

IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY

APPEAL CASE NO. 34 OF 2025-2026

BETWEEN

M/S NEW JARIFASHION LIMITED APPELLANT

AND

MUHIMBILI UNIVERSITY OF HEALTH AND

ALLIED SCIENCES (MUHAS) RESPONDENT

RULING

CORAM

1. Hon. Judge (Rtd) Awadh Bawazir - Chairperson
2. Eng. Lazaro Loshilaari - Member
3. Ms. Florentina Sumawe - Member
4. Mr. James Sando - Secretary

SECRETARIAT

1. Ms. Florida Mapunda - PALS Manager
2. Ms. Violet Limilabo - Senior Legal Officer
3. Mr. Venance Mkonongo - Legal Officer

FOR THE APPELLANT

1. Mr. Munawar Hasham - General Manager
2. Mr. Mohamed Jariwalla - Director



FOR THE RESPONDENT

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|-----------------------------|-----------------------------|
| 1. Prof. Gideon Kwesigabo | - Professor of Epidemiology |
| 2. Adv. Oswald Tibabyekomya | - Corporate Counsel |
| 3. Mr. Hassani Rubeya | - Procurement Officer |
| 4. Dr. Ernest Khisombi | - Director of Procurement |

This appeal was lodged by **M/S New Jarifashion Limited** (hereinafter referred to as "**the appellant**") against the **Muhimbili University of Health and Allied Sciences**, abbreviated as "**MUHAS**" (hereinafter referred to as "**the respondent**"). The appeal concerns Tender No. Y7/2025/2026/G/62 for the Supply and Installation of Furniture and Fittings for Constructed Mloganzila and Kigoma Campus for MUHAS (hereinafter referred to as "**the tender**").

Based on the documents provided to the Public Procurement Appeals Authority (hereinafter referred to as "**the Appeals Authority**"), the background of this appeal can be summarized as follows: -

The tender was done through the National Competitive Tendering Method as specified in the Public Procurement Act, No. 10 of 2023 (hereinafter referred to as "**the Act**") and the Public Procurement Regulations, GN. No. 518 of 2024 (hereinafter referred to as "**the Regulations**").

On 3rd February 2026, the respondent, through the National e-Procurement System of Tanzania (NeST), invited eligible tenderers to participate in the tender. By the submission deadline of 10th February 2026, seven tenders, including that of the appellant, were received and evaluated. Following the evaluation, the Evaluation Committee recommended award of the tender to



M/S Mohammedi Builders Limited ("hereinafter referred to as **the proposed awardee**").

On 17th April 2026, the respondent issued a Notice of Intention to award, informing the appellant of its intention to award the tender to the proposed awardee at a contract price of Tanzania shillings One Billion Five Hundred Forty-Four Million Three Hundred Fourteen Thousand Three Hundred Eighty (TZS 1,544,314,380.00) VAT Exclusive for a completion period of 90 days. The Notice stated further that the appellant's tender was not considered for award as the samples it submitted did not comply with technical specifications provided in the tender document.

Dissatisfied with its disqualification, on 22nd April 2026, the appellant submitted an application for administrative review through NeST. However, the attached complaint letter was addressed to the Public Procurement Regulatory Authority (PPRA) and copied to the respondent's Tender Board, the Appeals Authority and the World Bank Country Office in Tanzania. On 23rd April 2026, the respondent invited the appellant to attend a meeting scheduled for 24th April 2026. This was followed by an email dated 24th April 2026, informing the appellant that the meeting had been postponed until further notice, pending proper communication, as the application for administrative review was addressed to the PPRA.

On 27th April 2026, the respondent informed the appellant that it could not entertain the appellant's application for administrative review as it was submitted contrary to clause 51.1 of the Instructions to Tenderers (ITT), regulation 108(1) of the Regulations and section 120(1) of the Act.

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Aggrieved further, on 30th April 2026, the appellant filed this appeal before the Appeals Authority.

In this appeal, the appellant challenges its disqualification for failure to comply with technical specifications relating to samples of an office visitor chair, laboratory chair and a four-person lecture theater chair set submitted to the respondent. The appellant contended that the submitted chairs complied with technical specifications in the tender document. It further asserted that even if slight differences were observed, the respondent was required to seek clarification before disqualifying its tender.

The appellant also contended that since the tender was funded by the World Bank, the evaluation process was required to comply with the World Bank's Procurement Guidelines (**the Guidelines**), which allow a procuring entity to seek clarification from tenderers regarding ambiguities in their bids. It insisted that the respondent failed to act proportionately and reasonably, as it ought to have assessed whether the alleged deficiencies materially affected the evaluation outcome or competitiveness.

