

**PUNJAB INFORMATION COMMISSION
LAHORE**

File No. AD(A&C)PIC 2-336/2015

UMEED, through its General Secretary Mr. Muhammad Kabir, LG/12, Big City
Plaza, Liberty Roundabout, Lahore
(the Complainant)

Vs.

District & Sessions Judge, District Courts, Lahore
(the Respondent)

ORDER:

The Complainant submitted a complaint to the Commission on 11/11/2015 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. The information sought by the Complainant, through his application dated 01/10/2015, is as follows:

- A) All applications with documents, advertisement, merit list and appointment letters for the jobs of (a) stenographers, (b) data entry operators, (c) junior clerks, (d) naib qasids, (e) process server, (f) mali, and (g) peons.
- B) Recruitment policy.
- C) Details of the recruitment of above referred staff including image of newspaper advertisement, copies of all applications, copies of candidates certificates, copies of merit lists, list of selected candidates, list of rejected candidates, order regarding formation of interview committee, list of interview committee members, list of number allotted by each member to each candidate, and reasons of rejection of candidates.

2. Through a letter dated 09/12/2015, 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 matter. However, no response was received. The Commission sent a reminder on 20/01/2016 and called upon the Respondent to provide explanation about why decision on the application for access to information was delayed beyond the time limit prescribed in section 10(7) of the Act. The Respondent, in his explanation submitted to the Commission vide letter No. 1862 dated 11/02/2016), stated as follows:

“...it is intimated that the matter under reference has already been disposed of by my learned predecessor Mr. Bahadur Ali Khan, the then District & Sessions Judge, Lahore, vide order dated 09-10-2015, the operative part of earlier order is reproduced as under:-

“...the recruitment record pertains to secrecy of a department and cannot be unfolded commonly. Even otherwise documents required fall under category of privileged documents of Copying Manual. According to Article 19-A of Constitution of Islamic Republic of Pakistan 1973 access to information in all matters of public importance is subject to regulation and reasonable restrictions imposed by law. Thus keeping in view rules & instructions ibid information pertaining to recruitment record cannot be given to applicant/ organization styled above. Disposed of.””

3. The Commission is of the view that the above-referred order passed by the learned District & Sessions Judge is not based on a correct understanding of the Punjab Transparency and Right to Information Act 2013, which has been enacted in the light of Article 19A of the Constitution and provides an elaborate regulatory framework as well as a list of reasonable restrictions in terms of disclosure of information. It also overrides all other laws and rules in view of its section 24 and, therefore, any restrictions on disclosure of information provided in others laws or rules, including the Copying Manual, cannot be relied upon to deny such an important fundamental right of access to information. Information can be withheld only if its disclosure is likely to cause harm to any of the interests protected under section 13 of the Act. However, the order passed by the learned District & Sessions Judge makes no reference to section 13 or any other provision of the Punjab Transparency and Right to Information Act 2013 and flatly refuses to provide any of the requested record to the Complainant. The Commission is of the view that the learned judge should have examined the requested information in the light of sections 13 and 22 of the Act; and the information not hit by section 13 should have been provided within the time prescribed in section 10(7) of the Act. Even in relation to application of section 13 of the Act, the Commission has repeatedly held that the public bodies should deny access to records only when it could be unambiguously established that the disclosure would cause more harm to any of the protected interests than its possible benefits in terms of transparency and consequent public trust in the public bodies. As regards the records of recruitments in public bodies, most of the information should be accessible in view of the material interest of competing candidates as well as the general public interest in the transparent use of official authority and public resources.

4. The complaint is allowed. The Respondent is directed to re-examine the application of the complainant in the light of above cited observations and provide all the requested information, which is not hit by section 13 of the Act, to the

Complainant as soon as possible but not later than 09/03/2016 under intimation to the Commission. The Respondent is further directed to fulfill his responsibilities in accordance with sections 4, 7, 8 & 10 of the Act, especially in terms of proactive disclosure, automation of records and designation of public information officer. Copies of this order may also be sent to the Complainant and Registrar of the Lahore High Court, Lahore for information.

Announced on:
18/02/2016

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner