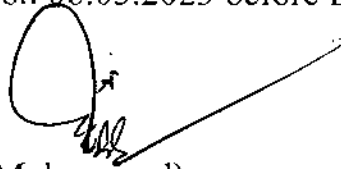


05.01.2023

Appellant in person present. Mr. Naseer-ud-Din Shah,  
Assistant Advocate General for the respondents present.

Appellant requested for adjournment on the ground that his  
counsel is not available today. Last opportunity is granted to argue  
the case on the next date, failing which the case will be decided on  
available record without arguments. Adjourned. To come up for  
arguments on 08.05.2023 before D.B.



(Mian Muhammad)  
Member (E)



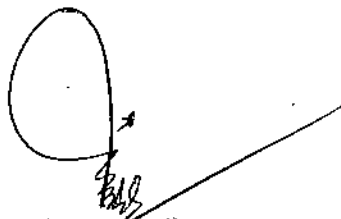
(Kalim Arshad Khan)  
Chairman

SCANNED  
K. S. J.  
Peshawar

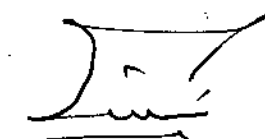
12.10.2022

Clerk of learned counsel for the appellant present. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Clerk of learned counsel for the appellant requested for adjournment on the ground that learned counsel for the appellant is busy in the august Peshawar High Court, Peshawar. Last opportunity given. Adjourned. To come up for arguments before the D.B on 17.11.2022.



(Mian Muhammad)  
Member (E)



(Salah-Ud-Din)  
Member (J)

17.11.2022

Clerk of counsel for the appellant present.

Kabir Ullah Khattak learned Additional Advocate General for respondents present.

Lawyers are on general strike, therefore, case is adjourned to 05.01.2023 for arguments before D.B.



(Fareeha Paul)  
Member (E)



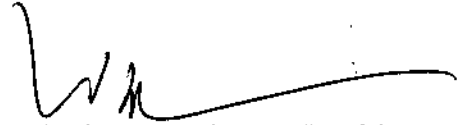
(Rozina Rehman)  
Member (J)

SCANNED  
KPST  
Peshawar

17.01.2022

Learned counsel for the appellant present. Mr. Muhammad Adeel Butt, Addl. AG for respondents present.

Reply/comments on behalf of respondents have already been submitted through office which are placed on file. To come up for rejoinder if any, and arguments before the D.B on 12.05.2022.



(Atiq-Ur-Rehman Wazir)  
Member (E)

12-5-22

*Proper DB not available the case is adjourned on 27-7-22*



27<sup>th</sup> July 2022

Appellant alongwith his counsel namely Mr. Zartaj Anwar, Advocate present and submitted fresh Wakalatnama, which is placed on file. Mr. Naseer-ud-Din Shah, Assistant Advocate General alongwith Mr. Sajjad Anwar, Assistant for respondents present.

Learned counsel for the appellant stated at the bar that he has been newly engaged in the instant appeal and has not gone through the record, therefore, adjournment may be granted. Adjourned. To come up for arguments on 12.10.2022 before the D.B.



(Salah-Ud-Din)  
Member (J)



(Kalim Arshad Khan)  
Chairman

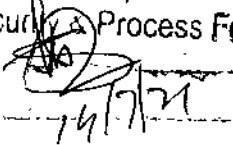
1683/20

14.07.2021

Counsel for the appellant present. Preliminary arguments heard.

Points raised need consideration. The appeal is admitted for regular hearing subject to all just and legal objections. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments in office within 10 days after receipt of notices, positively. If the written reply/comments are not submitted within the stipulated time, or extension of time is not sought through written application with sufficient cause, the office shall submit the file with a report of non-compliance. File to come up for arguments on 01.12.2021 before the D.B.

Appellant Deposited  
Security & Process Fee

  
14/7/21

  
Chairman

01.12.2021

Learned counsel for the appellant present. Mr. Kabirullah Khattak, Addl: AG alongwith Mr. Muhammad Iqbal, AD for respondents present.

Written reply/comments not submitted. Representative of respondents seeks time for submission of written reply/comments. Adjourned. To come up for written reply/comments on 17.01.2022 before S.B.

  
(MIAN MUHAMMAD)  
MEMBER (E)

28.10.2020

Appellant present in person.

Lawyers are on general strike, therefore, case is adjourned to 12.01.2021 for preliminary hearing, before S.B.

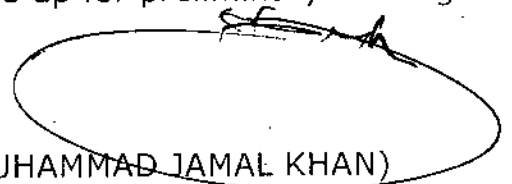
**SCANNED**  
**KPST**  
**Peshawar**



(Rozina Rehman)  
Member (J)

12.01.2021

Counsel for appellant is present. He requested for adjournment. Request is allowed. The appeal is adjourned to 07.04.2021 on which date file to come up for preliminary hearing before S.B.



(MUHAMMAD JAMAL KHAN)  
MEMBER (JUDICIAL)

07.04.2021

Due to demise of the Worthy Chairman the Tribunal is defunct, therefore, case is adjourned to 14.07.2021 for the same as before.



READER

## FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No.- 1683 /2020


S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1- <b>Resubmitted</b> 2-	12/03/2020  19/03/20.  04.05.2020  05.08.2020	<p>The appeal of Mr. Sher Ayaz Khan resubmitted today by Mr. Shaukat Ali Afridi Advocate may be entered in the Institution Register and put up to the Learned Member for proper order please.</p> <p style="text-align: right;">REGISTRAR <u>12/03/2020</u></p> <p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>30/04/2020</u></p> <p style="text-align: right;"><i>MA</i> MEMBER</p> <p>Due to COVID-19, the case is adjourned to 05.08.2020 for the same, before S.B.</p> <p style="text-align: right;"><i>J</i> Reader</p> <p>Neither appellant nor his counsel is present. The appeal was adjourned due to COVID-19, therefore, notices be issued to appellant and his respective counsel for 28.10.2020. File to come up for preliminary hearing before S.B.</p> <p style="text-align: right;">(MUHAMMAD JAMAL KHAN) MEMBER</p>

The appeal of Mr. Sher Ayaz Khan son of Sher Zad Khan Assistant Director Mineral Development Department Swabi received today i.e. on 02.03.2020 is incomplete on the following score which is returned to the counsel for the appellant for completion and resubmission within 15 days.

- 1- Memorandum of appeal may be got signed by the appellant.
- 2- Annexure-A of the appeal is illegible which may be replaced by legible/better one.

No. 503 /S.T.

Dt. 03-03 /2020.

  
REGISTRAR  
SERVICE TRIBUNAL  
KHYBER PAKHTUNKHWA  
PESHAWAR.

Mr. Shaukat Ali Afridi Adv. Pesh.

*Removed the objection  
re-submitted after completion.  
6/03/20.*

**BEFORE THE LEARNED  
SERVICE TRIBUNAL, PESHAWAR**

Service Appeal No. 1683/2020

**Sher Ayaz Khan**

(Appellant)

**VERSUS**

Govt. of KP through Chief Minister and others

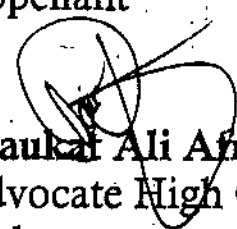
(Respondents)

**INDEX**

S. No.	Documents	Annex:	Page No.
1	Grounds of Appeal a/w Affidavit		1-9
2	Application for suspension of impugned orders a/w Affidavit		10-11
3	Copy of advertisement	A	12
4	Copy of bid statement	B	13-14
5	Copy of letter dated 04.02.2019	C	15
6	Copy of letter dated 07.02.2019	D	16
7	Copies of reply and enquiry report	E-F	17-27
8	Copies of letter dated 02.08.2019, show cause notice and reply of show cause notice	G-H-I	28-30
9	Copy of order/notification dated 11.10.2019	J	31
10	Copy of memorandum of departmental appeal and order dated 24.02.2020	K-L	32-33
11	Wakalat Nama		34

Appellant

Through

  
**Shaukat Ali Afridi**  
Advocate High Court,  
Peshawar

Dated: 29.02.2020



BEFORE THE LEARNED  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. 1683/2020

**Sher Ayaz Khan** S/o Sher Zada Khan (Assistant Director, Mineral Development Swabi R/o House No. 161, Sector G, Sheikh Maltoon Town, Sadberg Road, Mardan

(Appellant)

**V E R S U S**

- 1) Government of Khyber Pakhtunkhwa through Chief Minister, Office Situated at Chief Minister Secretariat, Peshawar
- 2) Government of Khyber Pakhtunkhwa through Chief Secretary, Office Situated at Civil Secretariat, Peshawar
- 3) Government of Khyber Pakhtunkhwa through Secretary Mineral Development Department, Khyber Pakhtunkhwa, Office situated at Khyber Road, Near District Courts, Peshawar
- 4) Director General, Mines & Minerals Department Khyber Pakhtunkhwa, Office situated at Khyber Road, Near District Courts, Peshawar

(Respondents)

**Appeal Under Section 4 of the KPK Service Tribunal Act, 1974, against the impugned Office Order No. SO(E)MDD/4-1/Vol-III/2018 dated 24.02.2020 of the office of Chief Minister whereby the departmental appeal of the appellant**

against the impugned order "Removal From Service" bearing No. SOE(MOD)-8/2014 dated 11.10.2019 of the office of Chief Secretary was dismissed in a classically cursory and whimsical manner.

Prayer in Appeal:

On acceptance of this appeal, the instant both impugned orders dated 24.02.2020 & 11.10.2019 may graciously be set aside and by doing so the appellant may very graciously be reinstated in service with all back benefits in term of seniority / promotion and arrears.

Respectfully Sheweth,

Appellant humbly submits as under:

1. That the appellant was serving as Assistant Director (Tech) Mineral Development Mardan Division, Mardan and lastly he was serving as Assistant Director Mineral Development, Buner.
2. That, the Miens and Minerals Development Department, Khyber Pakhtunkhwa advertised a publication in Newspaper regarding auction of different minor minerals areas including area

measuring 707.61 acres situated at Adnan Talao / Jagnath District Swabi. (Copy of advertisement is annexed as Annexure A.

