

INDEPENDENT REVIEW PANEL

In the matter of:

Polo Shirts Company Ltd

(Applicant)

v/s

Police Department

(Respondent)

(Cause No. 17/10/IRP)

Decision

Background

On 26 July 2010, the Applicant has filed an application for review based upon the following grounds:

“No reply to our letters dated 30 October 2009, 16 November 2009, 31 December 2009 and 03 April 2010. No reply to our challenge dated 25 May 2010 and 29 June 2010.”

It is also stated in the application that the date of filing of the challenge is 29 June 2010. In fact, the record reveals that on 30 September 2009 the Applicant has been awarded a contract for supply of Pullover Q No 187 of 2008/2009 and has filed two challenges dated 25 May 2010 and 29 June 2010 in relation to alleged breaches of duty under Sections 15, 19, 20, 49, 50 and 51 of the Public Procurement Act 2006 and Regulations 10 and 12 made under the same Act. The second challenge is a duplicate copy of the first one except for the date, i.e. 29 June 2010.

Findings

As averred by the Applicant, there has been no reply to the first challenge. In case of no reply from the Public Body, the aggrieved bidder in accordance with Regulation 48(5) made under the Public Procurement Act 2006, the application should have been filed within 15 days, after 15 days from which the challenge has been filed. The aggrieved bidder having failed to file the application with such time limits, is time barred to do so.

In our view, the second challenge dated 29 June 2010 which a copy of the first one is no more less than an attempt to circumvent the hurdle of the prescribed delay in respect of the first challenge.

Moreover on 11 November 2009, the Public body informed the Applicant of its decision to cancel the tender exercise. The aggrieved bidder did not appeal against that decision but waited for some 6 months to evoke alleged breaches of provisions of the Public Procurement Act.

For all these reasons, the Panel has no hesitation to dismiss the application, the latter having been filed in an untimely manner pursuant to Regulation 56(c) made under the Public Procurement Act of 2006.

The Applicant may have suffered loss as disclosed in its letters addressed to the Police Department which in our view could appropriately be canvassed before other fora.

(Dr. M. Allybokus)
Chairperson

(H. D. Vellien)
Member

(Mrs. E. Hanoomanjee)
Member

Dated 10 August 2010