

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Muhammad Arif Noor
EST (E), Govt. Islamia High School, Vehari (the Complainant)

Vs.

Executive District Officer (EDO), Vehari (the Respondent)

A. The Complaint

1. The Complainant sent a complaint, dated 02/07/2014, 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 14/06/2014, is as follows:

“1. Copy of inquiry report against Mr. Muhammad Arif Noor, EST (E), Govt. Islamia High School Vehari, which has been conducted in March 2013.

2. Copy of seniority list of ESTs of District Vehari.”

B. Proceedings

2. Through a letter dated 22/07/2014 and, later, through a reminder dated 25/08/2014, the Commission called upon the Respondent to redress the complaint and submit his reply including rebuttal or explanation, if any. However, the Respondent didn't respond to the said letters. The Commission, therefore, issued a show cause notice on 18/09/2014 and directed him to explain why penalties should not be imposed under sections 15 and/or 16 of the Act. Still, the Commission received no reply from the Respondent. In the meanwhile, through a letter dated 27/09/2014, the Complainant alleged that the Respondent had started intimidating him for lodging the complaint to the Commission; and that the District Education Officer (DEO - E.E.M) Vehari had directed him to appear for hearings on 3/9/2014 and later on 26/09/2014. He alleged that the DEO had verbally told him to withdraw the complaint against the Respondent or he will be taught him a lesson. His complaint included a copy of the document whereby he had been called for personal hearings, allegedly on the direction of the Respondent.

3. A second show cause notice was issued on 30/09/2014, and its service to the Respondent was ensured through the District Coordination Officer (DCO), Vehari. Through this notice, the Respondent was again directed to explain why

penalties should not be imposed on him under sections 15 and/or 16 of the Act; and that he should personally appear before the Commission on 13/10/2014. A copy of the complaint of intimidation dated 27/09/2014 was also attached with the notice to allow him an opportunity to rebut the allegations or explain his position.

4. The hearing was held at 3:00am on 13/10/2014. Mr. Muhammad Maroof, District Education Officer-Elementary, appeared for the hearing to represent the Respondent (Mukhtar Hussain Chawan, EDO, Education, Vehari), although the Respondent had been directed to personally appear before the Commission. Mr. Maroof did not submit any written explanation or reply to the show cause notice issued to the Respondent. He, however, submitted the attested copies of the requested documents, and said that the Respondent had no objection to provision of the said documents to the Complainant. The Commission directed that the submitted documents should be dispatched to the Complainant. Mr. Maroof was not aware whether any officer had been designated as public information officer for the education department in district Vehari.

5. When asked during the hearing why the Respondent had not provided the requested information within the time duration prescribed u/s 10 of the Act, Mr. Maroof said that the Respondent had asked the Complainant to himself get photocopies made of the requested documents, which he agreed to at the time but didn't appear for the same again. When questioned, he confirmed that the Respondent had passed no written order to provide the requested information to the Complainant, nor was the Complainant ever informed about the acceptance of his request in writing. The complainant, when contacted on phone, vehemently denied that the Respondent had ever told him to get the requested documents photocopied. When asked why the Respondent didn't respond to the letters issued by the Commission, Mr. Maroof failed to provide any satisfactory explanation. He, however, requested the Commission to take a lenient view, as the EDO is a very busy person.

6. When questioned about the complaint of intimidation and inquiry against the Complainant, Mr. Maroof said that the inquiry was initiated on the direction of a member of the Punjab Services Tribunal (PST) during a hearing held on 5/9/2014. However, he failed to produce any written order of the PST to substantiate this claim. During the hearing, when contacted on phone, the Complainant categorically denied that the PST had passed any such order. He said that the notice for personal hearing had, in fact, been issued to him before the hearing of the tribunal. He alleged that the Respondent had actually issued direction for inquiry against him on the same letter, which the Commission had written to the Respondent to seek redress of the complaint. He urged the Commission to get hold of a copy of letter No. 7807/lit by the Respondent to DEO issued on 1/9/2014, while expressing concern that if the Commission doesn't do so right away, the Respondent may change the record. The Complainant was told to furnish all the relevant details or evidence in support of his allegation of intimidation in view of his complaint of intimidation to the Commission. Mr. Maroof later changed his stance and said that the PST had, in fact, issued verbal orders to hold inquiry against the Complainant.