3. That the auction proceedings were held on 28.01.2019 by the Auction Committee in the Office of Deputy Commissioner Swabi (the Chairman of Auction Committee) and out of 10 participants one Khan Pervez gave a highest bid of Rs. 64,50,000/- and the Auction Committee has declared him successful bidder. (Copy of bid statement is annexed as Annexure B)
4. That after completion of auction proceedings that appellant being Assistant Director (Tech) Mineral Development Mardan Division according to law vide Letter No. 24/MDW/MM/SB/(04)/2015 dated 04.02.2019 requested the respondent No. 4 for approval for grant of one year mining lease in favour of Khan Pervez under usual terms and conditions as per Khyber Pakhtunkhwa Mineral Governance Act 2017. (Copy of letter dated 04.02.2019 is annexed as Annexure C)
5. That respondent No. 4 duly grant approval for the grant of one year Mining Lease for Minor Minerals over an area of 707.61 acres near Village Adnan Talao / Jagnath District Swabi vide Letter No. 2159/MDW/MM/SB(4)/2015 dated 07.02.2019. (Copy of Letter dated 07.02.2019 is annexed as Annexure D)

6. That accordingly, offer letter dated 15.02.2019 was issued to Mr. Khan Pervez, after compliance with the conditions of the offer letter, Mr. Khan Pervez was granted one year mining lease for minor mineral over an area of 707.61 acres near Village Adnan Talao / Jagnath District Swabi vide Letter No. 364/MDW/SB/MM(04)2015 dated 28.02.2019 and he was allowed to start work on the terms and conditions mentioned in such letter.
7. That an alleged complaint was received on 21.03.2019 by the Deputy Commissioner Swabi wherein it was alleged that the area was not auctioned during the auction proceedings on 28.01.2019, due to an alleged stay order of the court.
8. That the Deputy Commissioner Swabi immediately ordered for enquiry and constituted an Inquiry Committee to unearth the facts, the enquiry committee submitted its report on 26.03.2019 which highlighted fraud and gross misconduct on the part of appellant and his associated staff.
9. The Deputy Commissioner Swabi vide Letter No. 817/DSC/PS dated 27.03.2019 addressed to DG Mines & Minerals KP recommended the following actions on the basis of the said enquiry report.
  - i. The offer letter for grant of lease of lot of Adnan Talao / Jagnath of 707.61 acres be immediately

cancelled;

- ii. The bid security and lease money submitted by the concerned contractor named Khan Pervez for the above mentioned block may be forfeited and the contractor should be immediately black listed besides taking other legal actions under the law.
  - iii. The then Assistant Director Minerals Mardan Mr. Sher Ayaz Khan must be immediately suspended and a departmental inquiry be launched against him and his office staff of destroying evidence, forging fake auction documents and possible corruption.
  - iv. The department should move to online auction mechanism if possible to avoid such incidents in future.
10. That Assistant Director Mineral Development Mardan was directed by the Head Quarters Office vide Letter dated 05.04.2019 to cancel the mining lease and also forfeit security of party. Accordingly mining lease was cancelled vide letter No. 767/MDW/SB/MM/(04)/2015 dated 05.04.2019.
11. That competent authority vide Notification No. SO(G)/MDD/2-12/2019/4133-40 dated 21.05.2019 constituted an enquiry committee to conduct enquiry against appellant. The enquiry committee issued

charge sheet to the appellant and the appellant duly submitted his reply to the charge sheet. The enquiry committee during the course of enquiry found the appellant guilty of the charges leveled against him and recommended the competent authority may proceed against appellant Under Rule 4 of Khyber Pakhtunkhwa Government Servants (E&D) Rules 2011. (Copies of reply and enquiry report are annexed as Annexure E and F respectively)

12. That competent authority vide Letter No. SO(E)/MDD/4-1/Vol-III/2018 dated 02.08.2019 served a show cause notice upon the appellant. The appellant duly submitted his reply to the show cause notice. (Copies of letter dated 02.08.2019, show cause notice and reply to show cause notice are annexed as Annexure G, H & I respectively)
13. That the respondent No. 2, being competent authority, vide Order/Notification No. SOE(MDD)/4-8/2014 dated 11.10.2019 has impose major penalty of "Removal From Service" upon the appellant under Rule 4(b)(iii) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with immediate effect. (Copy of order/notification dated 11.10.2019 is annexed as Annexure J)
14. That feeling aggrieved of the impugned order dated 11.10.2019 the appellant filed departmental appeal before the respondent No. 1 which was dismissed on 24.02.2020 and which was received to appellant on

27.02.2020. (Copy of memorandum of departmental appeal and order dated 24.02.2020 are annexed as Annexure K & L respectively)

15. That the appellant seeks instant service appeal under the following amongst other grounds.

Grounds:

- A. That both the impugned orders dated 24.02.2020 & 11.10.2019 passed by the respondents are against the law, facts and material available on record, hence not tenable in the eye of law.
- B. That no allegations have been proved against the appellant during the course of enquiry on the basis of which the impugned orders dated 24.02.2020 & 11.10.2019 have been passed by the respondents are against the norms of justice.
- C. That the inquiry committee did not follow the procedure laid down under the relevant law and rules as well, the enquiry committee has been failed to unearth the real facts and left the real accused and made the appellant as escape goat, the inquiry committee submitted its report without giving any cogent and solid reason and based on incorrect and untrue findings of *Recommendations*.
- D. That no opportunity to cross examine the witnesses

was afforded to the appellant which is against the law and procedure as well.

- E. That the burden of responsibility was wrongly shifted by the respondents to the appellant, because the entire auction proceedings was conducted by the auction committee itself and thereafter proper approval was accorded by the competent authority in accordance with law and work order issued accordingly.
- F. That the impugned orders are not speaking one, therefore, liable to be set aside.
- G. That, no opportunity of hearing has been afforded to the appellant, therefore, the impugned orders are against the golden principles of natural justice.
- H. That the inquiry committee based its finding on the statements of bidders, which are interested witnesses therefore their statements are unreliable and are inadmissible in the eye of law.
- I. That there is no irregularity in auction proceeding was made out by the inquiry committee against the appellant while passing the impugned order, against the appellant on malafidy basis is contrary to the law.
- J. That the inquiry officers have ignored the fact and merits of the proceedings and passed illegal orders, which commits material irregularity.

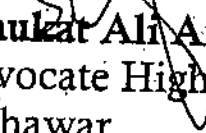


K. That any other ground will be raised at the time of arguments with prior permission of this hon'ble tribunal.

It is, therefore, most humbly prayed that on acceptance of this appeal, the instant both impugned orders dated 24.02.2020 & 11.10.2019 may graciously be set aside and by doing so the appellant may very graciously be reinstated in service with all back benefits in term of seniority / promotion and arrears.

Appellant

Through

  
**Shaukat Ali Afridi**  
Advocate High Court,  
Peshawar

Dated: 29.02.2020

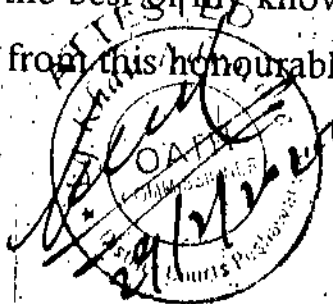
**Note:** No such service appeal on the same subject matter has earlier been filed before this honourable court.

  
ADVOCATE

### AFFIDAVIT

I, **Sher Ayaz Khan** S/o Sher Zada Khan (Assistant Director, Mineral Development Swabi R/o House No. 161, Sector G, Sheikh Maltoon Town, Sadberg Road, Mardan, do hereby solemnly affirm and declare on Oath that the contents of instant "Service Appeal" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.

  
DEPONENT



BEFORE THE LEARNED  
SERVICE TRIBUNAL, PESHAWAR

Service Appeal No. \_\_\_\_\_/2020

Sher Ayaz Khan

\_\_\_\_\_  
(Appellant)

**V E R S U S**

Govt. of KP through Chief Minister and others

\_\_\_\_\_  
(Respondents)

**Application for suspension of operation of  
impugned orders dated 24.02.2020 &  
11.10.2019 till the disposal of this appeal.**

**Respectfully Sheweth,**

- 1) That the appellant filed above mentioned appeal along with this application before this august Service Tribunal in which no date has been fixed so far.
- 2) That all the three ingredients necessary for the stay is in favour of the appellant.
- 3) That if the impugned orders dated 24.02.2020 and 11.10.2019 is not suspended, then the petitioner would sustain irreparable loss.

- 4) That the grounds of main appeal is also be considered as integral part of this application.

It is, therefore, humbly prayed that on acceptance of this application, both the impugned orders may kindly be suspended till final disposal of the main appeal.

Appellant

Through

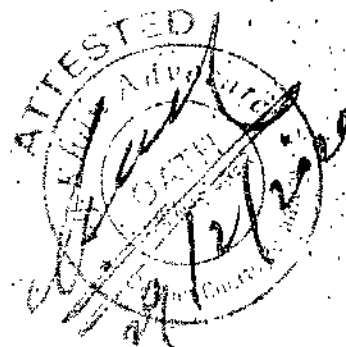


Shaukat Ali Afridi  
Advocate High Court,  
Peshawar

Dated: 29.02.2020

**AFFIDAVIT**

I, **Sher Ayaz Khan** S/o Sher Zada Khan (Assistant Director, Mineral Development Swabi R/o House No. 161, Sector G, Sheikh Maltoon Town, Sadberg Road, Mardan, do hereby solemnly affirm and declare on Oath that the contents of instant "Application" are true and correct to the best of my knowledge and belief and nothing has been concealed from this honourable court.



DEPONENT

DAILY MASHRIQ PESHAWAR

روزنامہ سید تاج میر شاہ عبدالقادر کے بانی پشاور

ABC CERTIFIED

جلد 52 جرات 26، پرائیڈن 1440، 03 جنوری 2019، قیمت 20 روپے

نیلامی ادنیٰ قیمتیں

برہان پور میں ایک کھیتوں کی زمین اور دیگر زمینوں کی خرید و فروخت کی اطلاع...

Table with 4 columns: Lot No., Area, Price, and Description. It lists various land parcels for sale with their respective areas and prices.

شرائط و ضوابط:

- 1- قیمت مزاد... 2- زمین کی تفصیلات... 3- مزاد کے طریقے... 4- مزاد کے دن... 5- مزاد کے بجٹ... 6- مزاد کے شرائط... 7- مزاد کے نتائج... 8- مزاد کے اخراجات... 9- مزاد کے معاہدے... 10- مزاد کے رجسٹریشن... 11- مزاد کے معاہدے... 12- مزاد کے نتائج... 13- مزاد کے اخراجات... 14- مزاد کے معاہدے... 15- مزاد کے نتائج...



پشاور سٹیٹ پبلک ورکس اور کھیتوں کی زمینوں کی خرید و فروخت کی اطلاع...

