

**PUNJAB INFORMATION COMMISSION
LAHORE**

Barrister Waqas Farooq, 173, Kiani Chambers, Sessions Court, Gujranwala
(the Complainant)

Vs.

Commissioner, Gujranwala
(the Respondent No. 1)

Principal, Quaid-e-Azam Divisional Public College, G. T. Road, Gujranwala
(the Respondent No. 2)

ORDER:

The Complainant submitted a complaint to the Commission on 23/07/2015 alleging that the Respondents No 1&2 had not provided him the requested information in response to his applications under the Punjab Transparency and Right to Information Act 2013. The Commission, through its letter dated 28/08/2015, sought explanation from the Respondent No. 1. The Respondent No. 2, vide his letter No. QPC/GRW/07/794 dated 28/09/2015, informed the complainant that the Act is applicable only on government institutions, whereas Quaid-e-Azam Divisional Public College is neither a government institution nor a public body as per the definition provided in the Act. In order to decide the question of applicability of the Act, the Commission held a hearing on 17/12/2015, which was attended by the complainant and Respondent No. 2.

2. During the hearing, the Respondent No. 2 admitted that the College was built on land obtained from the Government of Punjab on lease basis. He further admitted that, on two occasions, the College had received grants from the Government of Punjab of Rs. 25 million (2004-2005) and Rs. 5 million (2005-2006). He, however, denied that the College receives any budgetary support from the Government on regular basis. He also emphasized that the College is managed by the Quaid-e-Azam Divisional Educational Trust, Gujranwala, which meets the expenditures of the college through fees paid by students and private donations. The complainant, on the other hand, stated that the college is built on government provided land, and that the government officers have a substantial

involvement in managing and running the college. He argued that the college is a government controlled institution in view of the involvement of official members in the Trust as well as the Board of Governors. The Commission directed the Respondent No. 2 to submit (a) lease agreement regarding the land on which the college is built; (b) annual audited reports; and (c) copies of documents regarding grants made to the college by the Government of the Punjab. The complainant was also asked to submit any evidence or authority to support his claim that the college is a government controlled institution in view of the involvement of official members in the Board of Trustees, and that this situation makes it a public body in terms of section 2(h) of the Act.

3. A review of the documents submitted by the Respondent No. 2 shows that the college is built on a plot of land, measuring 482 kanals & 11 marlas, which was leased by the Government for an initial period of 30 years, renewable after every 20 years to a maximum period of 99 years. The period of lease commenced with effect from 26 July 1987. The Lease Agreement stipulates that the tenant (i.e. the Trust) shall “pay a yearly rent of 50% of the current market rent...”. The yearly rent amount was fixed as Rs. 45240. The land appears to be located at a prime location, as it is bounded, on the one side, by the G. T. Road and on the other by the D. C. Road. This fact alone suggests that the College is substantially financed by the Government in terms of sections 2(h)iv & 2(h)vii of the Act. It is because the Lease Agreement makes it clear that at least 50% of the cost of rent of a large plot of land, located at a prime location, is being borne by the Government. Given the size and location of the land, the market based rental value is expected to be substantial, although the rental value fixed in the lease agreement doesn't appear to be market based. The Audit Report for the FY 2013-14 further suggests that the yearly rent being paid by the Trust remains nominal, despite a provision that it would be 50% of market based rental value. Moreover, the fact that the college has also received government grants of Rs. 30 million further substantiates the view that the college is substantially financed by the Government of the Punjab in terms of its real contribution in the rent of the plot of land and occasional grants to the College.

4. The composition of the Board of Trustees of the College suggests that seven out of its nine trustees are government officers, whereas the Commissioner, Gujranwala Division, serves as the Chairman of the Board. Similarly, ten out of thirteen members of the Board of Governors are government officers. Hence, while the College is managed and run by a Trust, the very nature of the Trust is more like an instrument or agency of the government, which was established and is managed predominantly by government officers to advance the cause of quality education for the benefit of public at large. This means that the College is effectively a government controlled institution, which resembles in its character with a government established and managed company or a semi-autonomous institution. It may further be added that, while working as trustees or member of the Board of Governors in their ex-officio capacities, the government officers use their official time, resources or influence to govern or manage the affairs of the College, which adds to the weight of the argument that the character of the Trust in this instance is less like a private trust and more like a public body.

5. Thus for the foregoing reasons, the complaint is allowed. The Quaid-e-Azam Public College is a public body in terms of sections 2(h)iv & 2(h)vii of the Act. The Respondents are directed to provide all the requested information to the Complainant as soon as possible but not later than 15/01/2016 under intimation to the Commission. The Respondents are further directed to ensure implementation of section 4, 7, 10 and 11 of the Act. A copy of this order may be sent to the Complainant for information.

(Ahmad Raza Tahir)
Information Commissioner

(Mukhtar Ahmad Ali)
Information Commissioner

Announced on:
05/01/2016