7. When confronted with contradictions in his stances, Mr. Maroof said that he was not fully aware of the facts and sought adjournment so that the Respondent could personally appear along with all the relevant record. The Commission accepted the request and, in consultation with Mr. Maroof, fixed next hearing at 2:30PM on 23/10/2014. Mr. Maroof was told that the Respondent must submit a written reply to the show cause notice and personally appear for hearing along with relevant record. He signed a note to this effect, which is a part of the record. He was clearly told that no more adjournments would be allowed. However, the Respondent did not appear for hearing on the date fixed; nor was any written reply to the show cause notice submitted to the Commission.

8. In the meanwhile, through a letter dated 15/10/2014, the Complainant further explained his allegations and rebutted the stance taken on behalf of the Respondent that the inquiry had been ordered by the PST. He also shared a copy of the order sheet of FST, which shows that no order for inquiry had been issued by the FST.

C. Discussion and Commission's View on Relevant Issues

9. The application sent on 02/07/2014, as claimed by the Complainant and supported by courier receipts, should have been first acknowledged for its receipt, and later should have either been transferred to the relevant public information officer u/s 11 or decided within 14 working days u/s 10 of the Act. But the evidence before the Commission shows that the Respondent failed to act on the application for more than 3 months from the date of its submission. Given his failure to act as per sections 7 and/or section 11 of the Act, he himself is to be deemed as the public information officer and is, therefore, liable for any penalties under sections 15 or 16 of the Act.

10. The evidence before the Commission clearly shows that the application had been received in the office of the Respondent. During the hearing, the receipt of application was not denied. In fact, the receipt of application was admitted when it was claimed on behalf of the Respondent that the Complainant had been asked to himself get photocopies of the requested information made. In any case, the Respondent was required u/s 10 of the Act to inform the applicant in writing and provide certified (dated, signed and stamped) information. Hence, the Respondent clearly deviated, through his acts of omission and commission, from the explicit provisions of the Act. This view is also substantiated from the fact that he failed to respond to repeated letters from the Commission and did not appear for hearing fixed on 23/10/2014.

11. The Commission's inquiry into the complaint of intimidation suggests that the Respondent acted in a malafide manner. During the hearing, no satisfactory explanation of the cause of inquiry against the Complainant was furnished. The claim that it had been ordered by the PST has been proven wrong on the basis of documents furnished by the Complainant and contradictory stances taken on behalf of the Respondent during the hearing. It is evident that the Respondent

acted with malafide intentions to first delay and then obstruct access to the requested information by intimidating the Complainant to withdraw the complaint filed to the Commission. He also disregarded repeated letters and calls for grievance redress from the Commission. The Commission holds that the Respondent and the EDO (E.E.M) need to be held accountable for their acts of omission and commission to send a clear message to all and sundry that delays and obstruction in the way of citizens' legal and constitutional right to information will not be tolerated.

D. Order

12. In exercise of its powers u/s 15 of the Act, the Commission directs the Respondent (i.e. Mr. Mukhtar Hussain Chawan, EDO, Education, Vehari) to pay fine equal to 60 of his salary for delaying the access to requested information to the Complainant for more than 3 months. The fine may be deducted from the salary of the Respondent by the relevant accounts office or treasury under intimation to the Commission.

13. It is recommended that Secretary, School Education Department, may initiate departmental action against the Respondent and District Education Officer (E.E.M) for directing and conducting inquiry against the complaint in order to coerce him to withdraw his complaint submitted to the Commission for non-provision of information under the Act.

14. The Respondent is directed to take immediate steps to fulfill his responsibilities under, *inter alia*, sections 4, 7, 8 & 10 of the Act, especially in terms of designating public information officers in all the offices or public bodies that he heads or is responsible for.

15. The Respondent is also directed to ensure that any pending or future applications 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. Copies of this order may be sent to the Complainant, District Coordination Officer Vehari, District Accounts Officer Vehari, Secretary School Education Department Lahore and Chief Secretary Punjab for information and necessary action.

(Mukhtar Ahmad Ali)
Information Commissioner
Lahore

Announced on:
24/10/2014