D STATEMENT

NG OPEN AUCTION OF MINOR MINERAL BELONGING TO 707.61 ACRES  
 HAJI AGE ABNAN TAL AQMA CANATH DISTRICT SWABI

RESERVE PRICE RS. 5,610,000/-

Call Deposit Rs. 560,000/-

**ATTESTED**

S. No.	Name of Bidder	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1	Shoaib Shah	12508356	12508361	12508363	12508364	12508365	12508366	12508367	12508368	12508369	12508370	12508371	12508372	12508373	12508374	12508375	12508376	12508377
2	Sabir Shah																	
3	Faisal Hayat																	
4	Muhammad Nadeem																	
5	M/S Haji Muhammad Saeed & Sons																	
6	Iqbal Shah																	
7	Lal Shah																	
	Zahida Khan	12308359																
9	Safcel ur Rishad	12577515																
10	Naveed Ahmad	1258357	1258363	1258364	1258365	1258366	1258367	1258368	1258369	1258370	1258371	1258372	1258373	1258374	1258375	1258376	1258377	
11	Shah Nawaz																	
12	Muzammil Khan																	
13	Gohar Ali	1258358	1258360	1258361	1258362	1258363	1258364	1258365	1258366	1258367	1258368	1258369	1258370	1258371	1258372	1258373	1258374	
	Khan Farooz	1258359	1258361	1258362	1258363	1258364	1258365	1258366	1258367	1258368	1258369	1258370	1258371	1258372	1258373	1258374	1258375	
	Abdullah	1258359	1258361	1258362	1258363	1258364	1258365	1258366	1258367	1258368	1258369	1258370	1258371	1258372	1258373	1258374	1258375	
	Mogadam & Co	1258359	1258361	1258362	1258363	1258364	1258365	1258366	1258367	1258368	1258369	1258370	1258371	1258372	1258373	1258374	1258375	

Signature of Bidder

*[Handwritten Signature]*

**ATTESTED**

18 ✓	Saeed ullah shah									
19	Inkhar Ali	12708359	12803460	12803460	12903460	12903460				
20	Lai Shah									
21	Yaseen Khan									
22	Fazal Raziq & Co	12508359	12803460	12708360	12903460	12903460				
23	Muhammad Arif Khattak									
24	Atta Ullight Shah									
25 ✓	Faiz Ullah									
26	Muhammad Ismail									
27	Frithar Ali Shali									
28	Badrul Islam									
29	Najmul Haq									
30 ✓	Malik Muhammad Ibrahim									
31	Rissan Ullah									
32	Muhammad Shoab									

The Auction Committee recommended the highest bid offered by Mr. Raza Pover

SO Muhammad Hossain

of Rs. 12708359 at S.No. 14

Deputy Commissioner [Signature] District Police Officer [Signature] Representative of G & W Deptt. Swabi (Not Below BPS-17) [Signature] Representative of Irrigation Deptt. Swabi (Not Below BPS-17) [Signature] Assistant Director (Tech) Mineral Development [Signature] 28/11/19 [Signature]

(117)

(15)

Annex C



REGISTERED

ASSIS  
Address: Of

OFFICE OF THE  
DIRECTOR MINERAL DEVELOPMENT MARDAN,  
Office, Mohallah Nank Pura District Mardan. Tel: No.0937-9230506

No. 24 /MDW/MM/SB/ (04)/2015

Dated: 4/2/2019

To

The Director General,  
Mines & Minerals Khyber Pakhtunkhwa,  
Peshawar.

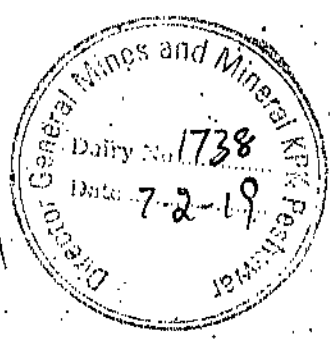
Subject: - SUMMARY FOR THE GRANT OF MINOR MINERAL OVER AN AREA 707.61 ACRES NEAR VILLAGE ADNAN TALAO/JAGANATHI DISTRICT SWABI.

Auction for the grant of Minor Mineral over the subject area was conducted under the Chairmanship of Deputy Commissioner Swabi on 28/01/2019. Other members of auction committee were also present. Thirty Two applications were received and Ten of them participated in the auction proceeding. One Mr. Khan Parvez S/O Mian Muhammad Hayat R/O Vill: Badrashi Tehsil: & Dist: Nowshera has offered highest accumulative bid of Rs.6,450,000/- (Sixty Four Lac & Fifty Thousand only) and the Auction Committee recommended his accumulative offer. The successful bidder deposit 1/4<sup>th</sup> of bid money as security vide Treasury challan No. 525 dated 31/01/2019. The reserve price for the area was fixed Rs.5,610,000/- and call deposit Rs.560,000/-.

In view of the above it is requested to accord approval for the grant of of one year mining lease in favour of Mr. Khan Parvez S/O Mian Muhammad Hayat under usual term & condition as per Khyber Pakhtunkhwa Mineral Governance Act-2017, please. All the documents/papers of the auction proceeding are attached herewith for ready reference please.

Encl: As Above

DL-c  
MF  
7/2/19



*[Signature]*  
Assistant Director (Tech)  
Mineral Development Mardan  
Division Mardan





GOVERNMENT  
DIRECTOR

16  
KHYBER PAKHTUNKHWA  
GENERAL MINES & MINERALS  
PESHAWAR

Registered

No: 2159 / MDW/MM/SB(4)/2015

Dated: 07/02/2019

To

Assistant Director  
Mineral Dev: Mardan.

Subject:-

APPROVAL FOR GRANT OF ONE YEARS MINING LEASE FOR  
MINOR MINERAL OVER AN AREA OF 707.61 ACRES NEAR  
VILLAGE ADNAN TALAO/JAGANATH DISTRICT SAWABI.

Reference your letter No. 24/MDW/MM/SB(4)/2015 dated 04.02.2019 on  
the above cited subject.

I am directed to inform you that The Licensing Authority is pleased to  
approve the grant of one year Mining Lease for Minor Minerals over the subject area in  
favor of Mr. Khan Pervez of District Nowshera as per recommendation of District Auction  
committee for Rs. 64,50,000/- (Sixty Four lac & Fifty Thousand) subject to, condition that  
mining lease in question shall stand canceled as and when stay of Peshawar high court  
against the blacklisting of the highest bidder is vacated and that the highest bidder is not  
defaulter of Government dues and further subject to completion of all codal formalities  
required under the Act/rules in vogue and also ensured that the area does not falls in the  
placer Gold blocks and verification of the amount 1/4<sup>th</sup> deposited in shape of Security of  
auction money and usual terms and conditions.

Peshawar

Endst: No: 216-4 / MDW/MM/SB(4)/2015

Copy is forwarded to the

1. PA to Director General Mines & Minerals KPK
2. CC to :Master File Of Minor Mineral Section

07.02.019  
Assistant Director (Technical)

For Director General

Dated: 07/02/2019

ATTESTED

07.02.019  
Assistant Director (Technical)

For Director General



(17) (B.F.)

DISCIPLINARY ACTION

I, Salim Khan, Chief Secretary, Khyber Pakhtunkhwa, as Competent Authority, am of the opinion that Mr. Sher Ayaz, Ex-Assistant Director Mineral, Mardan (now Assistant Director Mineral, Buner) has rendered himself liable to be proceeded against, as he committed the following act/omissions, within the meaning of Rule-3 of the Government of Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011.

STATEMENT OF ALLEGATIONS

"The Deputy Commissioner Swabi has reported that as per inquiry conducted by Inquiry Committee comprising ADC and D.O Finance & Planning, Swabi, the auction of lease in the area of Adnan Talao/Jaganath, Swabi was not approved during the auction conducted by the District Auction Committee on 28-01-2019, but in spite of that, block of Adnan Talao/Jaganath, Swabi comprising 707.61 Acres, was leased out on the basis of forged documents added to the case by the accused officer."

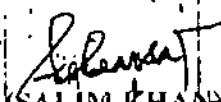
2. For the purpose of Enquiry against the said accused with reference to the above allegations, an Enquiry Officer/Enquiry Committee, consisting of the following is constituted under rule 10 (1) (a) of the ibid rules:-

- i- Mr. Ziaurat Khan Comisar. of Mines & Labour Welfare  
Dt. of Mines
- ii- Muhammad Abid DMO, L.M.U. F & SED.

3. The Enquiry Officer/Enquiry Committee shall, in accordance with the provisions of the ibid rules, provide reasonable opportunity of hearing to the accused, record its findings and make, within thirty (30) days of the receipt of this order, recommendations as to punishment or other appropriate action against the accused.

4. The accused and a well conversant representative of the department shall join the proceedings on the date, time and place fixed by the Enquiry officer/inquiry Committee.

**ATTESTED**

  
(SALIM KHAN)  
CHIEF SECRETARY, KHYBER PAKHTUNKHWA  
(COMPETENT AUTHORITY)

REPLY TO CHARGE SHEET BEFORE INQUIRY COMMITTEE

The allegation leveled against the undersigned is that the auction of lease in the area of Adnan Talao //Jaganat, Swabi was not approved during the auction conducted by the District Auction Committee on 28-01-2019.

INCORRECT:- The area of Adnan Talao/Jaganat Swabi, was approved by the District Auction Committee on 28-01-2019 (Copy enclosed). The same may be verified from Mr. Muhammad Sadiq Assistant who took signature from all the members/chairman for approval on Bid Statements (duly filled by Mr. Muhammad Sadiq) of all the areas included Adnan Talao/Jaganat after completion of all the auction proceeding. The Deputy Commissioner signed the minutes of the meeting in which the said area Adnan Talao //Jaganat is included (Copy enclosed).

Later-on Director General Mines and Minerals has accorded final approval for all the areas. Accordingly work orders were issued to all concerned. The said area of Adnan Talao was cancelled by the Licensing Authority on the report of Deputy Commissioner Swabi, and the Chief Justice Peshawar High Court restored the area and declared cancellation as illegal. The undersigned have also filed a writ petition in Peshawar High Court in which next date is fixed for arguments as 27-06-2019.

Moreover, the inquiry officer Anti Corruption Department have also completed inquiry in this case and have submitted final report to Director Anti Corruption Peshawar.

I may be heard in Personal

**ATTESTED**

*Sher Ayaz Khan*  
Sher Ayaz Khan  
Assistant Director Mineral

(19)

**ENQUIRY REPORT**

**ATTESTED**

**ORDER OF ENQUIRY**

The Competent Authority vide Notification No.SO(G)/MDD/2-12/2019/4133-40 dated 21.05.2019 constituted an enquiry committee, comprising the undersignees to conduct an enquiry against Mr. Sher Ayaz, Ex-Assistant Director Minerals Mardan into the charges / allegations leveled against him in the charge sheet and statement of allegations and submit findings / enquiry report within 30 days. Mr. Zahoor ud Din, Deputy Director, Directorate General Mines & Minerals Khyber Pakhtunkhwa was nominated as Departmental Representative vide office order Endst.No.10972-77/2/760/DGMM/Admn dated 30.05.2019 to assist the enquiry committee.

**BACK HISTORY**

An advertisement for auction of Minor Minerals in District Mardan and Swabi was floated in newspapers by the Assistant Director Minerals Development Mardan. Date of Auction for District Mardan was fixed for 21.01.2019 and that for District Swabi was fixed for 28.01.2019. (copy of Daily Mashriq Peshawar Dated 03.01.2019 Annexed-A).

As per record of the Assistant Director Minerals Development Mardan Office, 32 parties submitted applications on prescribed form alongwith requisite documents and deposited prescribed application fee of Rs.5000/- for the grant of Mining Lease for minor minerals area of Adnan Talao/Jaganath covering 707.61 acres in District Swabi. However, only 10 parties out of 32 applicants have been shown in the bid statement as bidders for such area. Reserved price for such area was fixed for Rs.56,10,000 (Copy of bid statement **Annexed-B**). Minutes of Auction Committee meeting dated 28.01.2019 was sent to the Deputy Commissioner Swabi by the Assistant Director Minerals Development Mardan for approval vide letter No.59/MDW/MR/Auction/Notice File dated 12.02.2019. The Deputy Commissioner (Chairman of auction committee) after signing the minutes returned the same to the Assistant Director Minerals Development Mardan vide letter dated 13.02.2019 (**Annexed-C**).

A summary vide letter dated 04.02.2019 was sent by the Assistant Director Minerals Development Mardan to the Director-General Mines & Minerals Peshawar for approval. Approval of the Licensing Authority for grant of one year Mining Lease for minor mineral over the said area in favour of Mr. Khan Pervez was conveyed to the Assistant Director Minerals Development Mardan H/Q office vide letter dated 07.02.2019. Accordingly, offer letter dated 15.02.2019 was issued to Mr. Khan Pervez. After compliance with the conditions of the offer letter, Mr. Khan Pervez was granted a one year Mining Lease for Minor Mineral over an area of 707.61 acres near village Adnan Talao/Jaganath, District Swabi vide letter No.364/MDW/SB/MM(04)/2015 dated

28.02.2019 and he was allowed to start work on the terms / conditions given in such letter.

A complaint was received on 21.03.2019 by the Deputy Commissioner Swabi regarding issuance of Mining Lease in the minor mineral area of Adnan Talao/ Jagnat District Swabi stating therein that the area was not auctioned during the auction proceedings on 28.01.2019 due to an alleged stay from the court. The Deputy Commissioner Swabi immediately ordered an enquiry under the committee comprising of ADC and District Officer (Finance and Planning) Swabi to underneath the facts. The committee submitted its enquiry report on 26.03.2019 which highlighted fraud and gross misconduct on the part of the then Assistant Director Minerals Development Mardan and his associated staff.

The Deputy Commissioner Swabi vide letter No.817/DCS/PS dated 27.03.2019 addressed to the Director General Mines & Minerals Khyber Pakhtunkhwa Peshawar recommended the following actions on the basis of the said enquiry report.

1. The offer letter for grant of lease of lot of Adnan Talo/Jaganath of 707.61 acres be immediately cancelled.
2. The bid security and lease money submitted by the concerned contractor named Khan Pervez for the above mentioned block may be forfeited and the contractor should be immediately blacklisted besides taking other legal actions under the law.
3. The then Assistant Director Minerals Mardan Mr. Sher Ayaz Khan must be immediately suspended and a departmental enquiry be launched against him & his office staff of destroying evidence, forging fake auction documents and possible corruption.
4. The department should move to online auction mechanism if possible to avoid such incidents in future.

ATTACHED

*Handwritten signature/initials*

The Deputy Commissioner Swabi vide letter No.818/DCS/PS dated 27.03.2019 brought into the notice of the Director, Anti-Corruption Establishment Khyber Pakhtunkhwa Peshawar the gross violations of rules on part of the then Assistant Director Minerals Development Mardan and his staff which misled the auction committee and concocted fake documents for allocating the subject lease to the contractor and recommended that legal action under relevant anti corruption law may immediately be taken against them.

The Director General Mines & Minerals vide letter No.5709/1/1(G)/DGMM/Admn/Vol-V dated 28.03.2019 requested the Secretary Minerals Development Department Khyber Pakhtunkhwa Peshawar to take quick and appropriate action regarding recommendation given in S.No.3 above. He also requested

that the opinion of Law, Parliamentary Affairs & Human Rights Department may be solicited regarding recommendation given at S.No 1 & 2 above. Opinion of Law Department was solicited vide letter endst.No 2137-40/SO Appeal / MDD/6-8/Swab/2019 dated 02.04.2019. The Law Department vide letter No.8572-75/SO(OP-1)LD/5-5/2012/VOI-V dated 04.04.2019 advised the Secretary Minerals Development Department to cancel the lease and further pursue the vacation of the stay if granted by civil court

The Assistant Director Minerals Development Mardan was directed by the H/Q Office Peshawar vide letter dated 05.04.2019 to cancel the said mining lease for minor mineral and also forfeit security of the party under intimation to all concerned. Accordingly, Mining Lease of Mr.Khan Pervez was cancelled vide the Assistant Director Minerals Development Mardan letter No.767/MDW/SB/MM/(04)/2015 dated 05.04.2019

Mr.Khan Pervez filed a writ petition in the Peshawar High Court Peshawar under Article 199 of the Islamic Republic of Pakistan, 1973 where in he has prayed that cancellation order dated 05.04.2019 of respondent No.2, enquiry report dated 26.03.2019 of respondent No.4, and opinion given by the Law Department may be declared as illegal, without lawful authority and of no legal effect and consequently the minor mineral lease granted to the petitioner may be restored. The court vide order dated 10.04.2019 allowed writ petition as prayed for (Annexed-D).

#### PROCEEDINGS:

Soon after receipt of order of enquiry, the enquiry committee initiated enquiry proceedings. Record at the H/Q office as well as Mardan regional office was taken. The accused officer was directed vide letter No.Com/Mines /555 dated 27.05.2019 to appear before the enquiry committee on 30.05.2019 at 11:00am along with his written statement. Also, Mr.Siddique, Ex-Assistant of the Assistant Director Minerals Development Mardan Office was telephonically called to appear before the enquiry committee on 12.06.2019.

The accused Officer appeared before the enquiry committee on due date and time. He was personally heard in detail. He submitted his written defense on 12.06.2019 (Annexed-E). He was served with a questionnaire on the same date (copy of questionnaire Annexed-F). His reply to the questionnaire is Annexed-G.

Mr.Siddique appeared before enquiry committee on 12.06.2019. He submitted his written statement (Annexed-H). He was also served with a questionnaire (copy of questionnaire Annexed-I). His reply to the questionnaire is Annexed-J.

Further, the bidders shown at the bid statement of Adnan Talao/Jaganath area were telephonically directed through the Departmental Representative to appear before the enquiry committee on 13.06.2019. Only 03 such persons did so. Their statements

ATTACHED

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were recorded and placed at **Annexed-K to M**. Mr. Nizar Ali, Najm ul Haq and Sabir Shah (Bid contesters) told that they have already given their joint written statement to the previous enquiry committee which may also be taken into consideration by this committee (copy of their joint statement **Annexed-N**). Also, the remaining bidders shown in the bid statement for Adnan Talao/Jaganath area were directed vide letter No.Com/Mines/G25-32 dated 17.06.2019 to appear before the committee on 19.06.2019. Mr. Fazal Raziq appeared before the enquiry committee on 19.06.2019. He gave his written statement (**Annexed-N1**). The remaining bidders (shown on the bid sheet) of Adnan Talao / Jaganath ) did not appear before the committee.

**ATTESTED**

*The statements are summarized as follow:-*

**Statement of accused Shor Ayaz Khan, Ex-Assistant Director Minerals Development Mardan**

The accused stated that the area of Adnan Talao/Jaganath District Swabi was approved by the District Auction Committee on 28.01.2019. According to him, Mr. Saddique, Ex-Assistant of Assistant Director Minerals Development Office Mardan duly filled the bid statements of the areas including Adnan Talao/Jaganath and took signature from the Chairman as well as members of the auction committee, after completion of all the auction proceedings. He further stated that the Deputy Commissioner Swabi (Chairman Auction Committee) signed minutes of the auction committee meeting dated 28.01.2019 in which the Adnan Talao/Jaganath area was included; He further added that the said area was cancelled by the Licensing Authority but restored by the Peshawar High Court Peshawar. A writ petition has been filed by him in the Peshawar High Court Peshawar in which next date is fixed for arguments on 27.03.2019, the accused officer further added.

**Statement of Mr. Siddique, Ex-Assistant, of Assistant Director Minerals Development Mardan Office**

Mr. Siddique stated that on 28.01.2019 auction for minor minerals in District Swabi was conducted by the Auction Committee supervised by AC Swabi. All auctions for minor minerals areas except Adnan Talao/Jaganath, Lahore Rest House / Ambar and Bada were held in his presence; he added. According to him he went for Zuhar Prayer and when came back the auction of Adnan Talao/Jaganath was over. He added that the offers of registered parties for such area were written on a rough paper. He further added that he took signatures of the bidders present in the hall on the bid statements already signed by the Auction Committee and filled the bid statements. After auction all files alongwith bid statements were taken by the then Assistant Director Minerals Development Mardan which were handed over to him on 04.02.2019 for preparing summary for approval; he added. He also stated that he has prepared the bid statements from the received applications.

*Handwritten signature/initials*

(20)  
AT (10/11/19)

Statement of Mr. Saheel ur Rashid, a bidder shown on the bid Statement for Adnan Talao/Jaganath area.

He stated that he was present in Deputy Commissioner Office Swabi on 28.01.2019 in connection with participation of auction for minor mineral areas in District Swabi. According to him, the Assistant Commissioner Swabi, who was supervising the auction proceedings, announced that court has stayed auction of Adnan Talao/Jaganath due to which no auction will be held for such area on the same date. He further added that he has neither offered bid for the Adnan Talao/Jaganath area nor signed the bid statement for such area.

Statement of Mr. Naveed Ahmad, a bidder shown on the bid Statement for Adnan Talao/Jaganath area

He stated that he was present in DC Office Swabi on 28.01.2019 in connection of participation of auction for minor mineral areas in District Swabi. According to him, the Assistant Commissioner Swabi, who was supervising the auction proceedings, announced that court has stayed auction of Adnan Talao/Jaganath due to which no auction will be held for such area on the same date. He further added that he has neither offered bid for Adnan Talao/Jaganath area nor signed the bid statement for such area.

Statement of Mr. Iftikhar Ali Shah, a bid contestor for Adnan Talao/Jaganath & Other areas.

He stated that he was present in Deputy Commissioner Office Swabi on 28.01.2019 for taking part in auction of minor minerals for Jaganath, Chuntra and Ambar areas. According to him, during auction proceedings for Chuntra and Jaganath areas, the Assistant Director Minerals Development Mardan announced that no auction for Chuntra and Jaganath will be held due to court stay. He further added that all auctions for minor minerals except that for Chuntra and Jaganath were held and bid statements were signed by the auction committee and the bidders in his presence, he further added.

JOINT STATEMENT OF MR. NIZAR ALI, NAJMUL HAQ AND SABIR SHAH

Mr. Nizar Ali, Najmul ul-Haq and Sabir Shah, the bid contesters in their joint statement has stated that they were present at Deputy Commissioner Office Swabi on 28.01.2019 for taking part in auction for minor minerals areas. According to them auction for Lahore area was hold in shape of overbidding. They further stated that no auction was held for Chuntra and Adnan Talao/Jaganath areas on 28.01.2019 due to court stay order shown to them by the Assistant Director Minerals Development

Mardan. However, the area of Adnan Talao/Jaganath was illegally granted to Mr.Khan Pervez, they added.

Statement of Mr.Fazal Razig, A Bidder shown in the bid statement for Adnan Talao/Jaganath

He stated that he was present in the Deputy Commissioner Office Swabi on 28.01.2019. The Auction committee conducted auction proceedings under the supervision of the Assistant Commissioner Swabi, he added. According to him he took part in the auction of minor mineral areas at Ambar, Masam Dheray and Saleem Khan. He further added that the auction of Masam Dheray and Jaganath was cancelled due to stay order.

REPLIES TO THE QUESTIONNAIRES

1. Reply to the questionnaire submitted by Mr.Sher Ayaz Khan, the accused officer is summarized as follow.

- (i). He has neither shown court stay order to the bidders of minor minerals of District Swabi before auction proceedings nor any stay order is available on record duly served to him through the bailiff.
- (ii). Video recording of the auction proceedings was made by an official of Deputy Commissioner Office Swabi.
- (iii). No auction for minor mineral area of Malik Abad Gadoon (Lot No. 18) was held on 28.01.2019.
- (iv). Minutes of Auction Committee meeting dated 28.01.2019 were signed by Deputy Commissioner Swabi on 2nd page only.
- (v). Original minutes of the said meeting have not been replaced by a photo copy of the minutes in the concerned file of the Assistant Director Minerals Development Office Mardan.
- (vi). No approved item has been removed from the said minutes.

ATTESTED

2. Reply to the questionnaire submitted by Mr.Muhammad Siddique, Ex-Assistant of Assistant Director Minerals Development Office Mardan is summarized as follows.

- (i). Auction of areas including Adnan Talao Jaganath was held on 28.01.2019, under the supervision of Assistant Commissioner Swabi in presence of the auction committee members. Bid statements, signed by the Chairman and members of auction committee were signed by the bidders, present in the hall
- (ii) He knows nothing regarding camera recording

*[Handwritten signature]*



- (iii). Minutes signed by the Deputy Commissioner Swabi were received by him and were sent to the Assistant Director Minerals Development in Dak file.
- (iv). He knows nothing about original copy of the minutes. The Assistant Director Minerals Development may know better about the same.
- (v). Auction of Malik Abad Gadoon area was not held on 28.01.2019 due to incomplete quorum.
- (vi). Except bid statements for Adnan Talao/Jaganath, all other bid statements were signed by the chairman / members auction committee in his presence.

**OBSERVATIONS**

1. In the bid statement for Adnan Talao /Jaganath area following persons have been included who have not submitted application for such area.

- i. Mr.Saeedullah Shah
- ii. Mr.Ataullah Shah
- iii. Mr.Faizullah
- iv. Mr.Muhammad Ismail
- v. Mr.Malik Muhammad Ibrahim
- vi. Mr.Ihsanullah
- vii. Mr.Muhammad Shoaib

**ATTESTED**

*Handwritten signature/initials*

Also, following persons have been excluded from the bid statement for Adnan Talao / Jaganath area who have applied for such area for grant of Mining Lease for minor mineral.

- i. Mr.Fazal Muhammad
- ii. Mr.Ghulam Rabbani
- iii. Mr.Syed Shahab ur Rehman
- iv. M/S Swabi construction company
- v. Mr.Rohul Amin
- vi. M/S Islam Abad Cargo.
- vii. Mr.Nizar Ali

3. Name of Mr.Lal Shah is appearing twice in the bid statement of Adann Talao/ Jaganath area i.e at S.No 07 and S.No.20.

4. Names in the 2nd page of bid statements for Adan Talao/ Jaganath and Lahore Rest House /Ambar areas, placed at pages 244/N & 260/N of the respective files, are the same (Annexed-B & O respectively).

5. Minutes of the meeting of the auction committee dated 28.01.2019, signed by the Deputy Commissioner Swabi neither bear any dispatch number nor the same have been sent to the officers / officials endorsed in such minutes. Even copy of such minutes is not available in the Deputy Commissioner Office Swabi.

6. According to the Deputy Commissioner Swabi, he has signed both pages of such minutes but on the photocopy of such minutes available on record, signature of Deputy Commissioner Swabi is only on page 2 of the minutes.

7. The accused officer sent a copy of the original minutes of the Auction Committee to the Director General Mines & Minerals vide letter dated 02.04.2019 i.e about one and a half months after the same were received by him from Deputy Commissioner Office Swabi (Annexod-P).

8. The Deputy Commissioner Swabi vide letter No.147/DCS/GC/DA dated 19.03.2019 forwarded a copy of the legal notice dated 14.03.2019 to Assistant Director Minerals Development Mardan which was received through Muhammad Riaz Advocate High Court at District Bar Mardan for appropriate action on his part and also to submit factual position of the case in light of the allegations leveled by the applicant (Annexed-Q).

ATTESTED

FINDINGS

Keeping in view the above facts, the enquiry committee firms up the following findings.

1. Under sub-section 7 of section 80 of the Khyber Pakhtunkhwa minerals Governance Act, 2017 the auction committee shall forward its report and recommendations to the Licensing Authority after conclusion of the auction proceedings. However, the practice in vogue in the regional offices of the Directorate General Mines & Minerals is that a report in shape of summary alongwith bid statement (duly signed by the auction committee with recommendation in favour of the highest bidder) and other documents is sent for approval of the Licensing Authority.

There is no provision regarding record of the proceedings/ minutes of the auction committee meeting in such section of the Act.

2. Auction for minor mineral area at Adnan Talao / Jaganath District Swabi was postponed on 28.01.2019 on the basis of an order sheet of the Court of Civil Judge-XII/ R.C Mardan dated 19.01.2019 (Annexod-R)

3. The Auction Committee has blindly signed the bid statement for auction of Adnan Talao/Jaganath area wherein Mr.Khan Pervez, shown as the highest bidder, was recommended without auction held for such area on 28.01.2019.

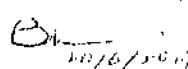
4. The grant of minor mineral area of Adnan Talao/ Jaganath to Mr.Khan Pervez has been got approved from the Licensing Authority on the basis of forged documents like bid statement submitted by the then Assistant Director Minerals Development Mardan

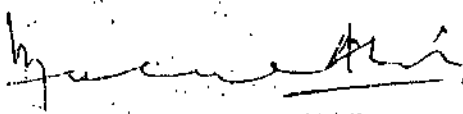
5. The Assistant Commissioner, Swabi, who was only supervising the auction proceedings on 28.01.2019, has signed the bid statement as chairman of the Auction Committee, though chairman of such committee is Deputy Commissioner Swabi.

6. All the bid statements of auction of minor mineral areas in District Swabi dated 28.01.2019 including that of Adnan Talao/ Jaganath has been filled by Mr.Muhammad Siddique, ex-Assistant of Assistant Director Minerals Development Mardan who took signatures from the auction committee on such statements.

**RECOMMENDATIONS**

In view of the above, Mr.Sher Ayaz Khan was found guilty of the charges leveled against him regarding leasing out block of Adnan Talao / Jaganath comprising 707 61 acres on the basis of forged documents. The enquiry committee therefore recommend that the competent authority may proceed against accused officer under Rule 4 of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011.

  
(Engr.Ziarat Khan)  
Chief Commissioner Mines Labour  
Welfare Khyber Pakhtunkhwa

  
(Muhammad Abid)  
DMO IMU, E&S Education Department  
Khyber Pakhtunkhwa





(28)

**Government of  
Khyber Pakhtunkhwa  
Minerals Development Department**

No. SO (E)/MDD/4-1/Vol-III/2018  
Dated Peshawar, August 02, 2019

8488-01

To

Mr. Sher Ayaz Khan S/O Sheh-Zada Khan,  
R/O Sat Berg Road, House No.161, Sector-G, Sheikh Maltoon Town,  
Mardan,

Subject: SHOW CAUSE NOTICE

1. I am directed to enclose herewith a copy of Show Cause Notice duly signed by the Competent Authority/ Chief Secretary, Khyber Pakhtunkhwa wherein the competent authority has tentatively decided to impose major penalty of "Removal from Service" upon you under Rule-4 of E&D Rules, 2011.

2. You are directed to furnish your reply to the said Show Cause Notice within seven (07) days of the receipt of this letter failing which ex-parte action shall be taken against you.

2. Please acknowledge the receipt.

ATTES TED

*Mian Hussain Din*  
(Mian Hussain Din)  
SECTION OFFICER (E.S.T.F.)

Encl: As Above.  
Endst: No. & date even

Copy is forwarded for information to :-

1. PS to Secretary, Minerals Development Department, Khyber Pakhtunkhwa.
2. Director General, Mines & Minerals, Khyber Pakhtunkhwa.

*Mian Hussain Din*  
SECTION OFFICER (E.S.T.F.)

SHOW CAUSE NOTICE.

I, Muhammad Salim, Chief Secretary Khyber Pakhtunkhwa, as competent authority, under the Khyber Pakhtunkhwa Government Servants (Efficiency and Discipline) Rules 2011, do hereby serve you, Mr. Sher Ayaz Khan, Ex-Assistant Director (Minerals) Mardan, as follows:

- 1. (i) That consequent upon the completion of inquiry conducted against you by the Inquiry Officer/Inquiry Committee for which you were given opportunity of hearing vide communication No.Com/Mines/555-01 dated 27.05.2019; and
- (ii) On going through the findings and recommendations of the inquiry officer/inquiry committee, the material on record and other connected papers including your defense before the inquiry officer/inquiry committee,-

I am satisfied that you have committed the following acts/omissions specified in Rule 3 of the said rules.

- (a) \_\_\_\_\_
- (b) \_\_\_\_\_
- (c) \_\_\_\_\_

2. As a result thereof, I, as competent authority, have tentatively decided to impose upon you the penalty of Removal from service under Rule 4 of the said rules.

3. You are, thereof, required to show cause as to why the aforesaid penalty should not be imposed upon you and also intimate whether you desire to be heard in person.

4. If no reply to this notice is received within seven days or not more than fifteen days of its delivery, it shall be presumed that you have no defense to put in and in that case an ex-parte action shall be taken against you.

5. A copy of the findings of the inquiry officer/inquiry committee is enclosed.

*M/S*

*Muhammad Salim*  
(MUHAMMAD SALIM)  
Chief Secretary, Khyber Pakhtunkhwa  
(COMPETENT AUTHORITY)

30

To

The Chief Secretary  
Peshawar

Through: Proper Channel

**ATTESTED**

Subject: REPLY TO SHOW CAUSE NOTICE

Sir,

1. That I have not committed any offence and falsely charged.
2. That there is no finding against me in the inquiry report.
3. That there is no evidence against me in the inquiry report to held me guilty.
4. That even no offence/ commission or omission has been shown in the show cause notice.
5. That I am Siagelled out as neither any charge sheet has been given to Muhammad Sadiq (Assit) . Who has filled the Bid statements and took signatures from the auction committee nor the signatories of the bid sheet i.e Rep: C&W, DPO, and AC Swabi, which is shown discrimination.

It is therefore humbly requested that the charge sheet may please be filled.

I desire to be heard in person.

Date: 30/08/2019

*AC*

*Sher Ayuz Khan*  
Asstt: Director Mineral  
DG Mines & Mineral  
Peshawar

*Sher, 30/8/19*



(30)

Annex J

**Government of  
Khyber Pakhtunkhwa  
Minerals Development Department**

*Dated Peshawar, October 11, 2019*

**NOTIFICATION**

**No. SOE (MDD)/4-8/2014:** WHEREAS, Mr. Sher Ayaz Khan, Ex-Assistant Director (Minerals) BPS-17, Mardan (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa, was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011 on the charges of leasing out the block of Adnan Talao, Jagannath, Swabi comprising 707.61 Acres on the basis of forged documents.

