

**IN THE PUBLIC PROCUREMENT APPEALS AUTHORITY**

**APPEAL CASE NO. 35 OF 2025-26**

**BETWEEN**

**M/S SICHUAN ROAD AND BRIDGE  
(GROUP) CORPORATION LIMITED .....APPELLANT**

**AND**

**PUBLIC PROCUREMENT REGULATORY  
AUTHORITY.....1<sup>ST</sup> RESPONDENT**

**KAHAMA MUNICIPAL COUNCIL .....2<sup>ND</sup> RESPONDENT**

**DECISION**

**CORAM**

- |                          |                   |
|--------------------------|-------------------|
| 1. Ms. Florentina Sumawe | - Ag. Chairperson |
| 2. Dr. William Kazungu   | - Member          |
| 3. Mr. Raphael Maganga   | - 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. Adv. Gregory Lugaila | - Lugaila Associates                   |
| 2. Mr. Yang Chao        | - Managing Director<br>(SRBG Tanzania) |



3. Mr. Mike Meng - Commercial Manager (SRBG)
4. Mr. Liu Hui - Engineer (SRBG Tanzania)

**FOR THE 1<sup>ST</sup> AND 2<sup>ND</sup> RESPONDENTS**

1. Mr. Ayoub Sanga - Senior State Attorney (OSG)
2. Mr. Mathew Fuko - State Attorney (OSG)
3. Ms. Zamaradi Johannes - State Attorney (OSG)
4. Ms. Beatrice Manyuri - State Attorney (OSG)
5. Mr. Deusdedith Bishweko - Senior Legal Officer (PPRA)
6. Mr. Rooseberth Nimrod - Legal Officer (PPRA)
7. Mr. Hilmar Danda - Principal Legal Officer (PPRA)
8. Mr. Emanuel Manyanga - Sub-Project Coordinator  
(TAMISEMI)
9. Mr. Charles Adrian - Engineer (TAMISEMI)
10. Mr. Wilfred Shimba - Engineer (TAMISEMI)
11. Mr. Samwel Mtawa - Resident Engineer  
(Kahama Municipal Council)
12. Ms. Enne Moses - Architect (Kahama Municipal  
Council)
13. Mr. Zacharia Awe - Head of Procurement  
Management Unit  
(Kahama Municipal Council)
14. Mr. Robson Jairo - Senior Procurement Officer  
(TAMISEMI)

**M/S Sichuan Road and Bridge (Group) Corporation Limited**  
(hereinafter referred to as "**the Appellant**") lodged this Appeal against  
the **Public Procurement Regulatory Authority** abbreviated as



**"PPRA"** (hereinafter referred to as **"the 1<sup>st</sup> Respondent"**) and the **Kahama Municipal Council** (hereinafter referred to as **"the 2<sup>nd</sup> Respondent"**). The Appeal concerns the debarment decision issued by the 1<sup>st</sup> respondent against the appellant for failure to implement contract No. LGA/155/2022/2023/W/04 for Upgrading of Central Business District (CBD) & Zongomela Roads and Construction of Chelsea – Lyazungu & Shunu – Magobeko Standalone Storm Water Drains in Kahama Municipality (hereinafter referred to as **"the Contract"**).

According to the documents submitted to the Public Procurement Appeals Authority (hereinafter referred to as **"the Appeals Authority"**), the background of this Appeal may be summarized as follows:

On 23<sup>rd</sup> September 2023, the appellant signed the contract with the 2<sup>nd</sup> respondent valued at Tanzania Shillings Twenty Billion Eight Hundred Sixty-Four Million Ninety-Four Thousand Six Hundred Eleven and Fifty-Four Cents only (TZS 20,864,094,611.54/-). The contract duration was 15 months, commencing on 2<sup>nd</sup> November 2023 and ending on 19<sup>th</sup> February 2025. The record shows that the site was handed over to the appellant on 11<sup>th</sup> December 2023 and the work commenced immediately thereafter. On the same day, the appellant requested an advance payment of Tanzania Shillings Three Billion One Hundred Twenty-Nine Million Six Hundred Fourteen Thousand One Hundred Ninety-Two only (TZS 3,129,614,192/-), which the 2<sup>nd</sup> respondent effected on 12<sup>th</sup> December 2023.

The record further shows that, due to various reasons, the project was not completed within the specified time. The appellant sought several extensions from the 2<sup>nd</sup> respondent which were granted, with the last



ending on 15<sup>th</sup> January 2026. Despite these extensions, the appellant's performance did not improve, prompting the 2<sup>nd</sup> respondent to issue several warnings. Subsequently, through a letter dated 29<sup>th</sup> December 2025, the 2<sup>nd</sup> respondent issued a Notice of Intention to Terminate the Contract.

Following this Notice, the 2<sup>nd</sup> respondent referred the matter to the Office of the Attorney General (**OAG**) for guidance vide a letter dated 31<sup>st</sup> December 2025. The OAG through a letter dated 16<sup>th</sup> January 2026, advised the 2<sup>nd</sup> respondent to terminate the contract. Accordingly, on 19<sup>th</sup> January 2026, the 2<sup>nd</sup> respondent terminated the contract and, on the same date, submitted a debarment proposal to the 1<sup>st</sup> respondent.

The record indicates that, upon receipt of the debarment proposal, the 1<sup>st</sup> respondent gathered additional evidence to satisfy itself that sufficient grounds for debarment existed. Being satisfied, the 1<sup>st</sup> respondent issued a Notice of Intention to debar to the appellant through a letter dated 9<sup>th</sup> March 2026, served on 10<sup>th</sup> March 2026. The appellant was required to submit its written defense within fourteen (14) days. However, the appellant submitted its defense belatedly, on 10<sup>th</sup> April 2026 and an additional submission on 20<sup>th</sup> April 2026, both beyond the prescribed time limit.

After considering the written defense, the 1<sup>st</sup> respondent issued its decision through a letter dated 24<sup>th</sup> April 2026, debarring the appellant from participating in public procurement for a period of one (1) year. Aggrieved by this decision, the appellant lodged the present Appeal to the Appeals Authority on 14<sup>th</sup> May 2026.

The Appeals Authority duly notified the respondents of the appeal. They

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filed a joint statement of reply and subsequently raised a preliminary objection on the point law, contending that the appeal has been filed out of time. When the matter came up for hearing and before framing of issues, Mr. Ayoub Sanga, Senior State Attorney representing the respondents, informed the Appeals Authority that upon reviewing the record of appeal, it was noted that the appeal was filed timely. Therefore, he prayed to withdraw the preliminary objection. On his part, Mr. Gregory Lugaila, learned advocate representing the appellant, did not object to the prayer. Consequently, the Appeals Authority granted the prayer.

Accordingly, the following issues were framed for determination of the appeal:

- 1. Whether the appellant's debarment was in accordance with the law; and**
- 2. What reliefs, if any, are parties entitled to?**

### **SUBMISSIONS BY THE APPELLANT**

The appellant's submissions were made by Mr. Gregory Lugaila, learned Advocate, who commenced by adopting the appellant's Statement of Appeal. He submitted that the appeal is premised on three grounds, namely:

1. That the 1<sup>st</sup> respondent's debarment decision dated 24<sup>th</sup> April 2026 is a nullity ab-initio, having been issued outside the mandatory thirty (30) day period as prescribed under section 72 (5) of the Public Procurement Act, No. 10 of 2023 (hereinafter referred to as "**the Act**") read together with regulation 102 (1) (c) of the Public Procurement Regulations, GN. No. 518 of 2024 (hereinafter referred to as "**the Regulations**").



2. That the 1<sup>st</sup> respondent's debarment decision is a nullity in the eyes of law for having been preceded by a Notice of Intention to Debar issued outside the mandatory twenty-eight (28) day period, contrary to regulation 100(1) of the Regulations.
3. That the 1<sup>st</sup> respondent's debarment decision was issued in breach of the appellant's constitutional right to be heard, as enshrined under article 13 (1) and (6) (a) of the Constitution of the United Republic of Tanzania, 1977 (as amended) hereinafter referred to as "**the Constitution**").

