

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Waseem Abbasi
40 Jang Plaza, Blue Area, Islamabad (the Complainant)

Vs.

Mr. Tariq Shahzad, Deputy Secretary (Coord.)/ Public Information Officer (the Respondent)

A. The Complaint

1. The Complainant sent a complaint to the Commission, alleging that he had sought information from Principal Secretary to the Governor of Punjab but it was not provided to him within the time period prescribed in the Punjab Transparency and Right to Information Act 2013 (the Act). The information sought by the Complainant, through his application dated 18/09/2014, is as follows:

“1. Certified information about month wise expenditure of Governor House from August 1, 2013 to August 31, 2014;

2. Certified information about month wise expenditure of bakery items procured for Governor House from August 1, 2013 to August 31, 2014 (different bakery items and expenditure incurred); and

3. Certified information about gifts/ presents given by Governor to people from August 1, 2013 to August 31, 2014 (Name/ description of the gifts / presents, price and name of the individual each present was given to by the Governor).

B. Proceedings

2. Through a letter dated 23/01/2015, the Commission called upon the Principal Secretary to the Governor to “either immediately provide the requested information to the complainant or explain the reasons, including rebuttal if any, of alleged non-response or delay in deciding the matter”. The Respondent, who is a designated public information officer, through his letter No. SOA/GS(ESTT.)1-11/2013 dated 06/02/2015, referred to Article 121 of the Constitution of the Islamic Republic of Pakistan, whereby the remuneration payable to the Governor and other expenditures relating to his office are treated as expenditures charged upon the Provincial Consolidated Fund. He also quoted Article 121(1) of the Constitution as follows:

“So much of the Annual Budget Statement as relates to expenditure charged upon the Provincial Consolidated Fund may be discussed in, but shall not be submitted to vote of, the Provincial Assembly”.

3. He then rejected the application for access to information by arguing that “any request for information relating to expenditures of Governor’s House cannot be entertained, the same expenditure being charged expenditure as stipulated in the aforementioned Articles of the Constitution of the Islamic Republic of Pakistan, and can only be discussed by the elected members of the Treasury in Provincial Assembly.”

4. The Respondent didn’t deny the receipt of application dated 18/09/2014 from the complainant, nor did he explain why the same was not decided in a timely manner in accordance with section 10 of the Act and prior to the intervention of the Commission.

C. Discussion and Commission’s View on Relevant Issues

5. The first point that becomes clear from the record is that both the Principal Secretary to the Governor and the Respondent, for being a public information officer, violated several provisions of the Act relating to the disposal of an application for access to information. The application for access to information was submitted to the Principal Secretary to the Governor, who should have transferred it to the relevant public information officer under intimation to the applicant, as required by section 11(1) of the Act. However, it seems that he never bothered to inform the applicant about it and, hence, acted in violation of section 11(1) of the Act. On the other hand, after the receipt of the transferred application, it was a duty of the Respondent to acknowledge its receipt to the complainant u/s 10(1) of the Act and then decide it within 14 working days u/s 10(7) of the Act. However, it appears from the material on the record that the Respondent neither acknowledged the receipt of application nor acted on it as per section 10 of the Act for more than four months starting from the submission of application. The explanation furnished to the Commission by the Respondent doesn’t suggest that he had done anything to acknowledge or decide the application prior to the intervention of the Commission. Hence, the Respondent has acted in violation of explicit provisions such as section 10 of the Act, and can be punished u/s 15 of the Act for, among others, delaying decision on the application for access to information.

6. Following the intervention of the Commission, the Respondent has rejected the application for access to information by referring to Article 121 of the Constitution and by stating that application for information about charged expenditures cannot be entertained. This understanding of Article 121 is incomprehensible, and it is hard to believe that any responsible officer who applies his mind can really reach such a conclusion. All that Article 121 suggests is that charged expenditures would not be put to vote in the Assembly. No where it is mentioned in the Constitution that information about charged expenditures has to be treated as secret. In fact, it is evident from Article 121 that, while charged expenditures cannot be voted upon, these can be discussed in the Provincial Assembly. So, when representatives of people are allowed under the Constitution to openly discuss the charged expenditures in the Assembly, how the same information can be treated as secret or restricted. The respondent has not only wrongly interpreted Article 121 but has also conveniently ignored

Article 19A of the Constitution whereby right to information has been declared a fundamental right. He has also ignored section 2(h)(iii) of the Punjab Transparency and Right to Information Act 2013, which explicitly covers the office of Governor under the definition of public bodies on which the Act applies. Exceptions from right to information are provided in section 13 of the Act, but this section makes no direct or indirect reference to charged expenditures or office of Governor. The Commission is of the view that the respondent has made a wrongful refusal, *prima facie*, with the *malafide* intension of obstructing access to information. The Respondent, for being a designated public information officer, is required by law to facilitate access to information, not obstruct it by offering frivolous excuses. This kind of obstructive conduct is not to be tolerated in future and may result in initiation of proceedings to impose penalties u/s 15 of the Act.

7. The Commission holds that the information requested by the complainant is not hit by section 13 of the Act and, therefore, cannot be denied to any citizen. In fact, section 4 of the Act requires that information about expenditures should be proactively disclosed, which can be and should be done through publications as well as websites.

D. Order

8. The complaint is allowed. The Respondent is directed to provide the requested information to the Complainant as soon as possible but not later than 20/02/2015, and submit a compliance report to the Commission.

9. The Respondent as well as the Principal Secretary to Governor are directed to take immediate steps to establish an effective mechanism to fulfill their responsibilities under, *inter alia*, sections 4, 7, 8, 10, 11 & 12 of the Act, especially in terms of proactive disclosure and disposal of all pending and future applications for access to information within the prescribed time limits. Contact details of designated public information officers must be made available on the website of the Governor House, as required by section 4 of the Act.

10. Copy of this order may be sent to the Respondent, Complainant, and Principal Secretary to Governor for information and necessary action.

(Mukhtar Ahmad Ali)
Information Commissioner
Lahore

Announced on:
12/02/ 2015