

**PUNJAB INFORMATION COMMISSION
LAHORE**

No. AD(A&C)PIC 2-312/2016

Mr. Muhammad Munir ud Din, Assistant Professor, Computer Sciences, Govt.
College of Science, Wahdat Road, Lahore
(the Complainant)

Vs.

Deputy Secretary (G)/ Public Information Officer (PIO), Higher Education
Department, Civil Secretariat, Lahore
(the Respondent)

ORDER:

The Complainant submitted a complaint to the Commission on 05/04/2016 alleging that the Respondent had not provided him the requested information within the time period specified in section 10(7) of the Punjab Transparency and Right to Information Act 2013. He further alleged that the Respondent had been wasting his time by making him wait for long hours at his office and then presenting various excuses for not providing information, and that he had even threatened him in relation to his service matters. The information sought by the Complainant is as follows:

1. Probe report by Additional DPI (Colleges),
2. Summary for Chief Minister,
3. Orders of Chief Minister on summary (about Zahid Butt and Munir ud Din), and
4. Report regarding the incident of pistol.

2. Through a letter dated 19/04/2016, the Commission called upon the Respondent to either immediately provide the requested information to the complainant or explain the reasons, including rebuttal if any, of alleged non-response or delay in deciding the application. Through his letter dated 25/04/2016, the Respondent stated that the Department had already informed the complainant about its willing to provide the requested information, except the summary to the Chief Minister, which was not a public document in terms of section 13(1)(c) & (h) of the Act. In view of this, the Commission fixed a hearing on 09/05/2016.

3. The hearing on 09/05/2016 was attended by the Respondent, Mr. Tariq Hameed Bhatti, and the Complainant. The Respondent stated that the competent authority had denied request for provision of summary to the Chief Minister, whereas the complainant can collect the remaining information from his office. He again referred to section 13(1)(c) & (h) of the Act and argued that the summary is

a part of the noting portion of the file, which is strictly confidential and can't be disclosed. When asked whether the summary being sought by the complainant has already been approved by the competent authority, he answered affirmatively. He didn't offer any convincing argument as to how the disclosure of an already approved summary amounts to premature disclosure or restraining of free provision of advice in terms of section 13(1)(h) of the Act. Similarly, he didn't present any cogent arguments to substantiate the view that the disclosure of summary being sought is exempt u/s 13(1)(c) of the Act, which is about the "protection of legally privileged information or of the rules relating to breach of confidence." During the hearing, the Respondent was also informed that he himself as a PIO is the competent authority to decide applications for access to information in terms of section 7 & 10 of the Act, and that he is not required to seek approvals from his high ups.

4. The Commission is of the view that an approved summary *per se* is not exempt from disclosure, and it could be wholly or partially withheld only if it could be established that its disclosure would cause harm to any of the interests mentioned in section 13 of the Act. In the instant case, the summary has already been approved and, hence, the deliberative process on the related subject has been completed. Therefore, its disclosure can't be termed as premature. Besides, the summary doesn't seem to include any information or views, whose disclosure may harm any of the interests in section 13 of the Act. In view of the letter and spirit of Article 19A of the Constitution and the provisions of the Act, the public bodies must act with the premise of transparency as a primary consideration in the conduct of official work, instead of finding excuses to withhold documents in an age involving unprecedented emphasis on free flow of information and participatory democratic governance. In many instances, even when a summary is in process, the public interest would require that the proposal and relevant arguments are shared with citizens, and their views are also sought for sound and inclusive decision/ policy making. The Commission also disagrees with the argument that summary is a part of the noting portion of a file, which is exempt from disclosure. We have already held in several of our earlier orders (e.g. Order dated 14/10/2015 in the case of M. Waseem Abbasi, Ch. Siraj Din, Mr. Muhammad Waseem Elahi Vs. Mr. Tariq Shehzad, Deputy Secretary, Governor House, Lahore. Link: <http://rti.punjab.gov.pk/Orders-on-Complaints>) that noting portion of files too is not exempt *per se*, as any claim of exception has to be justified by establishing the likelihood of harm as a result of disclosure in the light of section 13 of the Act.

5. The argument that the provision of summary to the complainant would mean disclosure of legally privileged information or breach of confidence carries no relevance to the instant complaint. Section 13(1)(c) is essentially about the exchange of information between individuals in a confidential relationship and it may apply to relationships between, *inter alia*, attorney and a client, doctor and the patient, husband and wife, or psychotherapist and patient. Therefore, this privilege can't be claimed by a public body in relation to a business transacted in the interest of and on behalf of the general public in a democratic state, wherein the government is accountable to citizens. In this context, it is important to keep

in view the preamble of the Act, which clearly states that one of the objectives of the Act is “to make government more accountable to citizens.”

6. The complaint is allowed. The Respondent is directed to provide all the requested information to the Complainant, including the summary, as soon as possible but not later than 16/05/2016, and submit a compliance report to the Commission. The Respondent is further directed to take appropriate steps to ensure that, *inter alia*, section 4, 7, 10 & 11 of the Act are implemented and all the pending or future applications for access to information are efficiently decided. Copies of this order may also be sent to the Complainant and Secretary, Higher Education Department for information and necessary action.

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Mukhtar Ahmad Ali)
Information Commissioner

Announced on:
09/05/2016