The above grounds of appeal were expounded as follows: -

On the first ground of Appeal, Mr. Lugaila submitted that section 72(5) of the Act clearly provides that the procedure for debarment shall be prescribed in the Regulations. Regulation 100(1) of the Regulations requires the 1<sup>st</sup> respondent to issue a Notice of Intention to Debar within twenty-eight (28) days of becoming aware of the evidence leading to a debarment. Further, regulation 100(4) of the Regulations requires a tenderer to submit its written defence within fourteen (14) days from the date of receipt of the notice. He emphasized that the use of the word "shall" denotes a mandatory requirement.

He added that regulation 102(1)(c) of the Regulations obliges the 1<sup>st</sup> respondent to issue its debarment decision within thirty (30) days from the date of receipt of written defence or upon expiry of the time allowed for filing its written defence. In the present matter, the Notice of Intention to Debar was served to the appellant on 10<sup>th</sup> March 2026, and the fourteen (14) day period for submitting written defence expired on 23<sup>rd</sup> March 2026. The appellant, however, submitted its written defence



belatedly on 10<sup>th</sup> April 2026, with an additional submission on 20<sup>th</sup> April 2026, both beyond the stipulated time.

Mr. Lugaila argued that the late defence submissions were legally redundant and deemed as if no written defence had been filed. Consequently, the thirty (30) day period for the 1<sup>st</sup> respondent to issue its decision began to run from 23<sup>rd</sup> March 2026, and the decision ought to have been issued on 22<sup>nd</sup> April 2026. Since the decision was issued on 24<sup>th</sup> April 2026, two days beyond the statutory deadline, it was time barred and consequently a nullity.

He further explained that regulation 102(1) of the Regulations provides three independent triggers for issuing a debarment decision under paragraphs (a), (b) and (c). In this case, paragraph (c) was applicable because the appellant failed to submit its written defence within the prescribed time. He contended that the 1<sup>st</sup> respondent's consideration of late defences lacked legal basis, as it was contrary to the law and could not reset the statutory timeline.

On the second ground of Appeal, Mr. Lugaila submitted that the 1<sup>st</sup> respondent received the debarment proposal form from the 2<sup>nd</sup> respondent on 19<sup>th</sup> January 2026. Under regulation 100(1) of the Regulations, the 1<sup>st</sup> respondent was required to issue the Notice of Intention to Debar within twenty-eight (28) days, that is, on or before 16<sup>th</sup> February 2026. However, the Notice was issued on 9<sup>th</sup> March 2026, twenty-one (21) days beyond the statutory limit.

He averred that this omission contravened section 72(5) of the Act, which requires adherence to the prescribed procedures. He submitted that, failure to comply with the statutory timeline goes to the root of the proceedings, thereby rendering the entire debarment process and the



resulting decision a nullity.

On the third ground of appeal, Mr. Lugaila submitted that the Notice of Intention to Debar dated 9<sup>th</sup> March 2026 set out the allegations against the appellant, namely failure to implement the contract, and was supported by annexures. However, none of those annexures referred to, or contained the decision of the contractually appointed Adjudicator. He pointed out that, at the time the debarment proposal form was submitted to the 1<sup>st</sup> respondent, the matter was pending before the Adjudicator, whose decision was not issued until 14<sup>th</sup> March 2026, five (5) days after the Notice of Intention to Debar had been issued.

He contended that, despite this, the 1<sup>st</sup> respondent expressly relied on the Adjudicator's decision in its final debarment decision dated 24<sup>th</sup> April 2026. In paragraph 24 of that decision, the 1<sup>st</sup> respondent stated that, the termination of the Contract was "*lawful and had full legal effect*". Mr. Lugaila argued that reliance on the Adjudicator's decision, which was not part of the pleadings or disclosed in the Notice, infringed the appellant's constitutional right to be heard, as the appellant was denied an opportunity to respond to the findings of the Adjudicator.

