ORDER SHEET

THE PUNJAB INFORMATION COMMISSION

64-Nursery Lane, Near China Chowk, Lahore, Punjab

Appeal No. 31-7-2023-3

Khalid Qayyum

VS

PIO of Home Department Punjab

Subject: **RTI Complaint (Appeal) Regarding Non-Provision of Public Information under the Punjab Transparency and Right to Information Act 2013**

24.08.2023 Complainant is not present.

Ms. Madeeha Tahir Shah Deputy Secretary (Gen)/PIO of Home Department is present to argue the claim of exemption already conveyed in writing for disclosure of sensitive information.

2. The complainant through his RTI Application sought disclosure of information (i) number of applications for issuance of Arm Licenses filed during past 2 years for Arm Licenses, (ii) number of successful applicants, (iii) break-up of Licenses issued to judges/advocates/ government servant/businessman etc, (iv) Rules governing the issuance of Arm Licenses, (v) Notification of constitution of Committee which approves issuance of Licenses and (vi) Minutes of Meetings of the Committee conducted during past 2 years.

3. PIO of Home Department did not bother to respond to the complainant within 14 working days in violation of his/her statutory obligation which is quite alarming. Commission can award penalty for said lapse but we contend only to draw their attention to the constitutional and statutory obligation of public bodies to put in place an efficient mechanism of conduct of RTI business marked with quick response by PIO & proactive disclosure through official website in terms of Sec-4 of RTI Act 2013.

4. The appearing Deputy Secretary/PIO has submitted in writing that the requisite information is of sensitive nature hence cannot be disclosed without consent of licensees as envisaged u/s 13 (1) (b) of RTI Act 2013.

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5. The sensitivity of any information is not a valid ground to claim exemption from disclosure under RTI Act 2013. As regard "legitimate privacy interest", it encompasses only such information which is personal to the person of any citizen. It is usually creation of mutual contract/agreement between two or more individuals. Such information/document creates rights and duties only inter-see the contracting individuals. Legally speaking such private information/ document relates to ***rights in personam*** *i.e.* personal rights & obligations occurring between privies to such information/document. Nikkahnama, Medical Certificates, Title Documents etc include such private information/document. A private information/document influence only persons concerned with it, therefore, legitimate privacy interest can be validly claimed only by someone having direct interest in it.

6. On the other hand public information/document legally speaking relates to ***rights in rem*** which means that society has some interest in such information/document. Any public information/document like issuance of Arm License, NOC for Petrol Pump, Driving License, Academic Testimonial etc or any other benefit, subsidy, concession, permit or authorization are issued by a public body at the cost of or exclusion of any other person from among the society, therefore, society as a whole has interest in it. Any citizen consequently can require the public body in exercise of fundamental right to information to disclose the *data* of such record to verify the entitlement or eligibility of beneficiary. Under sub clauses (i) & (j) of Sec-4 of RTI Act 2013, a public body is rather bound to proactively disclose the lists of such subsidies, beneficiaries, concessions, permits, licenses etc. Law does not approve to keep such information secret under self-created argument of sensitive information nor legitimate privacy interest attract to such information/document.

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6. There is yet another aspect as to the main object of the Punjab Transparency & Right to Information Act 2013. Its preamble states that it aims at accountability of public bodies in regard to discharge of their public functions. RTI law envisages a unique kind of accountability to just bring their output/delivery of services into public domain to create a deterrence against any element of discrimination or violation of rules & regulation. In short non-disclosure of information of beneficiaries tantamount to revoke the concept of accountability or public oversight to be carried out through access to information under RTI Act 2013.

7. The disclosure of information of one's holding Arm License cannot endanger his life rather it would contribute towards his safety creating a deterrence for nefarious elements. Home Department should avoid resistance for disclosure of information under hollow arguments lest civil society takes it as an effort to conceal some irregularities or violation of policy in issuance of arm licenses.

9. Punjab Information Commission in exercise of powers conferred under RTI Act 2013 made all offices of Deputy Commissioners Punjab to proactively disclose information in terms of Sec-4 of the Act. It is appreciated that they disclosed the details of all pending and disposed of applications for all kind of NOCs/Permits/Licenses etc in the same sequence as those were received/disposed of. Such arrangement prevents out of turn disposal based on personal influence or in violation of Policy/SOPs. Some diligent & upright Deputy Commissioners who were already averse to political & other extraneous pressures not only utilized said tool to ensure merit based service deliveries but also confided the efficacy of proactive disclosure under RTI Act 2013. Time has come for Home Department as well to comprehend the efficacy of proactive disclosure under RTI law for merit oriented services deliveries.

10. For what has been discussed above the argument of ***sensitivity of information*** is dispelled and Home Department is directed as under;-

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(i) The six pronged requisite information is directed to be disclosed within 7 working days after receipt of this order. One set of printed information duly attested by PIO shall be forwarded at the given address of complainant and one copy endorsed to Commission for official record.

(ii) The Commission in exercise of its powers conferred under sub clauses (a) & (b) of clause (5) of Sec-6 of RTI Act 2013 directs Home Department to make proactive disclosure of identities of beneficiaries of Arm Licensing during past 2 years along-with their professions as statutory obligation under sub clauses (i) & (j) of Sec-4 of RTI Act 2013.

(iii) On the pattern of all Deputy Commissioner Offices of Punjab, Home Department shall henceforth proactively disclose on website not only SOPs, Rules & Regulations of issuance of Arm Licenses, Permits etc but also upcoming Schedule of Meetings at-least one week before each meeting. Likewise pending applications must be disclosed in the same sequence as received along-with identities of successful applicants as well.

In doing so Home Department will not extend any sort of gratitude rather it would contribute towards transparency, merit oriented procedure & rule of law.

Copy of this order be forwarded to ACS Home Department Punjab as head of department through special messenger to pass necessary directions for designated PIO to implement the order in *stricto-senso*. PIO shall submit compliance report on 20.09.2023.

Announced

(Mahboob Qadir Shah)
Chief Information Commissioner

(Shaukat Ali)
Information Commissioner

(Dr. Arif Mushtaq Ch)
Information Commissioner

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