

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Bashir Snober
House No. 129, St. 2, Mahallah Kot Khan Muhammad, Satayana Road, Faisalabad

(the Complainant)

Vs.

Chief Settlement Commissioner
Board of Revenue, Farid Court House, Lahore
(the Respondent No. 1)

Deputy Secretary (General), Settlement & Rehabilitation Wing, Board of
Revenue, Farid Court House, Lahore
(the Respondent No. 2)

ORDER:

The Complainant submitted a complaint to the Commission on 01/07/2015 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 11/05/2015, includes (a) details of claims No. 3599 & 3600 of Jhanda s/o Nanak; and (b) RL-II numbers regarding the allotment of land against these claims and the names of related village, tehsil and the district.

2. Through a letter dated 13/07/2015, the Commission called upon the Respondent No. 1 to either himself decide the application or transfer the same to the designated Public Information Officer (PIO). A reminder was issued on 05/08/2015. Again no response was received and, therefore, the Commission wrote to the Respondent No. 1 as well as the Senior Member, Board of Revenue, vide letters dated 07/09/2015 and 19/10/2015. In response, the Respondent No. 2, vide his letter No. 1817-2015/1805-U&R-IV dated 22/10/2015, informed the complainant that no action can be taken on his application by the S&R Wing after the promulgation of the Evacuee Property and Displaced Persons Law (Repeal) Act 1975. However, the complainant, vide his letter dated 28/10/2015, expressed his dissatisfaction with the response of Respondent No. 2 and stated that he has only asked for information, not for any allotment. Upon this, the Commission, vide its letters dated 17/12/2015 and 27/01/2016, directed the respondents to appear before the Commission for hearing.

3. During the hearings held on 4/02/2016 and 07/03/2016, the Respondent No. 2 argued verbally as well as through written submissions that:

- a) The process of allotment against unsettled claims has been wrapped up after enactment of the Evacuee Property and Displaced Persons Law (Repeal) Act 1975 and in the light of judgments of Lahore High Court and Supreme Court of Pakistan (“1997 SCMR 1635 titled Muhammad Ramzan Vs. Chief Settlement Commissioner”, and “2001 SCMR 1822 titled Ali Muhammad and others Vs. Chief Settlement Commissioner”). Now, only the cases remanded by courts are being considered by the notified officers. The settlement record has been sealed and it is kept in double lock up.
- b) Despite the repeal of above-referred Act, many people still seek information from Central Record Office. In this regard, the Board of Revenue has directed that all such information requests should be filed.
- c) The purpose of Repeal Act 1975 was to stop further allotment through fraud, cheating and use of false documents in the guise of genuine ones. Hence, S&R Wing of the Board of Revenue had stopped provision of any kind of information about claims, which people try to obtain even after 40 years of coming into force of Repeal Act 1975. He further stated that disclosure of such information will open flood gates of litigation.
- d) The requested information is exempt from disclosure u/s 13(1)(f) of the Act, as its disclosure may result in commission of cheating, mischief or fraud in settlement cases.

It also appeared during the hearing/ inquiry that the Board of Revenue hasn't yet setup a website and that it has not taken adequate steps to implement section 4 of the Act.

4. The Commission is of the view that the instant complaint is not about the allotment of land against any unsettled claim but about access to official information, which is a fundamental right of each citizen under the provisions of the Act and Article 19-A of the Constitution. The complainant may use the information thus obtained for seeking allotment of land but, to the extent of this complaint and at this stage, it is to be strictly decided in the light of the provisions of the Act. Therefore, the argument of the Respondent No. 2 that the allotment of land has been stopped can't be used to deny access to information, especially when section 10(3) of the Act explicitly bars public bodies from requiring the applicants to disclose reasons of their applications. It needs to be left to appropriate forums to decide, if it comes to that, whether the information obtained under the Act would be admissible for the purpose of allotment of land against any unsettled claim.

5. The apprehension expressed by the Respondents that the disclosure of such information will open flood gates of litigation may turn out to be correct but the question is whether such an apprehension can be made a basis to deny a citizen his fundamental right to access information or approach courts. Therefore, the public bodies need to organize their records and build their systems in such a manner that they can lawfully address the potential risks, instead of seeking prevention of litigation by denying a fundamental right.

6. The Respondents have also referred to the decisions of the Board of Revenue, whereby it was directed that all requests for information about claims should be filed, and that the record should be kept in double lockup. However, such administrative orders are of no legal consequence in the face of explicit provisions of the Act, which state that information can only be withheld if its disclosure is likely to cause harm to specific interests mentioned in section 13 of the Act. Therefore, the application of the complainant should have been examined strictly in the light of section 13 of the Act, which also has the overriding effect in terms of its section 24.

7. It has been further argued that the requested information is exempt from disclosure u/s 13(1)(f) of the Act, as its disclosure may result in commission of cheating, mischief or fraud in settlement cases. However, when questioned during the hearing about how it may result in commission of crime or fraud, no satisfactory explanation was furnished. The argument that the recipient of information may forge documents doesn't hold water, as the original record would still be in the custody of the public body, which could be relied upon to detect forgery or any fraud. Similarly, the relevant forums such as the courts are also there to examine whether a claim is based on valid considerations or not. Therefore, it seems far-fetched that mere disclosure of information can result in a crime in the case of instant complaint. Even if there exists a real possibility of fraud, it is for the public body to improve its documentation and systems to ensure that forged documents can't be used for illegal gains.

8. As for the judgments of august Supreme Court of Pakistan ("1997 SCMR 1635 titled Muhammad Ramzan Vs. Chief Settlement Commissioner", and "2001 SCMR 1822 titled Ali Muhammad and others Vs. Chief Settlement Commissioner") are concerned, the Respondent No. 2 had not referred to any specific paragraph, whereby the denial of access to information could be justified. The Commission has reviewed these judgments, which don't seem to have any direct concern with the question of right to information in relation to official records held by the Respondents. In any case, these judgments had been delivered prior to the induction of Article 19-A in the Constitution and the enactment of the Punjab Transparency and Right to Information Act 2013.

9. As a result of the above discussion, the complaint is allowed and the Respondents are directed to provide all the requested information to the Complainant as soon as possible but not later than 20/05/2016, and submit a compliance report to the Commission. The Respondents and the Senior Member, Board of Revenue, are further directed to setup a website and establish, within 3 months, a mechanism of proactive disclosure of maximum information in accordance with section 4 of the Act. Copies of this order may also be sent to the Complainant and Senior Member, Board of Revenue, for information and necessary action.

Announced on:
25/04/2016

(Mukhtar Ahmad Ali)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Ahmad Raza Tahir)
Information Commissioner