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(M.M.R.)

Petition partly allowed.

PLJ 2020 Peshawar (Note) 188

Present: QAISER RASHID KHAN AND SAHIBZADA ASAD ULLAH, JJ.

M/s. ALLIED DISTRIBUTORS AKHAI ARCADE,
 PESHAWAR--Petitioner

versus

GOVERNMENT OF KHYBER PUKHTUNKHWA through Secretary
 Health, Peshawar and 6 others--Respondents

W.P. No. 1449-P of 2014, decided on 6.6.2014.

Constitution of Pakistan, 1973--

---Art. 199--Khyber Paktunkhwa Public Procurement of Goods and Service Rules, 2013, R. 14(vii) & (viii)--Appointment as pharmaceutical distributor--Invitation bids for procurement of general medicine and biological drugs--Technical evaluation criteria--Deduction of points--Alternate remedy--Non-authorization for institution of suit--Mandate of law--Maintainability--Challenge to--This petition has been unauthorizedly instituted on behalf of petitioner and is not maintainable as such--Moreover, petitioner has not come in open as to whether M/s. Allied Distributors is a proprietorship concern or a partnership firm as no document worth name has been brought on record regarding status of M/s. Allied Distributors--Pseudonym M/s. Allied Distributors itself does not connote any meaning--Being lowest folder is not sole criteria whereby contract could be awarded to petitioner--As per Rule 14 Clause (vii) and (viii) of K.P.K. Public Procurement of Goods, Works and Services Rules, 2013 it is anyway satisfaction of procuring entity who will act as final arbiter a merely offering lowest bid is not sine qua non for award of a contract--Instead of lodging a complaint to head of procuring entity (Respondent No. 2) and thereafter filing an appeal to authority (Secretary Health KPK Peshawar), petitioner straightaway came running to this Court through instant petition and thereby bypassed mandate of law--It needs no reiteration that recourse to this Court under Article 199 of Constitution of Islamic Republic of Pakistan can be made when no alternate or efficacious remedy is available which was not case with petitioner--As such, case of petitioner fails both on merits as well as on score of maintainability--Petition was dismissed.

[Para 6, 7 & 8] A, B & C

2020

Mr. Muhammad Taif Khan, Advocate for Petitioner.

Mr. Rab Nawaz Khan, AAG alongwith Zahid Ali Khan Pharmacist Govt. M.C.C Health Directorate, Peshawar for Govt of KPK.

M/s. Ashtar Ausaf Ali, Muhammad Imran, Barrister Assad Rahim and Shehreyar Riaz Advocates for Respondent No. 6.

Date of hearing: 6.6.2014.

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(Y.A.)

Petition dismissed.

PLJ 2020 Lahore (Note) 189

Present: ALI AKBAR QURESHI, J.

MUHAMMAD ALI--Petitioner

versus

ABDUL SHAKOOR--Respondent

C.R. No. 923 of 2017, heard on 9.10.2017.

Arbitration Act, 1940 (X of 1940)--

---Ss. 14, 14(2) & 20--Civil Procedure Code, (V of 1908), S. 115-- Application for making award rule of Court--Dismissed--Appeal-- Accepted--Dispute regarding exchange of land--Appointment of arbitrator with consent--Non-availability of award--Non-producing of award in Court--Obligation of arbitrator--Legal validity-- Challenge to--Neither award is available on file nor same was got exhibited--Judgment of trial Court is completely silent on this point--Documents were not got exhibited during recording statement of witnesses by respondent but same was tendered by counsel for petitioner in his statement without oath--Even award is not mentioned in statements of counsel recorded--Thus it is proved, that alleged award was not produced or tendered by both parties during recording statements of witnesses and in statement of their counsel--Arbitrator is bound to issue notices to all parties before announcement of award, award shall be issued and signed in presence of parties, whereas sub-section 2 of Section 14 states, that arbitrator if direction is given by Court shall file award alongwith all depositions in Court so that Court, after hearing objections if filed could make award rule of Court--Alleged award has not been filed in Court therefore, order passed by appellate Court to make award rule of Court has no substance and judgment is liable to be