

**PUNJAB INFORMATION COMMISSION
LAHORE**

1. Mr. Qalandar Hussain Khan
House No. 76/1, Opposite Govt. Girls Hostel
Main Road Imtiazabad, Sargodha
2. Ms. Ambreen Kanwal
House 370, St. 75, E-11/3, Islamabad

(the Complainants)

Vs.

1. Public Information Officer (PIO)
Punjab Provincial Cooperative Bank
Sunlight Building, 5-Bank Square
The Mall, Lahore
2. President
Punjab Provincial Cooperative Bank
Sunlight Building, 5-Bank Square
The Mall, Lahore
3. Secretary
Cooperative Department
Civil Secretariat
Lahore

(the Respondents)

ORDER:

The Complainant No. 1 submitted a complaint to the Commission on 14/06/2015 alleging that the Respondent No. 1 and Respondent No. 2 had not provided him the requested information in response to his applications under the Punjab Transparency and Right to Information Act 2013. The Respondent No. 1, through his letter No. Sr.PRO/1934-9374 dated 21/4/2015 had rejected the application by stating that the Punjab Provincial Cooperative Bank Limited (PPCBL) is a cooperative society registered under the Cooperative Societies Act 1925, and that its affairs are managed and controlled by its Board of Directors under its Bye-Laws. The Respondent No. 1 had further argued that the PPCBL, being a scheduled bank/ cooperative society, is non-statutory body and, therefore, it does not fall within the ambit of the Punjab Transparency and Right to Information Act 2013. Similar view was expressed by Respondent No. 2

through his order dated 18/05/2015 on the request for internal review filed by the Complainant No. 1 u/s 12 of the Act. The Commission, through its letter dated 2/09/2015, called upon the Respondent No. 2 to either immediately provide the requested information to the Complainant No. 1 or “explain in detail how exactly the PPCBL doesn’t fall within the ambit of the Act, especially when this question is examined in the light of sub sections (i), (iv) & (vi) of section 2(h) of the Act.” The PIO responded, vide letter dated 16/09/2015, and reiterated that PPCBL is a scheduled bank/ registered cooperative society and a non-statutory body; and it doesn’t fall within the ambit of section 2(h). In view of this, the Commission called the parties for hearing on 01/10/2015.

2. In the meanwhile, on 29/06/2015, the Complainant No. 2 filed a complaint with the Commission alleging that the Respondent No. 3 had not provided her the requested information. In response to a Commission’s letter dated 2/09/2015, the Respondent No. 3, vide his letter dated 14/09/2015, also contended that the PPCBL is not a part of the Government of the Punjab, and that it doesn’t figure in the Rules of the Business of the Punjab Government. Hence, he argued that the Punjab Transparency and Right to Information Act 2013 doesn’t apply to the PPCBL. As the issue raised in the context of this complaint is identical to the one raised in relation to the complaint of Complainant No. 1, the Commission proposes to decide both the complaints through this single order.

3. The hearing on 01/10/2015 was attended by Mr. Rana Irshad Ali, PIO, PPCBL, Mr. Tahir Ahmad Bhatti, Advocate for PPCBL, and Mr. Jamshaid Iqbal, SO(G)/ PIO, Cooperative Department, Punjab. Verbally as well as through the written submission, the representatives of the department and PPCBL repeated the stance already taken by the Respondents and supported it by, *inter alia*, producing copies of (a) legal opinion provided by the Advocate General, (b) orders of the Provincial Ombudsman, and (c) judgments of the Honourable High Court and Supreme Court of Pakistan. However, when the Commission inquired whether the PPCBL has ever received any financial support from the Government or any of its bodies, or whether the Punjab Government has any stakes or shares in the PPCBL, the Respondents didn’t provide a clear answer

and sought adjournment to seek instructions from the management of PPCBL. The adjournment was allowed with the direction that the Respondents should provide complete information about the questions raised by the Commission vide its letter dated 17/09/2015. Two more hearings were held on 21/10/2015 and 4/11/2015, which were attended by Mr. Rana Irshad Ali, PIO, PPCBL, Mr. Tahir Ahmad Bhatti, Advocate for PPCBL, Mr. Javed Iqbal, Advocate for PPCBL, Mr. Muhammad Umar Qureshi, Advocate, PPCBL, and Mr. Jamshaid Iqbal, SO(G)/PIO, Cooperative Department, Punjab. During the hearing on 4/11/2015, the Respondents informed the Commission that, under an agreement in 2009, the Punjab Government had provided a loan of about Rs. 8 billion to the PPCBL. However, this loan could not be paid back within the agreed time period and, therefore, the Government of Punjab obtained 78% shares of the PPCBL as a guarantee against the said loan in accordance with one of the provisions of the 2009 Agreement. When asked whether the PPCBL has ever received any other support from the Government in the form of grant, piece of land or concessions of material significance, the respondents said that they had no knowledge to this effect and that they will have to check it from the record. It was also confirmed during the hearing that the Board of the PPCBL has not been constituted, and Respondent No. 3 is working as Administrator of the PPCBL as well.

4. The Commission has carefully reviewed the documents and judgments submitted by the parties as well as the arguments that they made during the hearing, and holds that the PPCBL is a public body in view of, *inter alia*, sections 2(h)(iv) and 2(h)(vii) of the Act. It is evident from the record that the Government of Punjab currently owns 78% shares in the PPCBL, which is also being managed by the Respondent No. 3 in his capacity as Administrator of PPCBL. The contention that the shares have been allotted to the Government as a guarantee against the loan, and that these don't amount to substantial financing by the Government to the PPCBL is not legally and factually tenable. The fact of the matter is that, under clause (v) of the 2009 Agreement, the Punjab Government had already secured its loan of Rs. 8 billion 'by the immovable properties and agricultural loans & advances of the Bank.' Therefore, the question arises that, when the loan had already been secured by the immovable

properties and loans & advances, why the Government chose to convert it into shares, apparently by exercising its right in accordance with clause (vii) of the 2009 Agreement. It is thus evident the amount of Rs. 8 billion remained in the category of loan secured by properties and loans/ advances of PPCBL but, once converted into shares, the Punjab Government became an owner of the majority shares of PPCBL. Even if it is accepted for the sake of argument that the said amount of Rs. 8 billion remains in the category of loan and 78% shares amount to nothing but a guarantee, the question is whether the PPCBL can reasonably be expected to ever pay back the loan and regain the shares obtained by the Punjab Government. The fact that the PPCBL was first unable to pay back its loan to the State Bank and then to the Government of Punjab within 5 years makes it amply clear it has an extremely weak financial condition, which probably forced the Government of Punjab to acquire 78% shares. Hence, for both legal and practical purposes, the Punjab Government has majority shares and substantial interest in the PPCBL and, therefore, citizens of the country have the right to information under the Punjab Transparency and Right to Information Act 2013. It may also be noted that PPCBL had already designated the Respondent No. 1 as a Public Information Officer (PIO) under section 7 of the Act. In view of this, it is interesting that the Respondent No. 1, despite being a designated PIO, claimed that PPCBL is not a public body under section 2(h) of the Act.

5. The complaints are allowed and the objections raised by the Respondents are dismissed. The Respondents are directed to provide all the requested information to the Complainants as soon as possible but not later than 07/12/2015 under intimation to the Commission. The Respondents are further directed to ensure implementation of section 4, 7, 10 and 11 of the Act. Copies of this order may be sent to the Complainants for information.

Announced on:
24/11/2015

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)

(Ahmad Raza Tahir)

Chief Information Commissioner

Information Commissioner