

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

APPLICATION NO.11 OF 2022

KANSIIME DAVID=====APPLICANT

VS.

HOIMA DISTRICT LOCAL GOVERNMENT===== RESPONDENT

**APPLICATION FOR ADMINISTRATIVE REVIEW IN RESPECT OF THE
TENDER FOR RUNGA MARKET; PROCUREMENT REFERENCE
NUMBER HOIM509/SVCS/2021-22/00001.**

**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 11th March 2022 to challenge the Respondent's award of a tender for Runga market to Tibalyerinda John. The Tribunal issued a suspension order of the procurement on 14th March 2022 by email to the Accounting Officer of the Respondent.

On 25th 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 14th 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. Kansiime David. That there was no best evaluated bidder for the revenue source because the bid from Mr. Tibalyerinda John had no bid security. That the Contracts Committee

should review its decision and consider awarding the contract to Mr. Kansiiime David pending negotiations with the Entity for him to withdraw the Court case from the High Court in Masindi.

Mr. Kansiiime 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 3rd 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 29th day of March 2022.



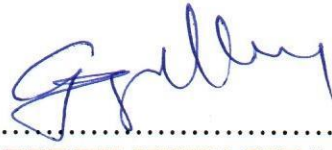
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FRANCIS GIMARA S.C
CHAIRPERSON



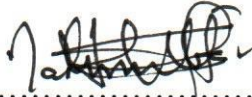
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NELSON NERIMA
MEMBER



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THOMAS BROOKES ISANGA
MEMBER



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GEOFFREY NUWAGIRA KAKIRA
MEMBER



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PAUL KALUMBA
MEMBER



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CHARITY KYARISIIMA
MEMBER



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PATRICIA K. ASIMWE
MEMBER