He argued that the 2<sup>nd</sup> respondent's termination of the contract on 19<sup>th</sup> January 2026, followed by the submission of the debarment proposal form to the 1<sup>st</sup> respondent, were both premature actions, resulting into the appellant's denial of its right to a fair hearing. This is because the adjudication proceedings were still pending before the Adjudicator as per the Contract.

Mr. Lugaila further submitted that, the mere fact that the Adjudicator's decision subsequently affirmed the lawfulness of the termination could not operate to deprive the appellant of its fundamental right to be



heard. He emphasized that the Adjudicator's decision was issued at a later stage after the contract had already been terminated, the debarment proposal already filed with the 1<sup>st</sup> respondent, and the Notice of Intention to Debar served upon the appellant.

In support of his submissions, Mr. Lugaila cited the case of ***Kumwandumbi Ndemfoo Ndosu versus Mtei Bus Services Limited***, Civil Appeal No. 257 of 2018, Court of Appeal of Tanzania, at Arusha (unreported). In that case, the court referred to the case of ***Abbas Sherally and Another versus Abdul S.H.M Fazalboy***, Civil Application. No. 33 of 2002 (unreported), where it was emphasized that a party has a fundamental right to be heard before any adverse action is taken against them. The Court held that any decision made in violation of this right is liable to be nullified, regardless of whether the outcome would have been the same, as such violation constitutes a breach of the principles of natural justice.

He contended that, while the 1<sup>st</sup> respondent relied on the Adjudicator's finding that the termination was lawful, it failed to consider that the matter was still pending at that time. Therefore, the respondent ought to have stayed the debarment proceedings pending finalization of the adjudication process.

He therefore concluded that, in light of the cited case law and the requirements of Article 13 (1) and (6) (a) of the Constitution, the 2<sup>nd</sup> respondent's debarment proposal, as well as the subsequent debarment decision issued by the 1<sup>st</sup> respondent, were invalid for having been undertaken in violation of the appellant's right to be heard before the Adjudicator.

Finally, the appellant prayed for the following reliefs:

- (i) The Appeal be allowed and the Debarment Decision by the 1<sup>st</sup> respondent be set aside and nullified.
- (ii) Costs of this Appeal to be borne by the respondents.
- (iii) Any other relief that the Appeals Authority may deem fit and just to grant the appellant.

### **REPLY BY THE RESPONDENTS**

The respondents' submissions were made by Mr. Ayoub Sanga, Senior State Attorney from the Office of the Solicitor General who adopted the joint statement of reply and opted to start his submission by addressing the second ground of appeal regarding the validity of the Notice of Intention to Debar, followed by the alleged denial of the appellant's right to be heard, and lastly, whether the debarment decision was issued out of the prescribed time.

Regarding an issuance of the Notice of Intention to Debar, Mr. Sanga submitted that the respondents refute the allegation that the Notice of Intention to Debar was issued outside the statutory time limit. He explained that regulation 100(1) of the Regulations requires the Notice of Intention to Debar to be issued within twenty-eight (28) days after the 1<sup>st</sup> respondent has determined that sufficient grounds for debarment exist, based on information, documents, and evidence produced.


He noted that the debarment proposal form was submitted to the 1<sup>st</sup> respondent on 19<sup>th</sup> January 2026. Upon reviewing it, the 1<sup>st</sup> respondent determined that the documents were insufficient to establish the grounds for debarment. Consequently, it invoked regulation 99(1) of the Regulations, which empowers it to seek additional evidence.



