

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Waseem Abbasi
40 Jang Plaza, Blue Area, Islamabad (the Complainant)

Vs.

Executive District Officer (EDO), Health, Khanewal (the Respondent)

A. The Complaint

1. The Complainant sent a complaint to the Commission, alleging that the Respondent had not responded to his application for access to information within the time period specified in the Punjab Transparency and Right to Information Act 2013 (the Act). The information sought by the Complainant, through his application dated 2/9/2014, is as follows:

“1. Certified information about total number of applications submitted against illegal clinics and medical stores in the district from January 1, 2013 to September 1, 2014?

2. Total number of raids made against illegal clinics and medical stores in the district from January 1, 2013 to September 1, 2014?

3. Total number of drugs inspectors appointed in the district.”

B. Proceedings

2. Through a letter dated 30/10/2014, the Commission called upon the Respondent to “either immediately provide the requested information or explain the reasons, including rebuttal if any, of alleged non-response or delay in deciding the matter”. The Respondent, through his letter No. 31616/EDO(H)Khanewal dated 06/11/2014, provided the following explanation:

“It is stated that this office directed to the Drug Inspector Khanewal to submit the required information vide letter No. 6072 dated 05-10-2014. The Drug Inspector Khanewal submitted report vide his letter No. 729/DIK dated 06-11-2014 that:

“According to the Punjab Drugs Rules, 2007, Rule 8, which states that, except for the purpose of official business or when required by a Court, an Inspector or a Government Analyst shall not disclose to any unauthorized person any information acquired by him in the course of his official duties (copy enclosed).

It is further stated that, if you require such kind of information you can collect from Chairman Provincial Quality Control Board (Secretary Health), Secretary Provincial Quality Control Board and the Chief Drug Controller's office Lahore.””

The Respondent didn't deny the receipt of application dated 2/09/2014 from the complainant, nor did he explain why the same was not decided in a timely manner and in accordance with section 10 of the Act.

C. Discussion and Commission's View on Relevant Issues

3. The Respondent was required to either acknowledge the receipt of complainant's application for access to information sent on 2/9/2014 u/s 10(1) of the Act and then decide it within 14 working days u/s 10(7) of the Act; Or if he was not the designated public information officer u/s 7 of the Act, he should have immediately transferred it to the concerned public information officer under intimation to the applicant/ complainant. However, it appears from the material on the record that the Respondent neither acknowledged the receipt of application nor acted on it as per section 10 or section 11 of the Act for more than a month starting from the submission of application. He directed the Drug Inspector to submit the required information but only after the Commission had sought the explanation through its letter dated 30/10/2014. The explanation of the Respondent in response to the Commission's letter doesn't suggest that the Respondent had made any serious effort to decide the application within 14 working days or to communicate his decision of rejecting the application to the complainant. Hence, the Respondent has acted in violation of explicit provisions, such as section 10, of the Act. Such careless and negligent attitudes on the part of concerned officers and public bodies are in violation of the letter and spirit of the Act and are not acceptable. The public bodies, in this instance the department of health, need to take effective and proactive steps to ensure that relevant officers are well versed with the Act, and process and decide the applications for access to information within the prescribed time limits.

4. Following the Commission's intervention, the Respondent has refused the access to requested information by relying on Rule 8 of the Punjab Drugs Rules, 2007, which states that: "...except for the purpose of official business or when required by a Court, an Inspector or a Government Analyst shall not disclose to any unauthorized person any information acquired by him in the course of his official duties." The Respondent has taken this stance despite the fact that section 24 of the Punjab Transparency and Right to Information Act 2013 explicitly and unambiguously states that the provisions of this Act "shall take precedence over the provisions of any other law". Section 24(2) also states that: "An exception mentioned in section 13 shall take precedence and any exception or limitation in any other law on right to information may not be construed to extend the scope of the exception in this Act..." Therefore, the Commission is of the view that provisions in other laws and rules (e.g. Rule 8) that restrict citizens' access to information cannot be relied upon to refuse disclosure of information sought under the Punjab Transparency and Right to Information Act 2013. In fact, the said Rule 8 of the Punjab Drugs Rules 2007, for being in direct contradiction of

the explicit provisions of the Punjab Transparency and Right to Information Act 2013, has become outdated and redundant, and should no longer be retained or allowed to guide the conduct of inspectors, analysts or other officers in the health department. The Commission is of the view that the Department of Health should take immediate steps to review its rules, procedures, manuals and other materials that guide the conduct of staff on the ground, and amend or modify them to bring them in conformity with the requirements of citizens right to information, as guaranteed through Article 19-A of the Constitution and the Punjab Transparency and Right to Information Act 2013.

D. Order

5. The complaint is allowed. The Respondent is directed to provide the requested information to the Complainant as soon as possible but not later than 24/11/2014, and submit a compliance report to the Commission.

6. The Respondent as well as the Secretary Health Department are directed to take immediate steps to fulfill their responsibilities under, *inter alia*, sections 4, 7, 8 & 10 of the Act, especially in terms of proactive disclosure and designating public information officers in all of their relevant offices.

7. The Respondent is also directed to ensure that any pending or future applications submitted under the Act are efficiently acknowledged for their receipt and are decided upon or transferred, as required u/s 10 or 11 of the Act.

8. In view of its mandate and responsibilities u/s 6(5) of the Act, the Commission advises the Secretary, Health Department, to take steps to review, *inter alia*, relevant rules (e.g. Rule 8 of Punjab Drugs Rules 2007), procedures, manuals and guides of the department to bring them in conformity with Article 19-A of the Constitution and provisions of the Punjab Transparency and Right to Information Act, 2013.

9. Copy of this order may be sent to the Respondent, Complainant, and Secretary Health for information and necessary action.

(Mukhtar Ahmad Ali)
Information Commissioner
Lahore

Announced on:
13/11/ 2014