2. AND WHEREAS, an Inquiry Committee comprising M/S Ziarat Khan, Commissioner Mines Labour Welfare, Khyber Pakhtunkhwa and Muhammad Abid (PMS BS-18), DMO IMU, Elementary & Secondary Education Department was constituted to conduct formal inquiry against the accused officer.

3. AND WHEREAS, the Inquiry Committee, after having examined the charges, evidence on record and explanation of the accused officer, submitted its report.

4. AND WHEREAS, the Competent Authority also afforded the opportunity of personal hearing to the accused officer through Secretary to Govt. of Khyber Pakhtunkhwa, Auqaf, Hajj, Religious and Minority Affairs Department.

5. NOW THEREFORE, the Chief Secretary, Khyber Pakhtunkhwa, being competent authority, has been pleased to impose major penalty of "Removal From Service" upon Mr. Sher Ayaz Khan, Ex-Assistant Director (Minerals) BPS-17, Mardan (now under suspension), Directorate General Mines & Minerals, Khyber Pakhtunkhwa, under Rule-4 (b) (iii) of the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules, 2011, with immediate effect.

Secretary to Govt. of Khyber Pakhtunkhwa,  
Minerals Dev. Department

**Endst: No & Date even:**

Copy forwarded to:

1. The Accountant General, Khyber Pakhtunkhwa.
2. The Director General, Mines & Minerals, Khyber Pakhtunkhwa.
3. Mr. Sher Ayaz Khan S/O Sher Ayaz Khan, R/O Sat Berg Road, House No.161, Sector-G, Sheikh Maltoon Town, Mardan.
4. PSO to Chief Secretary, Khyber Pakhtunkhwa,
5. The Private Secretary to Secretary Minerals Development Department.
6. Master File.

(Mian Hussain Din)  
Section Officer (Estt.)

Arora

To

The Honorable Chief Minister  
Khyber Pakhtunkhwa,  
Peshawar.

Subject: Appeal against the Order / Notification No. SOE (MDD)/4-8/2014 dated 11-10-2019 passed by Chief Secretary Khyber Pakhtunkhwa Peshawar under Government Servants (Efficiency & Discipline) Rules, 2011.

Respected Sir,

It is stated that an advertisement for auction of Minor Minerals in District Mardan and Swabi was floated in newspapers by the undersigned Minerals Development Mardan dated 21.01.2019 and that for District Swabi was fixed for 28.01.2019. (Copy of Daily Mashriq Peshawar dated 03.01.2019).

As per record 32 parties submitted applications on prescribed form alongwith requisite documents and deposited prescribed application fee of Rs.5000/- for the grant of Mining Lease for minor minerals area of Adnan Talao/Jaganath covering 707.61 acres in District Swabi. The open auction for the said area was conducted by Chairman Auction Committee under the Chairmanship of Assistant Commissioner Swabi (Duty authorized by DC Swabi), where one Mr. Khan Pervez of District Nowshera at S.No.14 of the Bid statement offered a highest Bid of Rs.64,50,000/- which was recommended by the auction committee dated 28.01.2019. (Copy enclosed) and then after the Director General Mines & Minerals accord approval for the said area. (Copy enclosed) and the Deputy Commissioner Swabi also approved /signed the minutes of the meeting dated 28.01.2019. (Copy enclosed).

A Complaint was received on 21.03.2019 by the Deputy Commissioner Swabi regarding issuance of Mining Lease in the minor mineral area of Adnan Talao/Jaganat District Swabi stating therein that the area was not auctioned during the auction proceedings on 28.01.2019 due to an alleged stay from the court. The Deputy Commissioner Swabi requested Director General Mines and Minerals Peshawar to conduct inquiry against the undersigned and the staff, whereas the competent authority vide Notification No. SO(G)/MDD/2-12/2019/4153-40 dated 21.05.2019 constituted an enquiry committee, comprising Mr. Ziarat Khan Chief Commissioner Mines Labour Welfare Khyber Pakhtunkhwa and Mr. Muhammad Abid DMO IMU, E&S Education Department, Khyber Pakhtunkhwa. That strange enough, without any evidence and findings against the undersigned, arbitrarily, whimsically, undersigned has been held guilty vide inquiry report dated 20.06.2019. (Copy of inquiry report dated 20.06.2019 is enclosed).

Next page 2

ATTESTED

Office of the PS  
Disty No. 2409  
Dist. 7-11-19





In view of the above it would not be out of place to mention that the highest bid of Khan pervaiz for aforementioned area of Jaganath was approved by Director General Mines & Minerals (Copy of approval is enclosed) and the said lease was cancelled by the Director General Mines and Minerals but restored by the Honourable High Court dated 10.04.2019. That the said Statement was duly signed by the auction committee and the minutes of the meeting was signed by Deputy Commissioner Swabi, which was forwarded on 12.02.2019.

**GROUNDS:**

- A. Because as per KP R&D Rules, 2011, when there is no finding against the petitioner, petitioner can't be served with show cause notice.
- B. Because as per Rules ibid, all accused i.e. Muhammad Saddique Assistant Representative of C&W, petitioner, AC Swabi and DC Swabi are to be tried jointly which is gross violation of the rules and petitioners as per Article 4 of the Constitution has a fundamental right to be dealt as per Rules ibid.
- C. Because only petitioner has been signaled out without any credible evidence as to how he can alone fabricate the signatures of AC/DC, Representative of C&W and for no ulterior motives.

It is therefore humbly requested that the appeal of the undersigned may please be accepted and the subject order dated 11.10.2019 (copy enclosed) may please be set aside and the undersigned may please be reinstated at his original post as Assistant Director Technical Mardan.

**ATTESTED**

*Sher Ayaz Khan*  
05/11/19  
Sher Ayaz Khan  
Assistant Director Minerals



Government of  
Khyber Pakhtunkhwa  
Minerals Development Department

No. SO (E)/MDD/4-1/Vol-III/2018  
Dated Peshawar, February 24, 2020

12927-30

To

Mr. Sher Ayaz Khan S/O Sher Zada Khan,  
R/O Sat Berg Road, House No.161, Sector-G, Sheikh Maltoon Town, Mardan.

C/O Director General, Mines & Minerals,  
Khyber Pakhtunkhwa, Peshawar.

Subject:

**APPEAL AGAINST THE ORDER / NOTIFICATION NO.SOE(MDD)4-8/2014 DATED 11-10-2019 PASSED BY CHIEF SECRETARY, KHYBER PAKHTUNKWHA PESHAWAR UNDER GOVERNMENT SERVANTS (EFFICIENCY & DISCIPLINE) RULES, 2011.**

I am directed to refer to your appeal dated 05-11-2019, addressed to Honr'able Chief Minister, Khyber Pakhtunkhwa on the subject noted above and to state that the Appellate Authority i.e. the Chief Minister, Khyber Pakhtunkhwa has considered your appeal and rejected.

(Hafiz Abdul Jaffi)  
SECTION OFFICER (ESTT:)

**Enclst: No & Date even:**

Copy is forwarded for information to:

1. Deputy Secretary (IPC), Chief Minister's Secretariat, Khyber Pakhtunkhwa w.r.t his letter No.SO-IPC/CMS/4-1/Sher Ayaz/2020/383, dated 13<sup>th</sup> January, 2020.
2. PS to Secretary to Govt. of Khyber Pakhtunkhwa, Minerals Development Department for information.

ATTESTED

SECTION OFFICER (ESTT:)

O.P.S.S.

M. Sher Aziz Khan

Go. Sher Zada Khan

Po. Sect. Bery road, House No. 161

Sector G, Sher Ch. N. T. Khan Town

Mardan

Dispatch

Mineral Dev. Dept.

~~ATTACHED~~

26399



ایڈویکٹ: شہزاد علی احمد  
بار کونسل / ایسوسی ایشن نمبر: \_\_\_\_\_  
رابطہ نمبر: 07989

پشاور بار ایسوسی ایشن، خیبر پختونخواہ

بعدالت جناب: محمد سرور سید / محمد علی احمد

مخاطب: سید محمد	دعویٰ: _____
	علت نمبر: _____
	مورخہ: _____
	جرم: _____
	تھانہ: _____

شہزاد آریز بنام صورت دعویٰ

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی کارروائی متعلقہ  
آن مقام مرجعہ کیلئے شہزاد علی احمد سید / شہزاد آریز / شہزاد محمد علی احمد کی طرف سے  
کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کارروائی کا کامل اختیار ہوگا، نیز وکیل صاحب کو  
راضی نامہ کرنے و تقرر ثالث و فیصلہ بر حلف دینے جواب دعویٰ اقبال دعویٰ اور درخواست از ہر قسم کی تصدیق  
زریں پر دستخط کرنے کا اختیار ہوگا، نیز بصورت عدم پیروی یا ڈگری یا طرفہ یا اپیل کی برآمدگی اور منسوخی، نیز  
دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا اور بصورت ضرورت مقدمہ مذکورہ کے کل یا جزوی  
کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے تقرر کا اختیار ہوگا اور صاحب  
مقرر شدہ کو وہی جملہ مذکورہ باختیارات حاصل ہوں گے اور اس کا ساختہ پرداختہ منظور و قبول ہوگا  
دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے سبب سے ہوگا۔ کوئی تاریخ پیشی مقام دورہ یا حد سے  
باہر ہو تو وکیل صاحب پابند نہ ہوں گے کہ پیروی مذکورہ کریں، لہذا وکالت نامہ لکھ دیا تاکہ سند رہے

المرقوم:

Attested  
Shah

بند گواہ شد العنہ کے لیے منظور ہے۔

SHER AZIZ KHAN  
(SHER)

نوٹ: اس وکالت نامہ کی فوٹوکاپی ناقابل قبول ہوگی۔

"A"

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD,  
PESHAWAR.

No.

APPEAL No. 1683 of 20 20

Sheh Ayaz Khan

Appellant/Petitioner

Versus

Govt CF KPK Chief Secy Peshawar.

RESPONDENT(S)

Notice to Appellant/Petitioner

Sheh Ayaz Khan S/o Shehzada  
Khan (Assistant Director, Mineral Development Swabi

P/O House No. 161, Sector G, Sheikh Maltoun Town Sadberg  
Road Mardan.

Take notice that your appeal has been fixed for Preliminary hearing, replication, affidavit/counter affidavit/record/arguments/order before this Tribunal on 28/10/2020 at 9: am.

You may, therefore, appear before the Tribunal on the said date and at the said place either personally or through an advocate for presentation of your case, failing which your appeal shall be liable to be dismissed in default.



Registrar,

Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR.**

D.B

No. *Remitted*  
*28/9/21*

Appeal No. 1683 of 2020

Shayr Ayaz Khan Appellant/Petitioner

Versus

Through chief Secy. Pesh. Respondent

Respondent No. 3

Notice to:

Govt, of KPK Through Secretary Mineral Deptt. Kp office Situated at Khyber Road, Near Distt. Courts Post

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on 11/12/2021 at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. ~~Copy of appeal has already been sent to you vide this office Notice No.....dated.....~~

Given under my hand and the seal of this Court, at Peshawar this 16th

Day of 20th 2021



Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

**“B”**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
**JUDICIAL COMPLEX (OLD), KHYBER ROAD,**  
**PESHAWAR.**

23

No.

