

**THE REPUBLIC OF UGANDA  
IN THE PUBLIC PROCUREMENT AND DISPOSAL OF PUBLIC ASSETS  
APPEALS TRIBUNAL AT KAMPALA**

**APPLICATION NO.10 OF 2022**

**MUGISA RICHARD=====APPLICANT**

**VS.**

**HOIMA DISTRICT LOCAL GOVERNMENT===== RESPONDENT**

**APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT OF THE  
TENDER FOR SIIBA MARKET; PROCUREMENT REFERENCE NUMBER  
HOIM509/SVCS/2021-22/00007.**

**BEFORE: FRANCIS GIMARA S.C. CHAIRPERSON; NELSON NERIMA;  
THOMAS BROOKES ISANGA; GEOFFREY NUWAGIRA KAKIRA; PAUL  
KALUMBA; CHARITY KYARISIIMA; AND PATRICIA K. ASIIMWE,  
MEMBERS.**

**RULING**

The Applicant filed this Application on 11<sup>th</sup> March 2022 to challenge the Respondent's award of a tender for Siiba market to Mr. Mutembe Wilson. The Tribunal issued a suspension order of the procurement on 14<sup>th</sup> March 2022 by email to the Accounting Officer of the Respondent.

On 25<sup>th</sup> March 2022 the Applicant lodged a notice of withdrawal of the Application. The reason stated for withdrawal is that another committee reviewed and upheld the administrative review application under a communication reference CR/156/2.

The letter CR/156/2 is a communication from the Respondent Chief Administrative Officer to the Applicant dated 14<sup>th</sup> March 2022. The Chief Administrative Officer states that another administrative review committee had recommended that the Contracts Committee review its earlier decision and consider awarding the contract to Mr. Mugisa Richard. That Mr. Mutembe Wilson had issued out a cheque in the names of Magesto Enterprises as bid security contrary to the bid document, which required

a Bank draft or cash. That the Contracts Committee should review its decision and consider awarding the contract to Mr. Mugisa Richard.

Mr. Mugisa the Applicant and Mr. Byamungu the Chief Administrative Officer/ Accounting Officer of the Respondent have confirmed that they stand by the new decision and the prayer to withdraw the Application.

Under Regulation 16(3) of the PPDA (Tribunal) (Procedure) Regulations 2016, a withdrawal requires approval of the Tribunal.

In the instant case, we are not prepared to approve the withdrawal because it is premised on an unlawful compromise. First, it was unlawful for the Chief Administrative Officer/ Accounting Officer to issue a new decision when there was a pending appeal to this Tribunal and a subsisting suspension order. See Section 89 (11) (a) of the PPDA Act as amended by the Act of 15 of 2021.

Secondly, the Chief Administrative Officer/ Accounting Officer was functus officio, having made an administrative review decision on 3<sup>rd</sup> March 2022.

Thirdly, the Contracts Committee cannot make a new award decision in the absence of a re-evaluation by the Evaluation Committee.

Since the Applicant is not willing to proceed with the Application and the purported withdrawal is based on an unlawful compromise, approval to withdraw the Application is denied. The application is struck out with no order as to costs.

Dated this 29<sup>th</sup> day of March 2022.



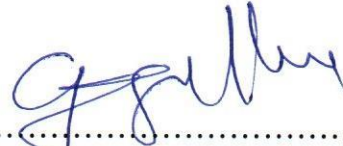
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**FRANCIS GIMARA S.C**  
**CHAIRPERSON**



.....  
**NELSON NERIMA**  
**MEMBER**



.....  
**THOMAS BROOKES ISANGA**  
**MEMBER**



.....  
**GEOFFREY NUWAGIRA KAKIRA**  
**MEMBER**



.....  
**PAUL KALUMBA**  
**MEMBER**



.....  
**CHARITY KYARISIIMA**  
**MEMBER**



.....  
**PATRICIA K. ASIIMWE**  
**MEMBER**