ORDER SHEET

THE PUNJAB INFORMATION COMMISSION

64 Nursery Ln, Near China Chowk, Lahore, Punjab.

Website: - https://rti.punjab.gov.pk

Appeal#10-1-2024-43

Nadia Hameed

Vs

PIO of Home Department GOP

Subject: **Complaint Regarding Non-Provision of Information under the Punjab Transparency and Right to Information Act 2013**

Order

26.02.2024

Present: Complainant and Mr. Muhammad Rafi Ahmed DD Law Home Department GOP are present.

2. Ms. Nadia Hameed Advocate High Court Lahore filed RTI Request to the Chief Secretary GOP for disclosure of Inquiry Report / Judicial Commission of inquiry constituted u/s 3 of Punjab Tribunal of Inquiry Ordinance 1969 in respect of an untoward incident of fire dated 05.02.1997 which led to loss of valuable properties of Christian Minority at twin villages of Shanti Nagar, Tibba Colony, Khanewal.

3. In response to above RTI Request, the citizen received a letter from Deputy Secretary (General) / PIO of Home Department dated 05.12.2023 with following reply;

> *"I am directed to refer to your application dated nil on the subject captioned above and to inform that disclosure of said information shall or likely to cause harm to National Defense or Security. Public order or International Relations of Pakistan, therefore, your request is hereby regretted u/s 13 (1)(a) of RTI Act 2013."*

4. The complainant was prompted to approach the Punjab Information Commission by filing RTI Complaint under Punjab Transparency & Right to Information Act 2013 leading to issuance of a notice to PIO of Home Department GOP.

5. Mr. Rafi Ahmed Law Officer Home Department has entered his appearance and has contested the disclosure of information on following grounds;

Ground # 1: *That the information is not available in Home Department;*

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Our view:

In case the requisite information is not available in Home Department, PIO in discharge of his statutory responsibility must transfer RTI Request to the PIO of office where the information is presently parked or available. In doing so he shall inform the Complainant and the Commission as well by endorsing copies of letters forwarded to such PIO.

Ground # 2: *That 15 years old official record of any department is destroyed, therefore, the questioned record being 27 years old can be hardly provided;*

Our view:

In case the requisite record of Inquiry Report/ Judicial Commission of inquiry has already destroyed under the Manual of Secretariat Instructions, then the certified copy of entry of such act in the relevant register of destroyed record must be furnished to the complainant with a copy endorsed to Commission.

Ground # 3: *That the complainant has filed RTI Request with intent to ultimately move for judicial inquiry, therefore, her bona-fides are questionable;*

Our view:

We are astonished to hear the argument of Learned law Officer that the complainant might use the information for a judicial inquiry, therefore, may not be provided. The RTI Law empowers citizens with certified copies of public record to pursue for any legal remedy available under the law. Law does not allow to decide the matters on the basis of someone's intentions and only the eligibility of citizen is kept in view for deciding any matter. Access to public information is a fundamental right of citizens under Article 19/A of the Constitution and unless the requisite information is exempted under Section 13(1) of RTI Act 2013, public body has statutory obligation to furnish certified copy within 14 working days. In our view the requisite inquiry report is not exempted under the law and Complainant is very much eligible under the law to have its certified copy as her fundamental right.

Ground # 4: *That the delay of 26 years to apply for disclosure of inquiry report dis-entitles the complainant to file RTI request;*

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Our view:

First of all, there is no limitation provided under RTI Act 2013 to have access to public information. Secondly, access to public information as fundamental right is an absolute and inherent right of citizens of Pakistan which cannot be denied on such flimsy ground.

Ground # 5: *That fundamental right to information was acknowledged with insertion of Article 19/A in the Constitution in the year 2010 which cannot apply retrospectively to access to public information of the year 1997;*

Our view:

The Learned Law Officer is advised to comprehend the significance of fundamental rights which are distinguished from ordinary rights. The ordinary rights accrue only when such rights are bestowed through ordinary legislations or framing of Rules & Regulations. However, fundamental rights are inherent rights of citizens considered to have been acquired by citizens since their birth as such are part & parcel of their personalities. Right to Information under Article 19/A of the Constitution is also one of fundamental rights and cannot be denied with such technical arguments.

Final Verdict:

6. In view of above discussion and analysis of arguments raised by Learned Law Officer Home Department, the instant RTI Complaint is allowed with a direction to disclose certified copy of Inquiry Report / Judicial Commission of Inquiry constituted u/s 3 of Punjab Tribunal of Inquiry Ordinance 1969 in respect of an untoward incident of fire dated 05.02.1997. Copy of this order be forwarded to both parties.

ANNOUNCED.

(Mahboob Qadir Shah)
Chief Information Commissioner

(Mr. Shaukat Ali)
Information Commissioner

(Dr. Arif Mushtaq Chaudhary)
Information Commissioner

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