

IN THE COMPETITION APPELLATE TRIBUNAL2ND Floor, Federal Courts Complex, G-11/1, Islamabademail: registrartribunal@gmail.com

Tel No: 051-9320208, Fax No: 051-9320203

No. 367(iii) /Reg./CAT/2025Dated: 22-05-2025**PAKISTAN ENGINEERING COUNCIL**

Vs.

COMPETITION COMMISSION OF PAKISTAN AND ANOTHER**NOTICE****Appeal No.28/2016**

Take notice that under rule 51 of the Competition Appellate Tribunal Rules, 2015, attested copies of the Judgment dated **21-05-2025** is enclosed for information and record.

2. Given under my hand and stamp of the Tribunal, this 22nd day of May, 2025.


(MUSTAJAB ALAM KHAN)
Registrar
REGISTRAR
Competition Appellate Tribunal
Government of Pakistan
Islamabad

1. **Pakistan Engineering Council,**
Through its Registrar,
1296 Ataturk Avenue, F-5, **Islamabad.**

2. **Syed Bulent Sohail**
Advocate High Court
House No. 12, Lane No. 3, Lake View Lines (LVL) society,
Bani Gala, **Islamabad.**

✓ 3. **Competition Commission of Pakistan,**
ISE Tower, 55-B, Jinnah Avenue, **Islamabad.**

4. **SPI Insurance Company Ltd,**
(Formerly Saudi-Pak Insurance Company Ltd,)
UIG House, First Floor, 6-D,
Upper Mall, **Lahore.**

5. **Mr. Muhammad Aslam Aryan,**
Advocate High Court,
House No.13, Street No.42, F-8/1, **Islamabad.**

6. **Ministry of Planning, Development and Reform, "P" Block,**
Through Assistant Chief (Mr. Ishtiaq Alam) Pakistan Secretariat,
Islamabad.



Office of the Registrar

Diary No: 507Date: 27/5/25

Chairman Secretariat

Diary No: 1068Date Received: 26-5-25Date Forwarded: 26-5-25

THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD.

Before: Mr. Justice Sajjad Ali Shah, Chairman
Dr. Faiz Illahi Memon, &
Mr. Asim Akram, Members Technical - I & II, respectively.

Appeal No. 28 of 2016

Date of Hearing 13-05-2025
Date of Judgment 21-05-2025

Appellant: Pakistan Engineering Council through its Registrar

Respondents:

1. Competition Commission of Pakistan, through its Registrar
2. SPI Insurance Company Limited, (Formerly Saudi Pak Insurance Company Ltd).
UIG House, First Floor, 6-D, Upper Mall Lahore.
3. Federal Government, through Secretary, Ministry of Planning Development and Reform "P" Block, Pak Secretariat, Islamabad.

For the appellant Mr. Waqar Ahmed Janjua, Advocate.

For the Respondent Mr. Amjad Hameed Ghouri, Advocate along with Hafiz Nacem, legal advisor for CCP.
Mr. Shoaib Aslam, Advocate for Respondent No.2.
Mr. Ishtiaq Alam, Assistant Chief, M/o Planning / Respondent No. 3.

JUDGMENT

Dr. Faiz Illahi Memon, Member Technical-I:- The instant appeal has been preferred by the Pakistan Engineering Council (PEC) triggered against order of the Competition Commission of Pakistan (CCP) dated 20.04.2016, whereby cumulative penalty of Rs. 30 million has been levied by declaring PEC violative of section 4(1) and 4(2) (f) of the Competition Commission Act 2010(*the Act*). The order of the CCP is in consequence of complaint filed by M/s. SPI Insurance Company Ltd. (Formerly Saudi Pak Insurance Company Ltd.), alleging that requirement of "AA" rating in respect of insurance companies is in violation of section 4 (1) and 4(2) (f) of the Act. The crux of the complaint hovered around the fact that the PEC has



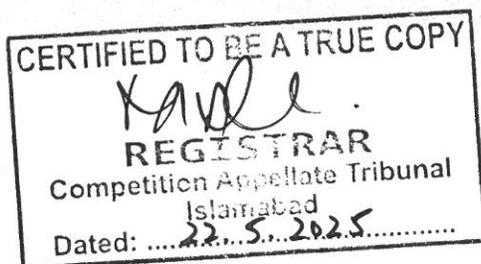
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restricted insurance coverage of public civil works to only "AA" rated insurance companies thereby placing other insurance companies at a disadvantage.

2. The Enquiry report, conducted by the CCP, was followed by issuance of show cause notice (SCN) dated 20.08.2015, which confronted the PEC decision taken in relation to an economic activity by including the provision IB.15 and 10.1 in the standard form of Bidding document (Civil Work) which go to the relative disadvantage of insurance companies not having "AA" rating; consequently, restricting or reducing competition within the relevant market. The SCN also alleged that similar requirement has not been put in place for the banking companies and therefore discrimination has been made for insurance companies not enjoying "AA" rating.

3. The arguments advanced by counsel of PEC and the CCP have been heard and the record perused in detail.

4. The requirement for bid security and performance security was a consequence of model document prepared by PEC which was submitted to the Ministry of Law and Justice for necessary vetting under section 25 of Pakistan Engineering Council Act. After the approval from the ministry it was debated in ECNEC which gave its consent in its meeting held on 12.11.2007. The decision was accordingly circulated and the bidding documents were notified by the Planning Commission vide Notification No.8 (60) WR/PC/2002, dated 21 August, 2002 and Notification No.8 (60) WR/PC/2008, dated 12 February, 2008. The decision was adopted in the form of bidding document by the Public Procurement Regulatory Authority (PPRA) vide SRO 805 (I) 2008 dated 11.07.2008. Aforesaid decision of various organs of Federal Government was taken in order to inculcate sense of utmost discipline in the construction sector and in order to bring the civil works at par with the international standards. In doing so, the PEC did not act on its own but the Federal Government approved the proposal so as to plug the hemorrhage of public money where the civil

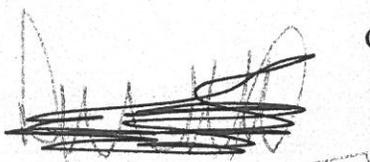


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work contracts involve staggeringly huge amount. The model document prepared by PEC was affixed seal of approval by the Ministry of Law and Justice, ECNEC and Ministry of Planning and lastly by the PPRA. No where PEC acted on its own. The "AA" rating to insurance companies is given by PACRA and JCR and this is not self assumed. No violation of section 4 (1) and 4(2) (f) of the Act has been committed by the PEC. No discrimination has been done by enabling a certain class or category of insurance companies being eligible for bidding neither any competition has been reduced in that particular class nor it could be shown to be apparently mala fide, arbitrary or carried the element of malice. There can be no discrimination in cases where the Act or treatment is based on reasonable classification on an intelligible differentia which distinguishes persons or things from those who have been left out. Reference can be made to (2007 SCMR 410 and PLD 2010 SC 265). Furthermore, the bid documents were notified by the Federal Government to promote quality and excellence in the civil works executed by the Federal Government and not by the PEC.

5. In view of discussion made supra, we are of the conclusive opinion that the order passed by the Competition Commission of Pakistan dated 20.04.2016 against the PEC lack the legal and factual standing and is hereby set aside. There is no order as to cost. Announced in open Court.


Chairperson


Member Technical-I


Member Technical-II

Announced in open Court

21-05-2025