On 5<sup>th</sup> February 2026, the 1<sup>st</sup> respondent requested further documents from the 2<sup>nd</sup> respondent, who submitted them on 9<sup>th</sup> February 2026. Upon reviewing the documents, the 1<sup>st</sup> respondent found them inadequate and, on 1<sup>st</sup> March 2026, requested additional evidence which the 2<sup>nd</sup> respondent submitted on 3<sup>rd</sup> March 2026. Having gathered all the necessary documents, the 1<sup>st</sup> respondent determined that sufficient grounds for debarment had been established and consequently, through a letter dated 9<sup>th</sup> March 2026, it issued the Notice of Intention to Debar, which was served upon the appellant on 10<sup>th</sup> March 2026.

Mr. Sanga contended that the statutory period for issuing the Notice began on 3<sup>rd</sup> March 2026, when the 1<sup>st</sup> respondent received all the requisite evidence. Counting from that date, the Notice issued on 9<sup>th</sup> March 2026 and served on 10<sup>th</sup> March 2026 was well within twenty-eight (28) day limit prescribed under regulation 100(1) of the Regulations. He emphasized that the limitation period does not commence merely upon receipt of the debarment proposal form but only after the 1<sup>st</sup> respondent has determined that sufficient grounds for debarment exist. According to him, the appellant's argument that the Notice of Intention to Debar was issued after lapse of 49 days lacks legal stand.

In support of this position, Mr. Sanga cited PPAA Appeal Case No. 49 of 2024-25 between ***Goppa Contractors (T) Ltd versus the Public Procurement Regulatory Authority and Tanzania National Roads Agency***, where this Appeals Authority held that the Notice of Intention to Debar must be issued after determining sufficient grounds, not merely upon receipt of the debarment proposal. He further referred to Misc. Cause No. 20055 of 2025 between ***Public Procurement Regulatory Authority and Public Procurement Appeals Authority***



(High Court, Dodoma), where the Court affirmed the same interpretation.

Regarding the appellant's allegation on denial of the right to be heard, Mr. Sanga submitted that, no such denial occurred. He explained that neither the debarment proposal form nor supporting documents submitted to the 1<sup>st</sup> respondent, disclosed the existence of the adjudication proceedings between the appellant and the 2<sup>nd</sup> respondent. The 1<sup>st</sup> respondent only became aware of the adjudication proceedings after receiving the appellant's written defence, in which the appellant sought a stay of the debarment proceedings.

Although the appellant did not furnish evidence of the adjudication proceedings, the 1<sup>st</sup> respondent independently verified the claim and found that the Adjudicator's decision was issued on 14<sup>th</sup> March 2026, dismissing the appellant's claim on grounds similar to those raised in its defence.

Mr. Sanga argued that the concurrent existence of debarment and adjudication proceedings did not, in itself, amount to a denial of the appellant's right to be heard. He argued that, both proceedings confirmed that the appellant failed to execute the project. He reiterated that the issue of adjudication was raised by the appellant itself and that the 1<sup>st</sup> respondent merely verified the claim. He averred that the similarity of findings in both proceedings did not prejudice the appellant's right to be heard.

He further emphasized that, in order to afford the appellant a fair hearing, the 1<sup>st</sup> respondent considered the appellant's defense in its final decision, notwithstanding that it was submitted outside the prescribed time.



In support of this argument, Mr. Sanga cited PPAA Appeal Case No. 29 of 2025/26, between *M/s Songoro Marine Transport v. Public Procurement Regulatory Authority*, where this Appeals Authority held that a party cannot claim denial of the right to be heard on an issue originating from its own written representations, which the 1<sup>st</sup> respondent merely verified. He urged the Appeals Authority to apply the same principle in the present appeal.

He concluded on this point by stating that, in light of the Songoro's case, the case of Kumwandumbi Ndemfoo Ndosu (supra) relied upon by the appellant is distinguishable from the circumstances of the present matter.

Regarding the issuance of the debarment decision beyond the prescribed time, Mr. Sanga submitted that it is not in dispute that regulation 102(1) of the Regulations requires the 1<sup>st</sup> respondent to deliver its debarment decision within thirty (30) days from the date of receipt of a written defence, or upon lapse of the period within which the defence was to be filed.

He stated that, in the present matter, the Notice of Intention to Debar was served upon the appellant on 10<sup>th</sup> March 2026. In terms of regulation 100(4) of the Regulations, the appellant was required to submit its written defence within fourteen (14) days from the date of receipt of the Notice. He further clarified that, under section 61(1)(b) of the Interpretation of Laws Act, Cap 1 [R.E 2023] (hereinafter referred to as "the **ILA**"), the day of receipt is excluded from computation. Accordingly, counting commenced on 11<sup>th</sup> March 2026, and the fourteenth (14) day period lapsed on 24<sup>th</sup> March 2026.



He averred that since the appellant failed to submit its written defence within the prescribed period, regulation 102(1)(c) of the Regulations required the 1<sup>st</sup> respondent to issue its debarment decision within thirty (30) days from 24<sup>th</sup> March 2026. Applying section 61(1)(b) of the ILA, the thirty (30) days lapsed on 23<sup>rd</sup> April 2026 and not 22<sup>nd</sup> April 2026 as alleged by the appellant.

Mr. Sanga submitted that the 1<sup>st</sup> respondent, through its Board's Technical Committee (hereinafter referred to as the "**the Committee**"), issued a decision to debar the appellant on 23<sup>rd</sup> April, 2026, vide a Circular Resolution No. 4 of the Financial Year 2025/2026 (hereinafter referred to as "**the Circular**"). The decision was thereafter communicated to the appellant on 24<sup>th</sup> April 2026. He clarified that, under the Technical Committee Charter of the Public Procurement Regulatory Authority, 2021 (hereinafter referred to as the "**the Charter**"), the Committee is vested with responsibility of approving debarment decisions against tenderers, contractors and service providers. He therefore argued that the debarment decision was issued within the statutory thirty (30) day period as required by regulation 102(1)(c) of the Regulations.

He further submitted that regulation 102(4) of Regulations requires the 1<sup>st</sup> respondent to communicate the debarment decision immediately after it is issued but does not prescribe a specific time limit. He emphasized that since the debarment decision was communicated to the appellant on 24<sup>th</sup> April 2026, one day after it was issued, this cannot be construed as the date of issuance but rather the date of communication.

He further contended that paragraph 27 of the 1<sup>st</sup> respondent's letter communicating the decision erroneously indicated 24<sup>th</sup> April 2026 as the

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date of issuance. He clarified that the actual date of issuance was 23<sup>rd</sup> April 2026, and the reference to 24<sup>th</sup> April 2026 was merely a slip of the pen, an inconsequential error that did not prejudice the appellant's right. He added that the appellant's malpractices, which formed the basis of the debarment, far outweighs such a minor clerical error and could not override the substance and evidence supporting the decision.

In view of the foregoing submissions Mr. Sanga concluded that the appeal lacks merit. He therefore, prayed that the appeal be dismissed with costs and that debarment order be upheld accordingly.

### **ANALYSIS BY THE APPEALS AUTHORITY**

#### **1. Whether the appellant's debarment was in accordance with the law**

In determining this issue, we first considered the appellant's argument regarding the issuance of the Notice of Intention to Debar. The appellant contended that the Notice of Intention to Debar was issued outside the mandatory twenty-eight (28) day period prescribed under regulation 100 (1) of the Regulations. He asserted that, upon receipt of the debarment proposal from the 2<sup>nd</sup> respondent, the 1<sup>st</sup> respondent was required to issue the Notice of Intention to Debar within twenty-eight (28) days. However, the Notice was served on 10<sup>th</sup> March 2026, beyond the prescribed time, thereby contravening the law.

On their part, the respondents submitted that the Notice was not issued out of time. They contended that the Notice was issued only after the 1<sup>st</sup> respondent had gathered sufficient evidence establishing grounds for debarment. The 1<sup>st</sup> respondent acknowledged receipt of the debarment proposal form from the 2<sup>nd</sup> respondent on 19<sup>th</sup> January 2026, but observed that the documents submitted were incomplete.



