

**PUNJAB INFORMATION COMMISSION
LAHORE**

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

Vs.

Mr. Tariq Shahzad, Deputy Secretary (Coord.)/ Public Information Officer (the
Respondent)

**Subject: Order Dated 12.02.2015 and Show Cause Notice Dated 03.03.2015
Issued by Information Commissioner**

ORDER:

1. Mr. Mukhtar Ahmad Ali, Information Commissioner, passed an order on 12.02.2015 on complaint filed by Mr. Waseem Abbasi, whereby the designated Public Information Officer, Mr. Tariq Shahzad (Deputy Secretary, Coordination, Governor House, Lahore) was directed to provide the requested information to the complainant. However, the said order was not implemented and when this was brought to the notice of the Commission, a show cause notice was issued to the designated public information officer on 03.03.2015. The said public information officer didn't respond to the show cause notice, but a letter No. SOA/GS(Estt.)1-11/2013 dated 09.03.2015 was received from the Secretary to Governor, Mr. Farhan Aziz Khawja, whereby he raised the following points/ objections:
 - a. That the Punjab Information Commission and the Information Commissioner are two distinct and separate entities under the Act; and that all the functions and powers under the Act are reserved for the Punjab Information Commission and not for an Information Commissioner in his individual capacity. In this regard, he referred to section 2(b) & (c) and section 5 of the Act. He also referred to the Rule 11 of the Punjab Transparency and Right to Information Rules 2014 arguing that it provides that two commissioners shall constitute quorum for a meeting of the Commission, and that the said order and show cause notice were apparently issued by the Information Commissioner in his individual capacity. In view of this, he further argued that the said order suffers from the jurisdictional error.
 - b. That the Information Commissioner didn't undertake a proper scrutiny of the complaint, as the order was passed in favour of Mr. Waseem Abbasi, whereas in the complaint, his name is mentioned as Abdul Waseem. In view of this, he argued that "variation of the

name as well as signature of the complainant has rendered the entire proceedings doubtful and the same merits to be reviewed.”

- c. That the Information Commissioner passed the said order “without affording an opportunity of personal hearing to the representative of the Secretariat.”
 - d. That, keeping in view the aforementioned, the order dated 12.02.2015 and show cause notice dated 03.03.2015 may be withdrawn and the case may be re-examined by the Punjab Information Commission.
2. The Commission took up the submissions of Secretary to Governor on 15.04.2015 and, after detailed deliberations, held as follows:
- a. The said order and the following show cause notice was issued to the designated public information officer, who is the competent authority u/s 7 & 10 of the Act to decide information requests. However, the response has been received from the Secretary to the Governor, who is not an aggrieved party in this context. It is true that originally the complainant had submitted his application to the Secretary to the Governor but, once the same was transferred to the designated public information officer (who responded to the Commission on 06.02.2015), the Secretary had nothing to do with it (except facilitation of public information officer), unless he in his capacity as head of the public body was approached by the complainant u/s 12 for internal review. Therefore, the Secretary in this case is neither an aggrieved nor a related party, and can't act on behalf of the designated public information officer. Without prejudice to this, however, the Commission finds it appropriate to decide questions raised in the letter by the Secretary for the guidance of future applicants and respondents.
 - b. The Punjab Information Commission, being a special institution established by the Act, has the inherent powers to internally regulate its functions, including distribution of work, as evident from Rule 10(a) read with Rule 10(c) of the Punjab Transparency and Right to Information Rules 2014. Rule 10(c) clearly states that 'policy' decisions will be made through consensus or by a majority vote in a meeting, so it doesn't relate to orders on complaints, which may be passed by the whole Commission or by an individual commissioner to whom the complaint is entrusted by the Chief Information Commissioner or as per any other procedure adopted by the Commission. The Rule 11, quoted by the Secretary relates to policy decisions only and the Commission can adopt any procedure to regulate its internal functions with regard to complaints, including the distribution of work among the information commissioners. In this context, it may further be noted that the Information Commissioner, Mr. Mukhtar Ahmad Ali, passed the said order on a complaint entrusted to him by the Chief Information Commissioner.

- c. As for the point regarding variation of names in the correspondence of the complainant, it is held that it is a minor technicality, which can't be relied upon as a ground to deprive people/ complainants of their fundamental right to information guaranteed under Article 19-A of the Constitution and the Punjab Transparency and Right to Information Act 2013. Anyone, who examines the correspondence by the complainant diligently and with a positive mind, can easily determine that it is from the same address, relates to the same questions and by the same person. In any case, keeping in view the letter and spirit of the Act, a public information officer (or even the Commission for that matter) is not required to first ascertain identity or motives of the requester, as he should primarily be concerned about whether the requested information, or a part thereof, is hit by section 13 of the Act.
- d. The material on the record and a reading of the said order clearly show that the public information officer had the opportunity to explain and he did explain his point of view through his letter No. SOA/GS(ESTT.)1-11/2013 dated 06.02.2015. The personal hearing was not required, as the public information officer had explained his point of view and the requested information was clearly not hit by section 13 of the Act, hence, it didn't require any further process on the part of the Commission. The Commission is required to decide complaints efficiently within the given timeframe (i.e. 30 days, extendable by another 30 days) and it holds personal hearings only when the matter at hand is of relatively complex nature or relates to proceedings for imposition of penalties.
3. In view of the above, the Information Commission endorses the earlier order dated 12.02.2015 passed by the learned Information Commissioner, and hereby directs the public information officer to provide the requested information to the complainant immediately, failing which proceedings u/s 15 of the Act ibid shall be undertaken against him. Objection petition moved by the Secretary to the Governor is accordingly disposed of. Copies of order be sent to the Secretary to the Governor, the public information officer and the complainant forthwith.

Announced on:
15/04/2015

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Mukhtar Ahmad Ali)
Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner

