

Appeal Petition No. 039 of 2024

**Mohammed Eunos & Brothers(PVT.) Ltd (Represented by Syed Amirul
Islam, Additional Director)**

---Complainant

Versus

**Executive Engineer, Local Government Engineering
Department, Barguna.**

---Respondent

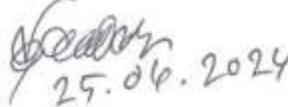
The complainant filed an appeal petition to Review Panel-4 of the Bangladesh Public Procurement Authority(BPPA) as per Rule 56 of the Public Procurement Rules 2008 (PPR 2008) wherein he stated that his company Mohammed Eunos & Brothers (PVT) Ltd participated in an e-GP tender (Tender ID: 883109) floated by the Executive Engineer, Local Government Engineering Department (LGED), Barguna and became technically responsive. While invoking the grounds for his appeal he stated that the Procuring Entity (PE) with an ulterior motive issued a Notification of Award (NOA) in favour of Barendra Construction Ltd which was not technically responsive for the following reasons:

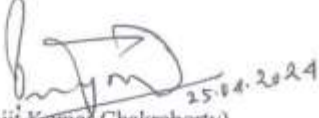
1. Barendra Construction Limited is a newly formed Private Limited Company that started its operation having registered by the Registrar of Joint Stock Companies(RJSC) on 29.08. 2023. According to the qualification criteria set out in the tender documents, each bidder should have 5 years of general experience as the prime contractor but the newly formed company does not have the required length of experience;
2. Barendra Construction Limited participated in the tender by combining the experience of the individual shareholders. Neither the PPA 2006 and PPR 2008 nor the Companies Act 1994 have any provisions for combining the experience of the shareholders;
3. There is a requirement for an audit report reflecting the status of equipment and manpower etc. but this has not been complied with;
4. Mr. Abul Hossain and Mr. Wasimul Hoq who are members of the proprietorship firms as listed in the Memorandum of Association of the newly formed company signed contract agreements with the Executive Engineer, Rajshahi on 16.10.2024 using their old licenses;
5. Review Panel-3 of CPTU(BPPA) while passing its orders after hearing the appeal petition filed by another contractor Zakaullah and Brothers stated that the evaluation of the TEC declaring Barendra Construction Ltd. as the winning bidder was not legally tenable.

Hence it is ordered that-

The BPPA be requested to make necessary amendments in the public procurement legal framework (PPA 2006 and PPER 2008) and make clear provisions about combining the work experience of the shareholders of a company rather than issuing clarification on a case-by-case basis that creates scope for different interpretations. All parties including Barendra Construction Ltd be asked to wait for the verdict by the Hon'ble High Court Division after the full hearing of the Writ Petitions 510 of 2024 and 511 of 2024. The security money deposited by the complainant be refunded.


(Md. Habib Ullah Dawn)
Member
Review Panel-4


(Md. Sadeeqe Golam Sarwar)
Member
Review Panel-4


(Ranjit Kumar Chakraborty)
Chairperson
Review Panel-4