Consequently, it invoked regulation 99 of the Regulations and requested additional information. The 2<sup>nd</sup> respondent submitted the first set of documents on 9<sup>th</sup> February 2026 and the final set on 3<sup>rd</sup> March 2026. Thereafter, the 1<sup>st</sup> respondent issued the Notice of Intention to Debar on 9<sup>th</sup> March 2026, which was duly served on the appellant on 10<sup>th</sup> March 2026. The respondents therefore maintained that the Notice was issued timely.

In determining these competing arguments, we carefully reviewed the record of appeal, specifically the debarment proposal form that triggered the issuance of the Notice of Intention to Debar. The record confirms that the proposal was submitted to the 1<sup>st</sup> respondent on 19<sup>th</sup> January 2026. Following its review, the 1<sup>st</sup> respondent requested additional information from the 2<sup>nd</sup> respondent on 5<sup>th</sup> February 2026, which was submitted on 9<sup>th</sup> February 2026. Consequently, on 1<sup>st</sup> March 2026, the 1<sup>st</sup> respondent requested further documents, which were submitted on 3<sup>rd</sup> March 2026. It is evident from the record that the 1<sup>st</sup> respondent proceeded to issue the Notice of Intention to Debar on 9<sup>th</sup> March 2026, and the same was served on the appellant on 10<sup>th</sup> March 2026.

In ascertaining whether the Notice was issued and served within the prescribed time, we considered clause 7(c) of the Debarment Guidelines, 2016 issued by the 1<sup>st</sup> respondent (**Debarment Guidelines**) and regulation 99 of the Regulations, which govern the procedures to be adhered to, where a debarment proposal lacks sufficient evidence to establish grounds for debarment. These provisions entitle the 1<sup>st</sup> respondent to seek additional evidence where the evidence submitted is insufficient to establish grounds for debarment. These provisions state as follows:-



**"c. 7.0 WHAT SHOULD BE DONE BY THE AUTHORITY UPON RECEIPT OF A DEBARMENT PROPOSAL**

*Upon receipt of a debarment proposal, the Authority shall take the following actions:*

***(c) Where no sufficient evidence is submitted, the Authority shall within three (3) working days of receiving a proposal for debarment, require a procuring entity or a person who has submitted the proposal or any public body or person to submit additional evidences or information to support the proposal within fourteen days of receipt of the Authority's instructions.***

***r. 99 (1) The Authority may require any public body or person to produce information, documents or evidence concerning possible grounds for debarment of a tenderer.***

***(2) A public body or person required under subregulation (1) to produce information, documents, or evidence, shall produce documents or evidence within fourteen days from the date of receiving the request."***

(Emphasis added)

The above provisions empower the 1<sup>st</sup> respondent, where it determines that insufficient evidence has been submitted in support of a debarment proposal, to require any person or public body to provide information, documents, or evidence relating to potential grounds for the debarment



of a tenderer. Such a request must be made within three (3) working days from the date of receipt of a proposal, and the requested party must submit the required documents within fourteen (14) days.

Applying these provisions to the facts of this appeal, we observed that it is undisputed that the 1<sup>st</sup> respondent received the debarment proposal form from the 2<sup>nd</sup> respondent on 19<sup>th</sup> January 2026. The 1<sup>st</sup> respondent claimed that certain information was missing and therefore additional documents were required. However, having observed that additional information was necessary, the 1<sup>st</sup> respondent ought to have requested the additional evidence from the 2<sup>nd</sup> respondent, within three (3) working days from the date it received the debarment proposal form, pursuant to clause 7(c) of the Debarment Guidelines. That is, on or before 22<sup>nd</sup> January 2026, the 1<sup>st</sup> respondent should have made the request. On the contrary, the 1<sup>st</sup> respondent requested for additional documents on 5<sup>th</sup> February 2026 and again on 1<sup>st</sup> March 2026.

