

**PUNJAB INFORMATION COMMISSION
LAHORE**

Dr. A. H. Nayyar, House No. 16, St. 35, G-14/4, Islamabad

(the Complainant)

Vs.

Chief Executive Officer (CEO), Quaid-e-Azam Solar Power (Pvt.) Limited, 83A-E1,
Main Boulevard, Lahore

Muhammad Khurran Shehzad, Manager HR/ PIO, Quaid-e-Azam Solar Power
(Pvt.) Limited, 83A-E1, Main Boulevard, Lahore

(the Respondents)

ORDER:

The Complainant submitted a complaint to the Commission on 28/01/2016 alleging that the Respondents 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. The information sought by the Complainant, through his application dated 24/10/2015, is as follows:

- a) Which material are the solar cells being installed in the QA Park made of? Silicon or cadmium sulphide/ telluride/ selenide? If silicon, single crystal Si or amorphous Si?
- b) What is the peak power rating of each panel, and what is the total number of panels installed in the 100MW park?
- c) What is the average amount of electrical energy (in kWh) obtained from the plant per day? Just an average.
- d) What has been the energy output (in GWh) from the park so far?
- e) What was the cost of each panel?
- f) What has been the cost of the 100 MW project?

2. Through a letter dated 03/02/2016, the Commission called upon the Respondent No. 1 to transfer the application of the complainant to the Public Information Officer of his organization for supply of requested information in accordance with the provisions of the Act. However, no response was received. The Commission sent a reminder on 16/02/2016, but again no response was received and, therefore, the Respondent No. 1 was directed to send the PIO of his organization for hearing on 03/03/2016. The hearing was attended by the Respondent No. 2, who in his written response argued that the applicant had never filed his application in accordance with section 10(1) of the Act. The Commission directed him to decide the application of the complainant on its merits by the next date of hearing on 11/03/2016.

3. The Respondent No. 2, along with the legal advisor/officer of the company, attended the hearing on 11/03/2016 and again argued that the complainant had sent his application through email, which is not in accordance with the application procedure provided in the Act. In this regard, they referred to a form posted on the website of the Commission. They also highlighted that the complainant didn't provide his address and CNIC number, hence, his application could not be entertained, as it was not possible to ascertain his identity or nationality. They further stated that they will provide the requested information, if the complainant provided his complete address and a copy of his CNIC. In response to questions, they confirmed that the application had been received on the official email address of the company. However, they argued that the address was not meant to receive applications under the Act. When asked whether the requested information is exempt u/s 13 of the Act, they stated that they had no objection in providing the requested information, if the complainant established his identity by providing a copy of his CNIC.

4. The Commission is of the view that the Respondents have delayed, rather refused, lawful access to information by relying on hyper-technicalities, while ignoring the real spirit and substance of the Act, which requires public bodies to ensure that citizens have easy, prompt and cost effective access to information. The application was made on an official address of the company (info@qasolar.com), which is clearly meant to receive queries and respond to them in an efficient manner. If this is not the purpose, why the company would setup such an email address and make it public through its website. The respondents were informed during the hearing that there doesn't exist any mandatory form, as any citizen can file an application even on a plain paper in accordance with section 10(1) of the Act. In exercise of its powers u/s 6(5)(a) & (b), read with sections 8 & 22, of the Act, the Commission has repeatedly held that applications made through official email addresses should be treated as validly submitted applications and should be decided in accordance with section 10 of the Act. Similarly, the Commission has been repeatedly emphasizing that the applicants under the Act are not ordinarily required to disclose their CNIC number or submit copies of their CNIC. In this regard, the 2(a) needs to be read in conjunction with section 10(3) and section 22 of the Act. Section 10(3) clearly reads that:

“An applicant shall not be required to provide reasons for request for information and shall only be required to provide an adequate description of the information and the details necessary to provide the requisite information”.

In this regard, it is also emphasized that many citizens of Pakistan don't hold CNICs but they can't be deprived of their fundamental right of access to information. If we read various provisions of the Act in conjunction with each other, it becomes amply evident that section 2(a) is primarily meant for potential applicants, whereas the public bodies must primarily consider whether the information being requested is exempt u/s 13 of the Act or not. In fact, the letter and spirit of the Act, as evident from its sections 4, 8, 10 & 22, demands that all official information

should be proactively disclosed, unless its disclosure is likely to cause harm to any of the interests protected in section 13 of the Act.

5. In the instant case, the complainant described the information that he needed and provided his email address and cell number and, hence, met the requirement of application u/s 10(3) of the Act. The requested information could have been sent by email on the given email address or, if the same was needed to be sent by post, the relevant officials could have called the complainant on the given cell number. However, instead of following such a simple procedure with a positive mind, they chose to hide behind hyper-technicalities and wasted so much of their own as well as of the Commission's time and resources. Such attitudes, unfortunately, represent a mindset and official culture, whereby the focus is not on facilitation of citizens or people in general but on causing hurdles and inconveniences for them even when the matter at hand is very simple in nature. In this instance, the respondents didn't claim exception u/s 13 of the Act, which means that they are convinced that its disclosure is not likely to be harmful in any manner. And yet, they chose to raise all kinds of technical objections during their appearances before the Commission twice, instead of being helpful to the applicant/ complainant and adopting a problem solving approach. The complainant was just an email or a phone call away, if they acted upon the application with a positive mind and genuinely felt the need of seeking his full address.

6. The Commission also holds that when an applicant provides his name, email address and phone number, his application can't be treated as anonymous in the same manner as an application submitted on a paper without name, address or contact number could be. It is because the information provided in such cases is sufficient for public bodies to contact the applicants and seek further information, if really required. The public bodies need to update and improve their systems, instead of sticking to outdated modes of communication or dismissing citizens' requests/ complaints on minor technicalities.

7. The complaint is allowed. The Respondents are directed to provide all the requested information to the Complainant as soon as possible but not later than 22/03/2016, and submit a compliance report to the Commission. The Respondents are further directed to post the requested information on its website, besides ensuring immediate implementation of sections 4, 7, 8 & 10 of the Act. Copies of this order may be sent to the complainant, Additional Chief Secretary (Energy), and Chief Secretary for information and necessary action.

Announced on:
14/03/2016

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner