

**PUNJAB INFORMATION COMMISSION
LAHORE**

No. AD(A&C)PIC 2-344/2016

Ms. Asbah Ahmad, House No. 611-E, Street 2, Block D, Nishat Colony, Lahore
(Complainant)

Vs.

1. Mr. Arif Ali, Additional Director/ PIO, Punjab Judicial Academy, Lahore
2. Ch. Muhammad Saleem, Director Administration, Punjab Judicial Academy, Lahore
3. Director General, Punjab Judicial Academy, Lahore

(Respondents)

ORDER:

The Complainant submitted a complaint to the Commission on 25/04/2016 alleging that the Respondent No. 1 had not provided her a part of the requested information by stating that the said information was not available in the record. She further alleged that, if the said information was not available, then it might have been destroyed by the Respondent No. 1, as it belonged to his own appointment. She also expressed the apprehension that the information provided to her may also have been forged and, therefore, demanded that she be allowed to inspect the original documents. The information, which was allegedly denied to her, included the summary dated 22/07/2009 for recruitment of officials (Librarian/ R&RO Instructor IT, Administrative Officer, Deputy Director, Assistant Director Admn. & Accounts) in the Punjab Judicial Academy against advertisement dated 1st & 2nd Feb. 2009.

2. Through a letter dated 09/05/2016, the Commission directed the Respondent No. 1 to either immediately provide the remaining information to the Complainant or explain the reasons, including rebuttal if any, of allegations made by the Complainant. Through a letter dated 19/05/2016, the Respondent No. 2 informed the Commission that, since the subject complaint was against the PIO, the matter had been entrusted to him by the Director General (i.e. the Respondent No. 3). He further stated as follows:

It is to inform that the recruitment record has been checked and it is verified that no such document as requested in application of Ms. Asbah dated 02-12-15 at serial no. 1 is available.

As per application of Ms. Asbah attached with the subject letter it has been claimed that required information at sr. no. 1 is about the appointment of PIO of this Academy whereas according to the application of Ms. Asbah dated 02-12-15 it appears that the document (Sr. no. 1) is about 6 officers (copy of application is attached). It seems as if the complainant has some personal grudges and trying to misuse the right under the Act in that way she is wasting the time of the Commission and this office as well.

However all the available record has already been provided to the applicant on her demand except the record not available.

3. In view of the above response by the Respondent No. 2, the Commission held hearings on 06/06/2016, 14/06/2016 and 17/06/2016. The hearing on 06/06/2016 was attended by the Complainant as well as the Respondent No. 1. The Respondent No. 1 reiterated that the said summary is not available in the record. The Complainant, however, insisted that the said document exists and sought adjournment to furnish relevant evidence. The next hearing was attended by the Complainant, Respondent No. 1 and Mr. Muhammad saleem (Warden, Punjab Judicial Academy). The complainant again sought adjournment for furnishing the relevant evidence about the existence of summary dated 22/07/2009. The matter was adjourned until 17/06/2016 with the direction that no more adjournment will be allowed.

4. The hearing on 17/06/2016 was attended by the Complainant and Mr. Muhammad saleem (Warden, Punjab Judicial Academy), who stated that the Respondent No. 3 had barred the Respondent No. 1 from appearing before the Commission, and had instead directed him to attend the hearing. He also produced the authority letter signed by Respondent No. 2. The Complainant presented a copy of the summary dated 22/07/2009, a copy of which was provided to Mr. Muhammad Saleem during the hearing. Mr. Saleem also presented a letter dated 17/06/2016 and signed by Respondent No. 2, which stated that the Complainant had taken somersault on her previous commitment during the hearing on 14/06/2016. It further stated that the Order Sheet obtained from the Commission didn't contain complete statements of the Complainant regarding the image of the summary transferred to her by an official of the Academy as well as about her statement that she couldn't display the image as the mobile, which had the same, was not available with her during the hearing. It was also pointed out that the order sheet had been signed by just one of the Information Commissioners. As for the main issue in the complaint is concerned, the Respondent No. 2 didn't deny the existence of the summary dated 22/07/2009 but, instead, claimed exception u/s 13(1)(f) of the Act, which allows withholding of requested information if its disclosure was likely to cause harm to "the prevention or detection of crime, the

apprehension or prosecution of offenders, or the administration of justice.” It was further argued that the Punjab Judicial Academy is a subsidiary of the Hon’ble High Court, as its matters are governed under the kind control and administration of the Hon’ble Chief Justice of Lahore High Court and, therefore, in view of Section 13(1)(f) of the Act, “we are exempted.”