Appeal No.....1583..... of 20 20

.....Sher Afgan Khan.....Appellant/Petitioner

Versus

.....Through Chief Secy etc,.....Respondent

Respondent No.....2.....

Notice to: -

Govt, of KPK Through Chief Secretary  
 office situated at Peshawar.

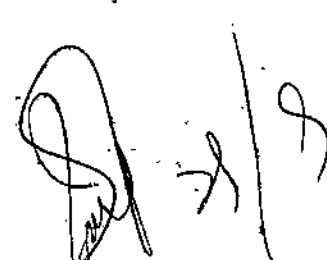
WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....11/12/2021.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this.....16/15.....

Day of.....Sep.....20 21



Registrar,  
 Khyber Pakhtunkhwa Service Tribunal,  
 Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays.  
 2. Always quote Case No. While making any correspondence.

**"B"**

**KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR.**  
JUDICIAL COMPLEX (OLD), KHYBER ROAD, PESHAWAR. D.B

No.

Appeal No. 1683 of 20 20  
Shay Ayaz Khan Appellant/Petitioner

Versus

Through Chief Secy Posh Respondent

Director General Mines & Minerals Deptt. Respondent No. 4

Notice to: - KPK office situated at Khyber Road Near Distt. Courts Peshawar.

WHEREAS an appeal/petition under the provision of the Khyber Pakhtunkhwa Province Service Tribunal Act, 1974, has been presented/registered for consideration, in the above case by the petitioner in this Court and notice has been ordered to issue. You are hereby informed that the said appeal/petition is fixed for hearing before the Tribunal \*on.....at 8.00 A.M. If you wish to urge anything against the appellant/petitioner you are at liberty to do so on the date fixed, or any other day to which the case may be postponed either in person or by authorised representative or by any Advocate, duly supported by your power of Attorney. You are, therefore, required to file in this Court at least seven days before the date of hearing 4 copies of written statement alongwith any other documents upon which you rely. Please also take notice that in default of your appearance on the date fixed and in the manner aforementioned, the appeal/petition will be heard and decided in your absence.

Notice of any alteration in the date fixed for hearing of this appeal/petition will be given to you by registered post. You should inform the Registrar of any change in your address. If you fail to furnish such address your address contained in this notice which the address given in the appeal/petition will be deemed to be your correct address, and further notice posted to this address by registered post will be deemed sufficient for the purpose of this appeal/petition.

Copy of appeal is attached. Copy of appeal has already been sent to you vide this office Notice No.....dated.....

Given under my hand and the seal of this Court, at Peshawar this..... 16th  
Day of..... Sep 20 21



M.R.  
Registrar,  
Khyber Pakhtunkhwa Service Tribunal,  
Peshawar.

Note: 1. The hours of attendance in the court are the same that of the High Court except Sunday and Gazetted Holidays. 2. Always quote Case No. While making any correspondence.



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE**  
**TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO. 1683/ 2020

Sher Ayaz Khan..... Appellant

Versus

Government of Khyber Pakhtunkhwa etc..... Respondents

**INDEX**

S.No	Description	Annexure	Pages
1.	Affidavit	—	01
2.	Reply of Para Wise comments	—	02 – 03
3.	Deputy Commissioner Swabi Letter dated: 27.03.2019	A	04
4.	Copy of Inquiry Report	B	5-7
5.	Vetted Copy	C	8-9



Assistant Director (Admin)  
H/Q Office, Peshawar

MUHAMMAD IQBAL

Identified by

1	7	3	0	1	-	1	5	7	1	3	9	0	-	3
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1

**BEFORE THE KHYBER PAKHTUNKHWA**  
**SERVICE TRIBUNAL PESHAWAR.**

SERVICE APPEAL NO. 1683/2020

Sher Ayaz Khan..... Appellant

Versus

Government of Khyber Pakhtunkhwa etc..... Respondents

**AFFIDAVIT**

I Muhammad Iqbal Assistant Director (Admin), Directorate General Mines & Mineral do hereby solemnly affirm and declare that the contents of the accompanying para-wise comments are true and correct to the best of my knowledge and belief and that nothing has been concealed from Honorable Court.



**DEPONENT**

**Identified by**

MUHAMMAD IQBAL

1	7	3	0	1	-	1	5	7	1	3	9	0	-	3
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20

**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Comments

In

Service Appeal **NO. 1683/2020**

Sher Ayaz Khan, Assistant Director Mineral Development Swabi.....**Appellant**

**VERSUS**

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Mines and Minerals Dev: Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Mines & Minerals, Khyber Pakhtunkhwa .....**Respondents**

**Comments on behalf of Respondent No. 1, 2 & 3.**


**Respectfully Sheweth:-**

Comments on behalf of Respondent No. 1, 2 & 3 are submitted as under: -

**Preliminary Objections.**

- I- That the appellant has no cause of action and locus standi to file the instant appeal.
- II- That the appeal is not maintainable under the law.
- III- That no vested right of the appellant has been infringed as such the appeal is liable to be dismissed on merit.
- IV- That the appellant has not come to this Hon'able Tribunal with clean hands.
- V- That the appeal is not tenable and is liable to be dismissed.
- VI- That the appellant is estopped by his own conduct to file the instant appeal.
- VII- That the appeal in its present form is bad, defective and liable to be dismissed.
- VIII- That the appeal of the appellant is badly time barred.

**Facts: -**

- 
1. Para pertains to record, hence no comments.
  2. Correct to the extent of advertisement.
  3. Correct to the extent that the auction proceedings of Minor Mineral was conducted under the Chairmanship of Deputy Commissioner Swabi on 28/01/2019 however, as per letter dated: 27/03/2019 of Deputy Commissioner Swabi, the auction of area stated at para 2 of the writ petition could not be held due to an alleged stay. **(Copy of letter dated: 27/03/2019 Annexed as A).**
  4. Incorrect, as stated in para 3 of above.
  5. Incorrect, as stated in para 3 of above.
  6. Incorrect, as stated in para 3 of above.
  7. Correct.

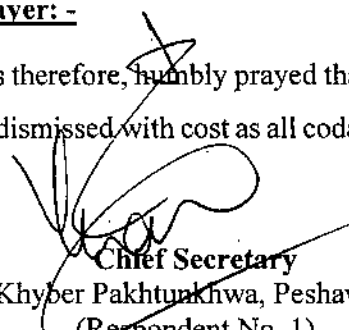
- 3
8. Correct, (Copy of inquiry report is enclosed as Annex-B).
  9. Correct.
  10. Correct.
  11. Correct.
  12. Correct.
  13. Correct.
  14. Correct to the extent that the appeal of the appellant was rejected.
  15. Hence no comments.

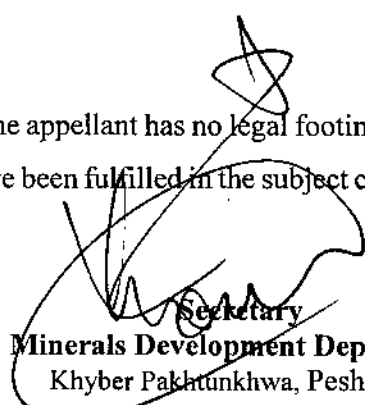
**Grounds: -**


- A. Incorrect, the petitioner was proceeded under the relevant section of Efficiency & Discipline Rules-2011 and after fulfillment of all codal formalities. Both orders dated: 11/10/2019 and 24/02/2020 are according to law and facts.
- B. Incorrect, the allegations have proved against the appellant during the course of inquiry proceedings.
- C. Incorrect, the inquiry committee followed the procedure as per law and rules and considered all the aspects of the case and thereafter concluded the inquiry.
- D. Incorrect, detail is mentioned in para-C.
- E. Incorrect, the Appellant of the auction committee and was responsible for the alleged auction proceeding.
- F. Incorrect, the impugned order is strictly in accordance with the law.
- G. Incorrect, the appellant was provided proper opportunity of personal hearing in which he failed to satisfy the committee/Authority.
- H. Incorrect, the Inquiry Committee adopted a valid procedure as per Law.
- I. Incorrect, the irregularity in auction proceedings has been un-earthed by the Inquiry Committee and did not ignore any aspect of the case rather thoroughly examined all the facts of the case and thereafter concluded the inquiry and report is according to law.
- J. Incorrect.
- K. No comments.


**Prayer: -**

It is therefore, humbly prayed that the appeal of the appellant has no legal footings and may be dismissed with cost as all codal formalities have been fulfilled in the subject case, please.

  
Chief Secretary  
Khyber Pakhtunkhwa, Peshawar,  
(Respondent No. 1)

  
Secretary  
Minerals Development Department  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 2)



  
Director General Mines and Minerals  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 3)



## DEPUTY COMMISSIONER SWABI

Tel #: 0938-221300

E-mail: [dcswabi@yahoo.com](mailto:dcswabi@yahoo.com)

Fax #: 0938-221917-221500

No. 817 /DCS/PSDated 27 /03/2019

To:

The Director General,  
Directorate of Mines & Minerals,  
Peshawar, Khyber Pakhtunkhwa

Subject: **"ENQUIRY REPORT REGARDING FRAUDULENT LEASE IN ADNAN TALAO/JAGANAT AREA, SWABI"**

Memo:

The District auction committee of minor minerals for Swabi conducted an auction on 28th Jan, 2019 in order to lease of available blocks as per the laid down procedures. Later on the undersigned received a complaint on 21st March 2019 regarding issuance of mining lease in one area of Jaganat which was not auctioned during the auction proceedings due to an alleged stay. An enquiry was immediately ordered under the committee comprising of ADC and District Officer (Finance & Planning), Swabi to unearth the facts. The committee submitted its report on 26th March 2019 which highlighted fraud and gross misconduct on the part of the then AD Mines & Minerals Mardan and his associated staff. The report identifies that indeed the block of Adnan Talao/ Jaganat 707.61 Acres was not auctioned and it was leased out on the basis of forged documents. On the basis of the enquiry report, the undersigned recommends following immediate actions;

1. The offer letter for grant of lease of lot Adnan Talao/ Jaganat 707.61 Acres be immediately cancelled
2. The bid security and lease money submitted by the concerned contractor named Khan Pervaiz for the above mentioned block may be forfeited and the contractor should be immediately blacklisted besides taking other legal actions under the law
3. The then AD Mines Mardan Mr. Sher Ayaz Khan must be immediately suspended and a departmental inquiry be launched against him and his office staff for destroying evidence, forging fake auction documents and possible corruption
4. The department should move to online auction mechanism if possible to avoid such incidents in the future.

Enclosed: (Enquiry File and other relevant documents)

  
Deputy Commissioner  
Swabi

Copy to the:

1. Secretary, Mines & Mineral Department, Khyber Pakhtunkhwa
2. Commissioner Mardan Division, Mardan.
3. PSO to Chief Secretary Khyber Pakhtunkhwa
4. AD Mines and Minerals Mardan for immediate cancellation of said lease issued vide his office letter number 117/MDW/SB/MM/(04)/2015 dated 15.02.2019

  
Deputy Commissioner  
Swabi

Annex-B



## DEPUTY COMMISSIONER SWABI

Tel #: 0938-221402

e-mail: adcswabi@gmail.com

fax #: 0938-221917-221500

No. \_\_\_/ADC/inquiry

Date: \_\_\_/03/2019

### INQUIRY REPORT

#### BACKGROUND:

Upon receipt of a complaint from Mr. Riiaz Khan Advocate regarding the issuance of mine and mineral lease in Jagannath, the worthy Deputy Commissioner Swabi has entrusted a fact finding inquiry to ADC Swabi and DO F&P Swabi to sort out the actual position after perusal of the available record and interviewing the officials involved (Annex-A). Reportedly, there is irregularity in the minutes of meeting regarding the auction of minor minerals held in the office of the DC Swabi on 28-02-2019. The minutes of meeting duly signed by DC Swabi are missing from the record of AD Minerals office and the copy of minutes placed in the file is the one signed by AD Minerals. Furthermore, an approved item is missing in the minutes whereas a non-contested item has been incorporated in the minutes.

#### PROCEDURE:

In order to sort out the issue in hand, all the concerned stakeholders were called in to ADC office and their statements were recorded. Important points of these statements are briefly reproduced here as follows;

- 1- The present AD Minerals Mardan Mr. Dost Muhammad stated that he has assumed charge of the present post on 07-03-2019, and all the proceedings of the auction and issuance of work order have been completed before his arrival.
- 2- Mr. Muhammadi Sidique Assistant AD Mineral Office has declared in his statements that copy of minutes duly signed by the DC Swabi was received by him and that he handed over the same to AD in his office, however the AD didn't return the same. Hence, he has no clue where the original copy of minutes is right now.
- 3- The then AD Minerals Mr. Sher Ayaz Khan admitted that he had received the said minutes duly signed by the DC Swabi and has returned the same to assistant in dak file. He further added that a camera man was present for recording the proceedings but doesn't know his identity. However he admitted that auction has been taken on lot No. 20 (Jagannath).
- 4- Other staff of AD office including Assistant Major Minerals Mr. M. Qasim and Senior clerk, Said Badshah, are of the view that they don't deal with the minor minerals, hence know nothing about the instant case.
- 5- The Royalty Inspector Swabi Mr. Habib Rasool admitted that he has collected the said minutes of meeting from PS DC Swabi office and dispatched through a special messenger to AD office Mardan.
- 6- PS DC Murad Ali Shah stated that the original minutes signed by DC have been received by the officials of AD minerals office by hand.

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- 7- Diary and dispatch clerk AD office Mr Farhan dealing with diary and dispatch stated that he has not received any copy of the said minutes.
  - 8- Bid contesters Mr. Nizar Ali, UmarulHaq and Sabir Shah stated that they had submitted call deposit for bid competition in lot No. 20 (Jagannath / Adnan Talaw ) lot but AD Minerals showed a stay order in front of all the participants that it has been excluded from this auction. Thereafter the same has been auction to Mr Pervez against the law.
  - 9- Mr. Saif Ali DSP HQ swabi, declared in his statement that the Jagannath and Chuntra were not on the agenda in auction list as the same were controversial and under court stay order.
  - 10- Assistant Commissioner Swabi Mr. Ehtisham Ul Haq stated in his detail statement that he chaired the said meeting on the directions of Worthy DC Swabi on 28-01-2019. He confirmed that AD mineral at the start of the meeting showed a stay order of the court, announcing that auction of lot No 10 (Chuntra) and lot 20 (Jagannath) has been deferred. He further confirmed that he has noted price of each lots in his personal diary and there was no entry for lots No 10 and 20. He added that a person from AD office was recording video of the proceedings. He added that after starting of the inquiry, he inquired from AD Minerals office for provision of a copy of the stay order and the video recorded, but was informed that there was no stay order and that no video was recorded. He also added that entry of lot 18 has been missing in the record of AD Minerals office.

(Statements from S.No.1 to 10 are annexed as Annex-B)

Similarly, in order to surface the irregularity, all the concerned record was scrutinized. In this regard the following record was examined;

- 1- The diary and dispatch register of AD Minerals Mardan office.
- 2- The concerned File of minor minerals of AD Minerals Mardan office.
- 3- The concerned File of minor minerals of DC Swabi office.
- 4- The documents of auction taken place on 28-01-2019

#### FINDINGS:

After a thorough examination of all available records pertaining to the instant case and statements of all the concerned officers/officials, the following facts surfaced:

- 1- That the original minutes of the meeting held on 28-01-2019 regarding the auction of the minor minerals in the office of DC under the chairmanship of AC Swabi, duly signed by the Worthy DC Swabi are missing from the record of AD Minerals Office Mardan. Although it is evident from the statements of concerned officials that the minutes were signed by DC Swabi. Furthermore, both the AD and Assistant of AD Minerals office admits that they had received the said minutes duly signed by the DC Swabi but now they are unaware of its existence.
- 2- That the video recording of the said meeting is also missing from AD Minerals office Mardan, although the video was recorded and the recorder was from AD mineral office as the AD office is duty bound to record proceeding of the auction.

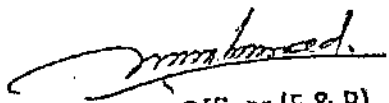
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- 3- That the then AD Minerals Mardan has placed in record another copy of minutes of the said meeting signed by himself in place of DC Swabi which is a gross misconduct on his part which indicates that the AD acted very unprofessionally and transgressed his domain. (Annex-C).
  - 4- That the item at S. No 11 regarding lot No 20 (Jagannath) was not included in the auction and all other bidders for the auction of the said lot were not allowed to participate in the auction thus the allottee was unduly favored by dismissing the competition.
  - 5- That item No 18 (Malak Abad Gadoon) which was originally approved in the auction is missing in the available record at AD office. Instead of this, a non-contested item (Lot No. 20 Jagannath) has been incorporated in a fake manner.
  - 6- That a huge loss was incurred to government exchequer by excluding competition in Jagannath case wherein the lot was auctioned at a lower rate.
  - 7- Auction sheets of Lot No. 20 (Jagannath) placed on file are bogus and fake due to the reason that all the auction sheets were signed from officers in bulk and entries were incorporated later on (Annex-D).

**RECOMENDATIONS:**

Keeping in view the above, the fact findings committee suggest that;

- a- That the offer letter for the grant of lease of the lot No 20 (Jagannath) issued vide letter no. 117/MDW/SB/MM/(04)/2015 dated 15.02.2019 by AD Minerals Mardan may be cancelled immediately (Annex-E).
- b- Departmental inquiry may be initiated against Mr. Sher Ayaz Khan, the then AD Minerals Mardan under E&D Rules. Till the completion of the inquiry the said officer may be suspended from service.
- c- The case may be reported to Anti-Corruption Establishment, as there is huge loss to government exchequer involved.
- d- It definitely appears that the obvious beneficiary of this malafide was the contractor named Mr Khan Pervaiz, Resident of Distt: Nowshera. It is therefore recommended that his bid security/call deposit may be confiscated and his liscence may be revoked thus blacklisting him for any future auction.

  
Addl: Deputy Commissioner  
Swabi

  
District Officer (F & P)  
Swabi



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**BEFORE THE HONORABLE SERVICE TRIBUNAL KHYBER**  
**PAKHTUNKHWA, PESHAWAR**

Comments

In

Service Appeal **NO. 1683/2020**

Sher Ayaz Khan, Assistant Director Mineral Development Swabi.....**Appellant**

VERSUS

1. The Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. The Secretary Mines and Minerals Dev: Department, Khyber Pakhtunkhwa, Peshawar.
3. The Director General Mines & Minerals, Khyber Pakhtunkhwa .....**Respondents**

**Comments on behalf of Respondent No. 1, 2 & 3.**

**Respectfully Sheweth:-**

Comments on behalf of Respondent No. 1, 2 & 3 are submitted as under: -

**Preliminary Objections.**

- I- That the appellant has no cause of action and locus standi to file the instant appeal.
- II- That the appeal is not maintainable under the law.
- III- That no vested right of the appellant has been infringed as such the appeal is liable to be dismissed on merit.
- IV- That the appellant has not come to this Hon'able Tribunal with clean hands.
- V- That the appeal is not tenable and is liable to be dismissed.
- VI- That the appellant is estopped by his own conduct to file the instant appeal.
- VII- That the appeal in its present form is bad, defective and liable to be dismissed.
- VIII- That the appeal of the appellant is badly time barred.

**Facts: -**

1. Para pertains to record, hence no comments.
2. Correct to the extent of advertisement.
3. Correct to the extent that the auction proceedings of Minor Mineral was conducted under the Chairmanship of Deputy Commissioner Swabi on 28/01/2019 however, as per letter dated: 27/03/2019 of Deputy Commissioner Swabi, the auction of area stated at para 2 of the writ petition could not be held due to an alleged stay. (**Copy of letter dated: 27/03/2019 Annexed as A**).
4. Incorrect, as stated in para 3 of above.
5. Incorrect, as stated in para 3 of above.
6. Incorrect, as stated in para 3 of above.
7. Correct.

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25/11/2021

Cont'd on.....p/2

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8. Correct, (Copy of inquiry report is enclosed as Annex-B).
  9. Correct.
  10. Correct.
  11. Correct.
  12. Correct.
  13. Correct.
  14. Correct to the extent that the appeal of the appellant was rejected.
  15. Hence no comments.

**Grounds: -**

- A. Incorrect, the petitioner was proceeded under the relevant section of Efficiency & Discipline Rules-2011 and after fulfillment of all codal formalities. Both orders dated: 11/10/2019 and 24/02/2020 are according to law and facts.
- B. Incorrect, the allegations have proved against the appellant during the course of inquiry proceedings.
- C. Incorrect, the inquiry committee followed the procedure as per law and rules and considered all the aspects of the case and thereafter concluded the inquiry.
- D. Incorrect, detail is mentioned in para-C.
- E. Incorrect, the Appellant of the auction committee and was responsible for the alleged auction proceeding.
- F. Incorrect, the impugned order is strictly in accordance with the law.
- G. Incorrect, the appellant was provided proper opportunity of personal hearing in which he failed to satisfy the committee/Authority.
- H. Incorrect, the Inquiry Committee adopted a valid procedure as per Law.
- I. Incorrect, the irregularity in auction proceedings has been un-earthed by the Inquiry Committee and did not ignore any aspect of the case rather thoroughly examined all the facts of the case and thereafter concluded the inquiry and report is according to law.
- J. Incorrect.
- K. No comments.

**Prayer: -**

It is therefore, humbly prayed that the appeal of the appellant has no legal footings and may be dismissed with cost as all codal formalities have been fulfilled in the subject case, please.

**Chief Secretary**  
Khyber Pakhtunkhwa, Peshawar,  
(Respondent No. 1)

**Secretary**  
**Minerals Development Department**  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 2)

**Director General Mines and Minerals**  
Khyber Pakhtunkhwa, Peshawar.  
(Respondent No. 3)

*Submitted for  
setting please  
25.11.21*

*Vetted subject to necessary correction  
attachments of annexures and  
affidavit. 25/11/2021*