

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Muhammad Manzoor Anwar (the Complainant)

Vs.

Tehsil Municipal Officer (TMO), TMA, Jhang (the Respondent)

ORDER:

The Complainant submitted a complaint to the Commission on 03/04/2015 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 30/01/2015, is as follows:

1. When was the new housing scheme, namely Makka Town, approved?
2. Provide details of facilities/ conditions under which the said scheme was approved.
3. How much is the total area of the scheme and its exact location (hadoo-e-arba)? Also provide the details of its owners.
4. Provide a copy of the NOC issued for the scheme.

2. Through a letter dated 02/05/2015, the Commission called upon the Respondent 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. However, no response was received. The Commission sent a reminder on 11/08/2015 and told the Respondent that, in case of further delay or unsatisfactory response, the Commission may proceed against him u/s 15 of the Act. The Respondent, in his explanation submitted to the Commission vide letter No. 1526(P&C) dated 15/09/2015, stated as follows:

“It is submitted that on the application of Mr. Muhammad Manzoor Anwar, the then worthy Administrator forwarded the application to the Legal Advisor for legal opinion (copy enclosed). The Legal Advisor of District Government Jhang is of the view that the mode of application is incorrect. Neither the applicant is a party in the matter nor he has stated any reason for which the applicant wants to obtain certified copies of the official record. Furthermore, these documents are not public documents as these relate to certain party and now have become the part of official record. In view of the above circumstances, the Legal Advisor stated that certified copies cannot be issued.”

The legal opinion provided by Mr. Khawar Zahoor Chohan, Advocate High Court, on 20/01/2015 was actually about another request for access to information submitted by Mr. Khalid Mehmood, although the issues raised and addressed were of similar nature.

3. It is amply evident from the legal opinion quoted by the Respondent that it is not based on a correct understanding of the Punjab Transparency and Right to Information Act 2013, which overrides all other laws and rules in view of its section 24. In fact, the Respondent or even the quoted legal opinion makes no reference to the Act. Under section 2(a) of the Act, any citizen can file an application for access to information, whereas public bodies have been barred from requiring the applicants to provide reasons for request for information under section 10(3) of the Act. Therefore, the question of *locus standi* (or whether the applicant is a party) is not relevant in the context of applications filed under the Act. Furthermore, it may be noted that information can be withheld only if its disclosure is likely to cause harm to one or more of the interests protected under section 13 of the Act. It may further be noted that, in view of section 10(3) read with section 22 of the Act, the public bodies cannot be allowed to deny requests for access to information by referring to minor technicalities such as mode of application. An application, even if received on a plain paper, has to be entertained. As regards the information sought by the complainant, after examining the contents of the application, the Commission is of the view that the disclosure of requested information is not likely to cause any harm to any of the interests mentioned in section 13 of the Act. In fact, such information should be proactively disclosed by the TMA to keep the citizens informed and enable them to make prudent investment decisions in such housing schemes.

4. The complaint is allowed. The Respondent is directed to provide all the requested information to the Complainant as soon as possible but not later than 26/10/2015, and submit a compliance report to the Commission. The Respondent and the Administrator TMA are further directed to establish, within 3 months, a mechanism of proactive disclosure of maximum information about all the housing schemes in the district.

5. Copies of this order may also be sent to the Complainant, Additional District Collector (ADC)/ Administrator TMA, Jhang and Secretary Local Government for information and necessary action.

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Mukhtar Ahmad Ali)
Information Commissioner

Announced on:
16/10/2015