order

THE PUNJAB INFORMATION COMMISSION

Complaint No 25-4-2025-10

M. Dilawer

Vs

DG Anti -Corruption Lahore

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

02.06.2025 Complainant is not present.

Mrs. Samia Assistant Director on behalf of respondent public body.

2. Complainant through his RTI application dated 27.03.2025 has sought provision of eight (8) documents. Respondent public body/Anti-Corruption Establishment Lahore (ACE) has submitted its reply dated 13.05.2025 before this Commission stating that the documents sought at Serial Nos. (a) and (h) are not available in the record of ACE. Enclosed with the said reply are documents required by the complainant excluding the ones enumerated at Serial Nos.e, f and g, regarding which ACE, while stating that those pertain to final report in the matter wherein the case was dropped and was sent to the concerned department, expressed inability to provide the same relying upon Rule 10(6) of Punjab Anti-Corruption Rules 2014, which reads as under;

> 10(6) *Copies of final report of the cases dropped shall not be supplied to anyone without the prior permission in writing of the Director at the region and Director General at the Headquarters.*

3. While refusing to divulge the information sought by the complainant, it is not the case of ACE that the said information is

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exempted from disclosure u/s 13 of Punjab Transparency & Right to Information Act 2013 ("RTI Act 2013") but only that the aforesaid Rule 10(6) prohibits such disclosure. Argument advanced by ACE is not supported by any of the provisions of RTI Act 2013, hence decision on this Complaint calls for evaluation of the effect of Rule 10(6) ibid. For the afore-stated purpose, questions such as inter-se operation and preferential effect of RTI Act, 2013 and ACE Rules, 2014 need to be evaluated.

4. ACE Rules, 2014 are executive pronouncement and were promulgated under the Punjab Anti-Corruption Establishment Ordinance, 1961, a statue enacted for the purpose of constitution of special agency for the investigation of certain offences, whereas RTI Act, 2013 is a legislative instrument, encoding will of legislature and provides a complete mechanism ,methodology and contours for exercise of constitutionally guaranteed right of access to information. Hence, not only that RTI Act 2013, being a special law on the subject of right of information takes precedence over ACE Rules, 2014 for the purposes of present complaint but also taking guidance from the jurisprudence settled by Hon'ble Lahore High Court in **2003 MLD 507 (Dr. Zahid Hussain Chohan Vs Islamia University Bahawalpur and others)**, this Commission is of the view that RTI Act, 2013 expressing will of the nation through their elected representatives forming legislature prevails over any contrary pronouncement contained in ACE Rules, 2014 framed by the executive. In the aforesaid judgment, it was held in unequivocal terms that "10.....*the Rules or the by-laws*

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made under the statues or Act cannot override the provisions of other statue".

5. Section 24 of RTI Act, 2013 is a non-obstante clause which creates overriding effect of the provisions of RTI Act, 2013 over those of any other law. Additionally, sub-section 2 of Section 24 specifically blocks the operation of any limitation on release of information, if such limitation is contained in any law other than RTI Act, 2013;

> 24: Act to take precedence over other laws:
>
> (1) The provisions of this Act shall take precedence over the provisions of any other law.
>
> (2) An exception mentioned in Section 13 shall take precedence and any exception or limitation in any other law on right to information may not be construed to extend the scope of the exception in this Act, although such provision in other law may elaborate on the exception mentioned Section 13.

Not only that the Punjab Anti-Corruption ordinance, 1961 does not contain any such non-obstante provision but Section 8 of the said law specifically declares that the provisions contained therein shall not be construed so as to derogate from any other law; meaning there by that the provisions of ACE ordinance, 1961 shall not hinder effect of any other law.

> (8) Provisions not in derogation of any other law:- the provisions of this ordinance are in addition to and not in derogation of any other law for the time being in force.

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6. While declaring that in presence of Section 13 read with Section 24 of RTI Act 2013, information cannot be withheld on the basis of Rule 10(6) of ACE Rules 2014, this Commission is guided by the principle laid down by Hon'ble Supreme Court of Pakistan in **2023 SCMR 1407 (Messrs Rajby Industry Karachi and others Vs Federation of Pakistan and others), 2021 SCMR 201 (Federal Govt employees Housing foundation Vs Malik Ghulam Mustafa and others)** and **2017 SCMR 1218 (Syed Mushahid Shah and others Vs FIA and others).**

7. From the comparison of applicable statues and precedents laid down by the Hon'ble Superior Courts of Pakistan, the inescapable deductions are:-

i) RTI Act, 2013, being special law on the subject of access to information shall prevail over any contrary provision contained in any other law including the Punjab ACE Ordinance, 1961 as well as rules framed under the same.

ii) In the present case, there is no conflict between provisions of two statues; rather the conflict is rooted in Rules framed by executive which run contrary to the legislative provisions. Such rules, when collide with provisions of any statue shall give way to the provisions of the latter.

In light of the above discussion, this complaint is allowed and objection taken by respondent public body is repelled, which is directed to provide certified copies of the documents mentioned at Serial Nos. e, f and g of RTI

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Application to the complainant within 07 days , under intimation to this Commission.

8. In addition to deciding complaint arising out RTI Act 2013, this Commission is further tasked with the following functions under Section 6(5)(c) of RTI Act, 2013 read with Rule 10(2)(a) of RTI Rules, 2014;-

Section 6: Functions of the Commission:

(5) The Commission shall facilitate the application of the provisions of this Act and may–

(c) advise and provide support to the Government to make necessary laws and procedures for implementation of right to information.

Rule 10: Functions and Powers of the Commission:

(2) This Commission may:

(b)Examine various laws, rules, policies, by-laws, regulations or instructions and may suggest amendments to bring the law in conformity with the provisions of the Act.

9. Copy of this order shall be sent to Additional Chief Secretary, Services and General Administration Department (S&GAD), Government of the Punjab with a recommendation that necessary amendments be brought in the ACE Rules, 2014 in order to bring the same in conformity with RTI Act, 2013.

(Bushra Saqib)
Information Commissioner

(Muhammad Malik Bhulla)
Chief Information Commissioner

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