During the hearing, the 1<sup>st</sup> respondent asserted that its requests for additional information were made pursuant to regulation 99 of the Regulations, which does not specify a time limit for making such requests. It argued that the fourteen (14) days provided under regulation 99 of the Regulations apply only to the procuring entity or person required to submit the requested documents. Therefore, in its view, the Debarment Guidelines could not lawfully prescribe a time limit where the Regulations are silent.

We reviewed section 130 of the Act and observed that it mandates the 1<sup>st</sup> respondent to issue guidelines for the better carrying out of the objectives of the Act or Regulations made thereunder. Among the guidelines issued by the 1<sup>st</sup> respondent to facilitate practical



implementation and uniform application of the Act and its Regulations are the Debarment Guidelines. We further noted that since regulation 99(1) of the Regulations is silent on the timeframe required for requesting additional documents after receipt of debarment proposal form, the Debarment Guidelines specify the period of three (3) working days. In view of this clear guidance, we reject the respondents' assertion that the guidelines contravene the Regulations.

Given that the 1<sup>st</sup> respondent received the debarment proposal form on 19<sup>th</sup> January 2026 but did not request additional documents until 5<sup>th</sup> February 2026 and subsequently on 1<sup>st</sup> March 2026, it is evident that the requests were made in contravention of clause 7(c) of the Debarment Guidelines. Had the 1<sup>st</sup> respondent complied with the Guidelines, it should have requested the additional documents on or before 22<sup>nd</sup> January 2026, and the requested party would have been required to submit the required documents within fourteen (14) days, that is on or before 5<sup>th</sup> February 2026.

We reviewed regulation 100 (1) of the Regulations which reads:

***"r. 100 (1) Where the Authority determines that there are grounds for debarment on the basis of information, documents and evidence produced, the Authority shall, within twenty-eight days from the date of receiving the evidence, issue a debarment notice to the tenderer".***

(Emphasis added)

The above provision mandates the 1<sup>st</sup> respondent that once it determines that the submitted information and evidence sufficiently

establish grounds for debarment, to issue a Notice of Intention to Debar to the tenderer within twenty-eight (28) days of receiving such evidence.

Applying this provision to the facts of this appeal, we observed that had the 1<sup>st</sup> respondent requested for additional documents within three (3) working days and the requested party submitted them within fourteen (14) days as required under clause 7(c) of the Debarment Guidelines and regulation 99 of the Regulations, the Notice of Intention to Debar should have been issued to the appellant within twenty-eight (28) days, as provided under regulation 100(1) of the Regulations. Counting from 5<sup>th</sup> February 2026 which was the last date for submission of additional documents had the request been made timely, then the Notice of Intention to Debar should have been issued on or before 5<sup>th</sup> March 2026.

Since the Notice was issued through a letter dated 9<sup>th</sup> March 2026 and served to the appellant on 10<sup>th</sup> March 2026, it is evident that the Notice of Intention to Debar was issued in contravention of regulation 100(1) of the Regulations.

Based on this finding, it follows that all subsequent acts, including the appellant's submission of its written defense and the debarment decision itself, are all null and void in the eyes of the law. In view of this position, we find it unnecessary to delve into the remaining grounds of appeal, as this ground suffices to dispose of the matter.

Accordingly, we conclude the first issue in the affirmative that the debarment of the appellant was not conducted in accordance with the law.

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**2.0 What reliefs, if any, are the parties entitled to?**

In light of the foregoing findings, we hereby allow the appeal and nullify the debarment decision issued against the appellant. We further order the 1<sup>st</sup> respondent to uplift the debarment order. We make no order as to costs.

It is so ordered.

This decision is binding and enforceable under section 121 (7) of the Act.

The Right of Judicial Review, as outlined in section 125 of the Act has been explained to the parties.

This decision is delivered in the presence of the parties on this 11<sup>th</sup> day of June, 2026.

**Ms. FLORENTINA SUMAWE**



**Ag. CHAIRPERSON**

**MEMBERS: -**

**1. DR. WILLIAM KAZUNGU** .....



**2. MR. RAPHAEL MAGANGA** .....