On its part, the respondent maintained that the appellant's disqualification was justified, as the submitted samples failed to comply with the mandatory technical specifications under Section VI –Schedule of Requirements. Regarding the appellant's contention that clarification should have been sought, the respondent argued that the anomalies constituted material deviations from mandatory specifications, and therefore, clarification could not be sought in respect of a non-responsive tender.

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When the matter was called on for hearing, the Appeals Authority informed the parties that it had observed from the record of appeal a point of law requiring determination to wit: whether the appeal is properly before the Appeals Authority. Accordingly, the following issues were framed for determination:

- 1. Whether the appeal is properly before the Appeals Authority;**
- 2. Whether the disqualification of the Appellant's tender is justified; and**
- 3. What reliefs if any, are the parties entitled to?**

After framing the issues, the appeals Authority required the parties to address the point of law it had raised *suo motu* before embarking on the substantive merits of the appeal.

SUBMISSIONS BY THE APPELLANT ON THE POINT OF LAW

The appellant's submissions were made by Mr. Munawar Hasham, the General Manager. He stated that the appellant received the Notice of Intention to Award on 17th April 2026, which informed it that its tender had been disqualified for submitting samples that did not comply with the technical specifications provided in the tender document. Dissatisfied with the reason for disqualification, on 22nd April 2026, the appellant applied for administrative review to the respondent, in compliance with section 120 of the Act and the applicable World Bank Procurement Guidelines.

He further submitted that on 23rd April 2026, the appellant received a letter from the respondent inviting it to a meeting scheduled for 24th April 2026 at 02:00pm. On 24th April 2026, at 12:50 noon, the appellant received an



email from the respondent indicating that the scheduled meeting had been postponed pending receipt of a proper application for administrative review, since the one submitted had been addressed to the PPRA.

Mr. Hasham added that on 27th April 2026, the appellant received a letter dated 27th March 2026 from the respondent. Although the letter bore the sub-heading "response to the submitted complaint against award of the contract to the proposed awardee", it did not address the appellant's concerns raised in its application for administrative review. Instead, it merely stated that the application had been filed contrary to the requirements of the tender document, the Act and its Regulations.

He contended that, being aggrieved by the respondent's response, the appellant filed this appeal on 30th April 2026. He emphasized that the appeal was filed within the prescribed period of five working days, and therefore maintained that the appeal was properly before the Appeals Authority.

REPLY BY THE RESPONDENT ON THE POINT OF LAW

The respondent's submissions were made by Mr. Oswald Tibabyekomya, Corporate Counsel. He began by stating that the appeal is not properly before the Appeals Authority, as it was filed in contravention of the law. He stated that the Appeals Authority derives its jurisdiction from section 112(6) of the Act, which categorically vests it with powers to hear and determine complaints where a procurement contract has entered into force or appeals arising from administrative decisions of the accounting officers of a procuring entity.



He submitted that, in the present matter, no valid application for administrative review was submitted by the appellant to the respondent that would have necessitated issuance of a decision. Consequently, there was no decision of the respondent's accounting officer that could lawfully form the basis of the present appeal before the Appeals Authority.

Mr. Tibabyekomya relied on section 120(4) of the Act, which requires a procuring entity to determine a complaint submitted by a tenderer within five working days of becoming aware of the circumstances giving rise to the complaint. He stated that the appellant received the Notice of Intention to award on 17th April 2026 and, being aggrieved, filed an application for administrative review through NeST. However, the application was addressed to the PPRA and merely copied to the respondent's Tender Board.

He further stated that upon realizing this irregularity, the respondent notified the appellant through an email dated 24th April 2026, advising it to submit a proper application in accordance with the prescribed procedure. The appellant, however, failed to lodge a valid application for administrative review.

Mr. Tibabyekomya explained that, having not received the proper application, the respondent informed the appellant on 27th April 2026 that it could not entertain the application since the same was addressed to PPRA and copied to the respondent's Tender Board. He stated that under section 120(1) of the Act, an application for administrative review must be addressed to the respective procuring entity and copied to the PPRA. By

addressing its complaint to PPRA, the appellant contravened clause 51.1 of the ITT, section 120(1) of the Act, and Regulation 108(1) of the Regulations.

On this basis, Mr. Tibabyekomya argued that the application for administrative review was invalid, having been made in contravention of the law. Consequently, the present appeal lacks a proper foundation and is improperly before the Appeals Authority. He therefore urged the Appeals Authority to dismiss it.

REJOINDER BY THE APPELLANT

In his brief rejoinder, Mr. Hasham conceded that the application for administrative review had been submitted to the PPRA rather than to the respondent, contrary to the applicable legal requirements. Notwithstanding this procedural irregularity, he urged the Appeals Authority to consider the appeal on its merits, contending that the error arose from the appellant's lack of knowledge of the governing legal procedures.

