

**PUNJAB INFORMATION COMMISSION
LAHORE**

Ms. Asbah Ahmad (the Complainant)

Vs.

Director General, Punjab Judicial Academy, Lahore (the Respondent)

Subject: Objection Petition by Ms. Hina Rafique regarding the Commission's Order dated 13/10/2015

ORDER:

The Commission passed an order dated 13/10/2015, whereby the Respondent and the PIO of the Judicial Academy were directed to provide the following information to the Complainant latest by 23/10/2015:

1. Certified copy of summary dated 09-07-2009 approved by the Chairperson of Punjab Judicial Academy for recruitment of staff.
2. Certified copy of written test marks of all the assistants appointed vide summary dated 09-07-2009.
3. Certified copy of date of issuance of the medical certificate of the assistants appointed vide summary dated 09-07-2009.
4. Certified copy of dates of joining of the assistants appointed vide summary dated 09-07-2009.
5. Certified copy of seniority list of the assistants.
6. Certified copy of notification and proceeding at noting pages for the current charge of the Assistant to the post of Assistant Director (Admn.).
7. Certified copy of notification and proceeding at noting pages for the acting charge of the Assistant to the post of Assistant Director (Admn.).
8. Certified copy of Rules on the basis of which the said promotion is made.

9. Certified copy of the title of file on which proceeding regarding current charge and acting charge to the post of Assistant Director is taken.

10. Certified copy of grievance petitions on the said promotion filed by any employee working in Punjab Judicial Academy. Whether the decision taken was conveyed to the said employee? What was the mode to convey? Provide a copy of the orders/ decision?

11. Also provide copies of noting proceedings on the said grievance petitions separately.

12. On which date Service Rules of Punjab Judicial Academy were approved by the Chairperson? Provide a certified copy of the Punjab Judicial Academy Service Rules.

2. On 28/10/2015, Ms. Hina Rafique, through Mr. Faheem Akhtar Advocate, filed an objection petition with the Commission arguing that the above referred order, if implemented, will affect her privacy and that she had not been heard before the Commission passed the said order. It was further argued that the disclosure of legally privileged information as well as information about legitimate commercial interests of a public body is exempt u/s 13(c) and u/s 13(d) of the Act. The Counsel for Ms. Hina Rafique prayed for the issuance of the restraining order, which the Commission refused. However, parties were called for hearing on 06/11/2015, which was later rescheduled on the request of the petitioner's counsel for 23/11/2015. In the meanwhile, on 29/10/2015, the Complainant filed another application with the Commission, wherein she alleged that the requested information had not been provided to her, despite the above referred order of the Commission. She also expressed her apprehension that a part of the record may be destroyed, as the PIO had told her that all of the requested record is not available and can't be provided. It was further alleged that, among others, the Respondent and the PIO had also tried to threaten her.

3. The hearing on 23/11/2015 was attended by the Complainant, Ms. Sumera Naheed (who had been made a party in the petition filed by Ms. Hina Rafique) and Mr. Faheem Akhtar, Counsel of Ms. Hina Rafique. During the hearing, Ms. Sumera Naheed alleged that she had been terminated from service, as the management of the Judicial Academy suspected that the Complainant had moved the complaint on her behalf. The Complainant too alleged that the PIO had warned her to withdraw the complaint, otherwise Ms. Sumera Naheed would be terminated from service. It was also alleged that the management of the Judicial Academy, including the PIO, had been using the delaying tactics to

obstruct the disclosure of requested information and that the instant Objection Petition was a step taken with the same intention.

4. As regards the Objection Petition, the Complainant argued that the Objection Petition was not maintainable. Learned counsel on the other hand argued that his client had not been heard and that she is a necessary party in the case, as some of the requested information relates to her. When asked whether Ms. Hina Rafique was a party in the original before the Commission, he answered in negative but still insisted that the disclosure of information would affect her right to privacy. When asked to argue whether the Commission has the power to review its own orders, Mr. Akhtar referred to section 6(1)(c) of the Act, which empowers the Commission to resolve any inconsistencies in the application of the provisions of the Act. He also argued that various judgments of the higher courts allow a court to review its orders in the interest of justice, and that the Commission has powers of a civil court u/s 6(3) of the Act. The Commission, however, observed that the powers of the Commission u/s 6(3) of the Act are limited, and that the Act doesn't explicitly provide that the Commission can review its orders. Mr. Akhtar further argued that the Complainant has no *locus standi* in the case, and that the requested information involves privacy of the employees. The Complainant, however, argued that every citizen has a right to information. The Commission also drew the attention of Mr. Akhtar towards section 10(3) of the Act, which bars public bodies to require an applicant to disclose reasons for seeking information. The Complainant argued that the privacy can't be claimed in relation to documents submitted to get employment, especially when a person has been selected and has joined the job.

5. The Commission is of the view that it doesn't have the powers to review its orders and the petitioner may file a writ petition in the High Court, if she feels aggrieved. The objection raised about the *locus standi* of the Complainant is also of no legal merit, as already discussed in the Commission's order dated 13/10/2015. As regards the objection that Ms. Hina Rafique, being a necessary party, was not heard, the Commission holds that the record of the case didn't show her as a party, nor the information sought appeared to be specifically about her. Still, the PIO or the Respondent could have heard her, if they considered her a relevant party but they chose to abdicate their statutory responsibilities under section 10 and/or section 11 of the Act. Once the matter was brought before the Commission, it heard the parties mentioned in the record and passed its order on merit. Ms. Hina Rafique competed for recruitment and then promotions in a public body and, therefore, her documents can be disclosed in the interest of transparency and to dispel any impression of wrong doing in the minds of general public or competitors. The disclosure of information is not likely to cause harm to any of the legitimate interests of Ms. Hina Rafique or public body, as mentioned in section 13 of the Act. The Commission also notes with concern that

the PIO and the Respondent deliberately delayed implementation of the order dated 13/10/2015.

6. Resultantly, the Objection Petition is dismissed. The PIO is again directed to provide all the requested information to the Complainant latest by 01/12/2015, and submit a compliance report to the Commission. The Commission also directs to issue show cause notice to the PIO u/s 15 of the Act for delaying access to information beyond the time period specified in section 10 of the Act and the order of the Commission dated 13/10/2015. Copies of this order may be sent to the Complainant as well as to the parties mentioned in the Objection Petition of Ms. Hina Rafique for information.

Announced on:
25/11/2015

(Ahmad Raza Tahir)
Information Commissioner

(Mazhar Hussain Minhas)
Chief Information Commissioner

(Mukhtar Ahmad Ali)
Information Commissioner