

BEFORE THE SECRETARY, GOVERNMENT OF THE PUNJAB,
LOCAL GOVERNMENT & COMMUNITY DEVELOPMENT DEPARTMENT

(Writ Petition No.184155/2018)

Muhammad Shahid Tufail s/o Muhammad Tufail, Councillor Ward No.1, Mohallah Sharif Pura MC Shakargarh.

..... Petitioner

V/s

1. The Secretary, Government of the Punjab, LG&CD Department and others

..... Respondents

Present

1. Inamul Haq Chaudhary	Chairman MC Shakargarh
2. Hafiz Rizwan Masood Advocate	Councillor
3. Qamar Zaman Butt	Councillor
4. Malik Muhammad Shahid	Councillor
5. Azmat Azizur Rahman	Councillor
6. Muhammad Idrees	Councillor
7. Muhammad Zahid Iqbal	Councillor
8. Muhammad Amjad Rahmani	Councillor
9. Sheikh Muhammad Khalid	Councillor

Date of hearing 06.04.2018
SO.MC-DEV(LG)7-71/2018

ORDER

This order will dispose of the following directions of the Hon'able Lahore High Court, Lahore passed in **Writ Petition No.184155/18 dated: 22.03.2018** titled as Muhammad Shahid Tufail s/o Muhammad Tufail, Councillor Ward No.1, Mohallah Sharif Pura MC Shakargarh V/s Secretary, Local Government & Community Development Department and others.

"Petitioner is directed to approach respondent No.2 with copy of this Court's order. If so approached, respondent No.2 shall provide opportunity of being heard to the petitioner and decide the application strictly in accordance with law, within fifteen days without fail".

2. In pursuance of orders of Hon'able Court the petitioners approached the undersigned for the provision of opportunity of hearing and to decide their application. The undersigned heard the petitioners and respondents at length and provided them ample opportunity to present their point of view and to produce, documentary and oral evidence in favour of their contentions. Respondents i.e. Chairman Municipal Committee and other officers of MC Shakargarh i.e. Chief Officer, MO (I&S) and MO (Finance) were also summoned on 06.04.2018 and directed to defend the charges / allegations leveled upon them by the petitioners in the instant writ petition.

3. The crux of the application submitted by the petitioners is "that the respondents are the General Councilors of MC Shakargarh counted as opposition. Whereas MC Shakargarh recently floated a tender in the national press dated 08.03.2018 for construction works in various wards of Shakargarh, the wards bearing No.1,2,5,6 and 8 related to petitioners were excluded from the list of development works. The petitioners also challenged

3. the legality of technical sanction granted by the Engineer concerned and highlighted that MC Shakargah issued the tenders for those two projects namely Street Malik Hashmat and Street Sheikh Nazir which have already been done by MC in the same tenure".

4. During the hearing it was pointed out by the applicants that two real brothers of Councilor Muhammad Raza, Ward No.12 and Councilor Abdul Ghaffar, Ward No.11 namely Hafiz Zia and Irshad Ahmed are given contracts to the tune of Rs.6 and 5 Million respectively which is an example of nepotism. Respondents also tendered an application in which it was asked that till the compliance of order dated 22.03.2018 of writ petition No.184155 of 2018 the respondents may be directed to stop the tender completion proceedings. In order to meet the ends of justice this office on 27.03.2018 directed the administration of MC Shakargah to refrain from completing the tendering process against the tender notice issued on 08.03.2018.

5. The Chairman, Chief Officer, MO (I&S) and MO (Finance) of MC Shakargah appeared in person and rebutted the allegations leveled against the MC Shakargah and pleaded that total amount of Rs.84,241,000/- are provided in the Annual Development Program of MC Shakargah and out of which firstly on 06.02.2018 tenders for the development works of Rs.17,100,000/- were called and work orders issued to contractors and now on 08.03.2018 tenders for the development works amounting to Rs.57,441,000/- are floated and their procedure upto the opening of tenders is completed but the work orders are not yet issued to the contractors. Chairman MC Shakargah further pleaded that all such schemes are duly approved by the house of MC Shakargah vide resolution No.4 dated 21.02.2018. He further pointed out that out of the allocated annual development program for the year 2017-2018 of MC Shakargah Rs.9,700,000/- are still lying as balance for the execution of development works and he intends to get the schemes approved from the house of MC Shakargah and ensure their execution on ground. These figures are duly verified by the Chief Officer and MO (Finance) of MC Shakargah. Administration of MC Shakargah pleaded that process of tendering is transparent and requested to allow them to proceed with the completion of tendering process. The Chairman MC Shakargah ensured that in the next phase he will allocate balance amount of Rs.9,700,000/- allocated for the ADP of 2017-2018 to the remaining wards and their schemes be executed in best public interest. Chief Officer and MO (I&S) MC Shakargah submitted a detail of registered contractors of District Narowal. With reference to allegation leveled by the petitioners regarding two streets namely (i) Street Malik Hashmat (ii) Street Sheikh Nazir, it is verified by the CO, MO (I&S) that both the floated tenders of the said schemes due to the non-availability of NOC from Local Government Department of District Narowal were cancelled.

6. Besides, the reference from Lahore High Court in Writ Petition No.184155 of 2018 some contractors and persons from civil society appeared and presented a complaint against the MC Shakargah for allotting work to contractors of their choice on high rates. Along complaint some photographs depicting pathetic condition showing conditions of streets / open drains in Ward No.1,2,6,7,8 and 14 where MC is not doing any work on political considerations. They also provide copy of application regarding irregularities in said tendering

6. process which the complainants have already submitted to DC Narowal carrying his remarks "Rules and Regulations are not being followed". The complainants were given opportunity to convey their view points in front of Chairman MC and Officers of MC. Both parties were heard and record obtained.

7. After going through the record provided by the MC Shakargarh and considering the point of view of both the contesting parties and MC Shakargarh officers, I am of the view that out of 140 contractors registered in District Narowal only 29 contractors participated in the tendering process of MC Shakargarh dated 28.03.2018 and apparently their quoted rates seems to be on higher side / uncompetitive. Moreover the local governments are required to provide Municipal Services in entire area under their jurisdiction and no pick and choose and discrimination can be meted out while under taking development work. There is no doubt that it is the legitimate power of the house of local government to consider and approve the development schemes through majority of vote.

8. Keeping in view, the above said circumstances, administration of MC Shakargarh is hereby directed to cancel their tenders floated vide advertisement dated 08.03.2018 and retender alongwith the balance amount of Rs.9,700,000/- them after ensuring all legal and codal formalities in a transparent manner. It is further directed that administration of MC Shakargarh after consultation with all stake holders of wards mentioned above prepare development schemes in the area and after getting approval from the house ensure their timely completion through a transparent execution.

9. With this order the Writ Petition No.184155 of 2018 titled Muhammad Shahid Tufail, etc. V/s Province of Punjab, etc is disposed of.

(SHAHID NASIR RAJA)
SECRETARY, LG&CD DEPARTMENT

Announced on
06.04.2018

It is certified that the order consists of three (03) pages which have been dictated, read over by me.

(SHAHID NASIR RAJA)
SECRETARY, LG&CD DEPARTMENT
Dated Lahore, the 6th April, 2018

SO.MC-DEV(LG)7-71/2018

CC.

1. Chairman MC Shakargarh.
2. The Deputy Commissioner, Narowal.
3. The Chief Officer, MO (I&S) and MO (Finance), MC Shakargarh.
4. The Resident Director Audit, Shakargarh.
5. Petitioner.
6. PS to Additional Secretary (Development), LG&CD Department.
7. Office file.

SECTION OFFICER (MC-DEV)