ANALYSIS BY THE APPEALS AUTHORITY ON THE POINT OF LAW

In resolving this issue, the Appeals Authority took cognizance of the fact that the appellant conceded that the appeal is improperly before the Appeals Authority, having submitted its application for administrative review to the PPRA instead of the respondent. Nevertheless, the appellant urges the Appeals Authority to consider the matter on its merit, contending that the error was occasioned by lack of knowledge of the applicable procedures.

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We reviewed section 120(1) and (4) of the Act, regulation 108(1) of the Regulations and clause 51.1 of the ITT which provide as follows:

*"s. 120. -(1) Any complaint or dispute between a procuring entity and a tenderer which arises in respect of procurement proceedings, disposal of public assets and award of contracts **shall be reviewed and decided upon a written decision of the accounting officer of a procuring entity** and give reasons for his decision.*

*(4) The accounting officer shall not entertain a complaint or dispute unless **it is submitted within five working days from the date the tenderer submitting it became aware of the circumstances giving rise to the complaint or dispute** or when that tenderer should have become aware of those circumstances, whichever is earlier.*

r. 108.-(1) Any application for the review of complaints or disputes shall be submitted to the accounting officer through the electronic public procurement system and a copy to the Authority within five working days of the tenderer becoming aware of, or should have become aware of, the circumstances giving rise to the complaint or dispute.

ITT 51.1 Any application for administrative review shall be submitted through NeST to the Accounting Officer of a PE and a copy shall be electronically served to the Chief Executive Officer, Public Procurement Regulatory Authority (PPRA)."

(Emphasis supplied)

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These provisions clearly require that a tenderer dissatisfied with the procuring entity's decision to file an application for administrative review with the respective procuring entity within five working days of becoming aware of the circumstances giving rise to the complaints and with a copy to the PPRA. A procuring entity is prohibited from determining an application not properly submitted within the stipulated time.

From the record, the respondent issued the Notice of Intention to Award on 17th April 2026, informing the appellant that its tender was disqualified for failure to comply with the technical specifications. Dissatisfied, the appellant submitted the application for administrative review on 22nd April 2026 through NeST. However, the attached complaint letter was addressed to the PPRA and merely copied to the respondent's Tender Board.

On 23rd April 2026, the respondent invited the appellant to a meeting scheduled for 24th April 2026 at 02:00pm. Yet, on 24th April 2026 at 12:50 noon, the respondent notified the appellant through an email that the meeting was postponed pending receipt of a proper application for administrative review addressed to the respondent. Subsequently, on 27th April 2026, the respondent informed the appellant that its application for administrative could not be considered as it was addressed to the PPRA instead of the respondent's accounting officer. On 30th April 2026, the appellant lodged the present appeal before the Appeals Authority.

Applying section 120(1) and (4) of the Act, regulation 108(1) of the Regulations and clause 51.1 of the ITT to these facts, we find that the appellant's application for administrative review was instituted contrary to the provisions, having been addressed to the PPRA instead of the respondent. Consequently,

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the respondent did not entertain the application as it was filed in contravention of the law.

Section 121(1) and (2)(a) of the Act read as follows: -

"s.121.- (1) A tenderer who is aggrieved by the decision of the accounting officer may refer the matter to the Appeals Authority for appeal within five working days from the date of receipt of the accounting officer's decision.

(2) A tenderer may submit a complaint or dispute directly to the Appeals Authority if-

(a) the accounting officer has not given a decision within the time prescribed under this Act, provided that a complaint or dispute is submitted within five working days after expiry of the period within which the accounting officer ought to have made a decision".

(Emphasis supplied)

These provisions state that an appeal to the Appeals Authority must either be based on a decision of an accounting officer or on an accounting officer's failure to issue a decision within the prescribed time.

Given that the appellant's application for administrative review was not properly filed before the respondent, no decision was rendered on its merits. Equally, since there was no valid application lodged with the respondent, it cannot be said that the respondent failed to entertain the same within the meaning of section 121(2)(a) of the Act. Accordingly, the Appeals Authority finds the present appeal is neither based on the respondent's decision nor on its failure to act as prescribed under the law.



In view of the foregoing, the Appeals Authority holds that the application for administrative review was filed in contravention of the law. Consequently, the present appeal lacks legal foundation and is therefore incompetent.

We therefore conclude the first issue in the negative that the appeal is improperly before the Appeals Authority.

In view of this position, we shall not delve into the merits of the appeal. The appeal is hereby dismissed for being improperly before us. Each party is to bear its own costs.

It is so ordered.

This Ruling is binding and can be enforced in accordance with section 121(7) of the Act.

The Right of Judicial Review as per section 125 is explained to the parties.

This Ruling is delivered in the virtual presence of the appellant and in the physical appearance of the respondent this 5th day of June 2026.

HON. JUDGE (rtd) AWADH BAWAZIR



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CHAIRPERSON

MEMBERS:

1. ENG. LAZARO LOSHILAARI



2. MS. FLORENTINA SUMAWE

