

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

AT DAR ES SALAAM

APPEAL CASE NO. 29 OF 2024-2025

BETWEEN

M/S S AND F CONSULTANCY LTD..... APPELLANT

AND

BENJAMIN MKAPA HOSPITAL.....RESPONDENT

ORDER

CORAM

- | | |
|-------------------------------------|---------------|
| 1. Hon. Justice (rtd) Sauda Mjasiri | - Chairperson |
| 2. Dr. William Kazungu | - Member |
| 3. Eng. Stephen Makigo | - Member |
| 4. Mr. James Sando | - Secretary |

SECRETARIAT

- | | |
|-------------------------|---------------------------|
| 1. Ms. Florida Mapunda | - PALS Manager |
| 2. Ms. Agnes Sayi | - Principal Legal Officer |
| 2. Ms. Violet Limilabo | - Senior Legal Officer |
| 4. Mr. Venance Mkonongo | - Legal Officer |

FOR THE APPELLANT

Absent

FOR THE RESPONDENT

- | | |
|--------------------------|--|
| 1. Mr. Christopher Mkodo | - Legal Officer |
| 2. Mr. Sadiki Sangawe | - Head of Procurement
Management Unit |
| 3. Mr. Josephat Kakeneno | - Procurement Officer |

The Appeal was lodged by **M/S S and F Consultancy Ltd** (hereinafter referred to as "**the Appellant**") against **Benjamin Mkapa Hospital** (hereinafter referred to as "**the Respondent**"). The Appeal is in



respect of Proposal No. TR137/2023/2024/C/05 for Provision of Services for Conducting Geotechnical Investigation, Geophysical and Seismic Investigation and Topographical Survey for the Proposed Construction of Hostel (hereinafter referred to as "**the Tender**").

On 1st July 2024, the Respondent invited consultants to submit their proposals for the Tender. The deadline for submission of proposals was set on 8th July 2024. The Appellant was the only tenderer which responded to the Respondent's invitation. After observing that the tender validity period was about to expire and the tender results had not been issued, the Appellant submitted the application for administrative review to the Respondent and subsequently filed this Appeal.

This Appeal was scheduled for hearing on 21st January 2025 and all parties were duly notified. When the matter was called on for hearing, the Respondent appeared while the Appellant did not appear. The Appellant did not provide any reason for non-appearance before the Appeals Authority.

During the hearing Mr. Christopher Mkodo, the Respondent's legal officer prayed for the dismissal of the Appeal. He submitted that Rule 21(1) and (2) of the Public Procurement Appeals Rules, Government Notice No. 411 of 2014 as amended (hereinafter referred to as "**the Appeals Rules**") allows the Appeals Authority to dismiss the Appeal for non-appearance of the Appellant. Furthermore, he stated that once the Appeal is dismissed for non-appearance, the Appellant is barred from re-instituting the Appeal.

Rule 21(1) and (2) of the Appeals Rules reads as follows: -



"Rule 21 (1) Where the respondent appears and the appellant does not appear on the scheduled time on the date fixed for hearing and if it is proved that the notice was duly served but the appellant failed to appear on time for no justifiable cause, the Appeals Authority shall make an order dismissing the appeal.

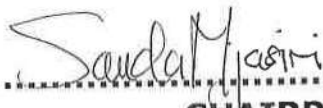
(2) Where the appeal has been dismissed pursuant to sub-rule (1), the appellant is barred from re-instituting the appeal through an application to file an appeal out of time."

Based on the above quoted provision and taking into consideration that the Appellant was served with the Notice of hearing and failed to appear on the date set for hearing without any justifiable cause, the Appeals Authority hereby dismiss the Appeal for non-appearance of the Appellant. We make no order as to costs.

It is so ordered.

This Order is dated 22nd day of January 2025.

HON. JUSTICE (rtd) SAUDA MJASIRI



CHAIRPERSON

MEMBERS:

1. DR. WILLIAM KAZUNGU.....

2. ENG. STEPHEN MAKIGO.....