4. Another letter dated 16/06/2016, signed by the Respondent No. 2, was also received at the Commission, which too didn’t deny the existence of the summary dated 22/07/2009. Instead, its existence was almost explicitly acknowledged through the following statement:

The said application was put up before the Hon’ble Director General of this Academy for seeking permission to provide the said information to the applicant. As the application was directly concerned to the PIO himself, therefore, the Hon’ble Director General entrusted the said application to the undersigned”.

In his letter, the Respondent No. 2 also claimed exception of information sought by the Complainant by referring to Section 13(1)(b), (c) & (f) of the Act.

5. On the basis of the material on record, the Commission is convinced that the summary dated 22/07/2009 exists in the record of the Punjab Judicial Academy, and that its existence was wrongfully denied, possibly with *malafide* motives, by the Respondent No. 1 and Respondent No. 2 in their earlier submissions before the Commission. There is no reason to doubt the authenticity of the copy of the summary produced before the Commission by the Complainant, especially in view of the changed stance of Respondent No. 2, who first denied its existence and then sought exception from disclosure by referring to sections 13(1)(b), (c) & (f) of the Act.

6. As for the argument that the Punjab Judicial Academy works under the administration of the Hon’ble Chief Justice of the Lahore High Court and, therefore, it is exempt from the purview of the Act, the Commission holds that even the Hon’ble Lahore High Court is not exempt from the definition of a public body, as provided in section 2(h)(iv) of the Act. Section 13(1)(f) can’t be interpreted to claim exclusion of the Punjab Judicial Academy by any stretch of imagination, as it is essentially about the certain types of information, whose disclosure might undermine prevention or detection of crimes or administration of justice. In the instant case, the requested information is about appointments in a public body and its disclosure is not likely to result in any crime or obstruction of justice. On the contrary, maximum disclosure of information and transparency in relation to matters involving use of official authority or public funds are likely to expose inefficiencies, which is very much in the interest of administration of justice and

good governance. The Punjab Judicial Academy, given its mandate to train judicial officers, should set a very high standard of transparency, instead of hiding behind far too stretched interpretations of the provisions of the Act to seek exemptions to protect the culture of official secrecy.

7. Sections 13(1)(b) & (c) of the Act also have no relevance in the instant case. The said summary is about appointments in a government organization that runs on taxpayers' money and, therefore, people have the right to know how the relevant appointments were made. When a person applies for a job in a public sector organization, he can't seek or expect to have the same level of privacy, as he might legitimately expect as a private citizen. In any case, the Respondents have not referred to any specific piece of information in the said summary, whose disclosure might harm the privacy of specific individuals. Similarly, the information contained in the summary can't be characterized as legally privileged information or the one whose disclosure would amount to breach of confidence. Section 13(1)(c) is essentially about the information that is shared between lawyer and the client, doctor and the patient, husband and wife, or the psychiatrist and the patient, and its application can't be stretched to seek exclusion of records created in the course of transacting official business in a democratic state. In a similar case, the Commission has already held in its Order dated 09/05/2016 (Mr. Muhammad Munir ud Din Vs. Deputy Secretary/ PIO, Higher Education Department) that summaries to the Chief Minister *per se* are not exempt from disclosure.

8. The complaint is allowed. The Respondents are directed to provide a certified copy of the summary dated 22/07/2009 to the Complainant as soon as possible but not later than 30/06/2016, and submit a compliance report to the Commission. Furthermore, the Respondent No. 3 is called upon to (a) direct an inquiry as to why the existence of the said summary was wrongfully denied to the Complainant as well as before the Commission, and (b) ensure efficient management of official records so as to facilitate prompt access to information under the Act. A copy of this order may be sent to the Complainant for information.

Announced on:
20/06/2016

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner