

**IN THE SUPREME COURT OF BANGLADESH
HIGH COURT DIVISION
(SPECIAL ORIGINAL JURISDICTION)**

Writ Petition No. 8232 of 2023

IN THE MATTER OF :

An application under Article 102 of the Constitution of
the People's Republic of Bangladesh

-And-

IN THE MATTER OF :

Muhammad Aminul Haque (Pvt) Ltd

..... Petitioner

-Versus-

Government of Bangladesh and others

..... Respondents

Mr. Md. Tanvir Ahmed, Advocate

.....For the petitioner

Mr. S.M. Zahurul Islam, Advocate

.....for the Respondent No.3.

Md. Delowar Hossain Khan, D. A. G. with

Mrs. Zohura Khatun, AAG

.....For respondents

Heard and Judgment On : 29th August, 2024.

Present:

Mr. Justice Mustafa Zaman Islam

&

Mr. Justice S.M. Masud Hossain Dolon

Mustafa Zaman Islam, J;

In the instant writ petition filed by the petitioner under article 102 of the constitution seeks the following reliefs:-

- (a) why the action of the respondent Nos. 2-7 debarring the petitioner from participating in any tender under the whole e—GP Portal from 11.06.2024 to 10.12.2024 by publishing name of the petitioner company namely "Muhammad Aminul Haque (Pvt.) Ltd." in the 'Debarment List' in e-GP website of the Bangladesh Public Procurement Authority (BPPA) [previously known as Central Procurement Technical Unit (CPTU)], so far it relates to

Serial No. 17 published by the Respondent Nos. 2 and 6 [Annexure-H] and e-mail dated 10.06.2024 sent at 17:48:44 by the e-GP System Admin of the Respondent No. 6 [Annexure-H(1)] informing the petitioner company about the decision of debarment from the e-GP System shall not be declared to have been passed without lawful authority and is of no legal.

(b) pass any orders (s) as to this court may seem fit and proper in this instant jurisdiction

The petitioner is a limited company and is engaged in the business as contractors for construction of Roads and brick pavement roads, consolidation roads, bituminous carpeting and RCC Road, buildings, bridges and any type of hydraulic structure etc. The petitioner in the last few years have completed a huge volume of works of roads and highways Department individually as well as through joint venture.

Pursuant to that the respondent No. 5, being the procuring entity floated a tender being proposal ID No. 884048 dated 05.10.2023 under open Tendering Method (OTM) for construction of 100.00m Span Steel BUG Truss Bridge Superstructure for 622.32.m, Nehalgonj Bridge at 10th km of Barishal –Tumchar-Bauphal Road (Z-8910) under Barishal Division during the year 2023-2024.

In order to participate in the above tender formed a Joint venture Consortium Agreement (JVCA) with 2(two) other companies, thereafter the petitioner's JVCA was not found responsive in the aforesaid Tender. At this stage, the petitioner company received a show case notice dated 25.02.2024 against the petitioner under section 64 of the public procurement /Act,2006 and Rule 127 of the Rules there under for wrongful actions, of its joint venture partners. The petitioner replied the same and without affording any

chance of hearing, the respondents debarred the petitioner company from participating any Tender under the e-GP portal for 6 months from 11.06.2024 to 10.12.2024.

Mr. Md. Tanvir Ahmed, the learned Advocate for the petitioner referring to an un reported judgment dated 18.06.2023 in writ petition no. 10470 of 2022 submits that in light of the judgment it is seen that the penalty imposed on the petitioner has been modified, as such, he prays for modification.

Mr. S.M Zahurul Islam, the learned Advocate upon filing an affidavit-in-opposition on behalf of the respondents No. 3 submits that the petitioner has been debarred from the e-GP portal for 6 months as per the Rule 127(f) Kha and 127 (4) (Ga) for exercising fraudulent practice and the debarment is effective on the current tender process.

It is pertinent to note that when the Rule was taken up for hearing the learned Advocate appearing for the petitioner prayed orally for reduction of the months period of debarment to 3(three) months instead of 6 months.

The prayer is difficult to oppose by the learned Advocate appearing for the respondent No. 3.

Having considered the submissions of the learned Advocates of both sides and the materials on record, we find substance in the prayer. Accordingly, the same is allowed.

The debarment period of the petitioner's firm namely, Muhammad Aminul Haque (Pvt) Ltd. from the 'e-GP Portal' is reduced to-3(three) months for a period from 11.06.2024 to 10.09.2024 instead of 6(six) months.

With the above observations and directions, the Rule is disposed of.

Communicate the Judgment and Order at once.

S.M. Masud Hossain Dolon, J:

I agree.