saif Ullah Gondal, AAG.  
Syed Qamar Hussain Sabzwari Advocate, for  
applicant in CM No. 2327/2019.  
Mt Tariq Altaf Malik, Director Law respondent no. 2.

The petitioner Company has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the "**Constitution**") challenging the eligibility criteria prescribed by the respondents and mentioned in bidding documents.

2.        The learned Counsel for the petitioner Company was asked whether the latter has submitted its bid. The learned Counsel has stated that the bid was submitted pursuant to the directions given by this Court vide order, dated 21-05-2019. The learned Counsel has stated that

the conditions prescribed in relation to "Experience Record" are discriminatory and, therefore, in violation of rule 32 of Public Procurement Rules, 2004 (hereinafter referred to as the "**Rules of 2004**").

3. The learned Counsel for the petitioners has argued that the conditions have been prescribed to favour a particular bidder.

4. The learned Counsel who has appeared on behalf of the respondents, on the other hand, has argued that the instant petition at this stage is pre-mature because the bids are yet to be opened and evaluated. He has further argued that the petitioner Company would have an opportunity to challenge the proceedings in case it is aggrieved after one of the bidders has been declared as successful. He has further argued that the conditions prescribed in the bidding document do not violate any provisions of the Rules of 2004.

5. The leaned Counsels have been heard and the record perused with their able assistance.

6. In order to meet the ends of justice it would be appropriate at this stage not to make any observation regarding merits of the case lest it may prejudice proceedings before the competent authority. Nonetheless, there is force in the argument raised by the learned

Counsel for the respondents that at this stage the instant petition is pre-mature because the bids have yet to be opened and evaluated. It appears that the grievance of the petitioner Company to the effect that the prescribed conditions have been imposed in order to benefit a particular bidder is based on apprehension not supported by any material on record. The learned Counsel for the respondents has rightly stated that in case of acceptance of one of the bids and its evaluation, the petitioner Company, if so advised, would be at liberty to raise its grievance before a competent forum, inter-alia, the grievance committee. It is settled law that a writ cannot be issued merely on the basis of apprehensions.

7. For what has been discussed above, the instant petition is disposed of by observing that in case the petitioner Company is aggrieved after the bids have been opened and evaluated, then it will be at liberty to challenge any illegality before a competent forum. However, to the extent of the instant petition it is not justiciable at this stage.

**CHIEF JUSTICE**

Tanveer Ahmed.