order

THE PUNJAB INFORMATION COMMISSION

Complaint No 24-4-2025-6

Arif Iqbal

VS

Secretary PPSC Lahore

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

09.09.2025 Complainant is not present. Mr. Saad Ali Law Officer is present on behalf of respondent public body.

2. In his RTI application dated 03.04.2025, the complainant required respondent public body to provide final merit list alongwith marks of all the candidates recruited against the post of subject specialist English. Vide order dated 17.06.2025, PIO of PPSC/respondent public body rejected the aforesaid application citing Regulations No. 34(b) and 34(c) (vi) of Punjab Public Service Commission Regulations, 2022 ("PPSC Regulations, 2022") which prohibit disclosure of information sought by the complainant in the following manner;

> 34(b) Information regarding other candidate(s) shall not be shared except the merit list, available on PPSC Website.
>
> 34(c) Following documents/information are declared as privileged/ classified and shall not be shared or permitted to be seen by the candidates:
>
> vi) Merit list with marks of written examination/test and interview marks of other candidates.

3. In support of his RTI Application, complainant relies upon judgments passed by Hon'ble Supreme Court of Pakistan in **2017 SCMR 637** (Suo Moto Action regarding eligibility of Chairman and Members of Sindh Public Service Commission), Hon'ble Sindh High Court in **CP No. D-1708** (Zahid Hussain & 15 Others Vs Province of Sindh & others), **CP No. D- 1079 of 2023** (Malik Muneer & 15 others Vs Province of Sindh & others) and Hon'ble Islamabad High court in **W.P#1542/2022** (Chairman Federal Public Service Commission through its Assistant Director Vs Federation of Pakistan through Secretary Ministry of Information & Broadcasting Islamabad &

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others). Counsel appearing for respondent public body objects upon application of the aforstated judgments and states that the same are distinguishable on facts since in 2014 SCMR 637/201 and CPs No. D-1708 and D- 1079 of 2023, it was the procedure adopted for recruitment against a certain post, which was challenged. In 2017 SCMR 637 Hon'ble Supreme Court of Pakistan while evaluating eligibility of members of Sindh Public Service Commission, issued guidelines for all future recruitments in Paragraph No. 26 of the said judgement while holding that marks of written test as well as interview should be publicly displayed on Public Service Commission's Website. The said ratio was followed by Hon'ble Sindh High Court in Cps CP No. D-1708 (Zahid Hussain & 15 others Vs Province of Sindh & others), CP No. D- 1079 of 2023. Even if factual matrix before Hon'ble Supreme Court of Pakistan was different then what is before this Commission, law laid down by Hon'ble Supreme Court of Pakistan is binding upon all courts as well as all executive and judicial authorities of Pakistan as dictated by Articles 189 and 190 of Constitution of Islamic Republic of Pakistan, 1973. W.P No 1542/2022 was filed by Federal Public Service Commission against an order of Federal Information Commission directing the said Commission to release names as well as marks obtained by each candidate during a certain recruitment process and the said petition was dismissed while upholding the order of release of information, which is identical to the information sought by current complainant.

4. Counsel for respondent public body submits copy of judgement dated 16.09.2019 passed by Hon'ble Lahore High Court in **W.P No. 741/2019** (Fouzia Noreen Vs Secretary PPSC) in which release of answer sheet was denied on the basis of a policy decision made by respondent public body. His contention appears to be that it is the policy decision, and in this case Regulation No. 34(b) and 34(c), which are to be followed and since Hon'ble Lahore High Court, Lahore refused to provide a document declared to be classified by respondent public body, same principal should be applied here on the basis of Regulations No. 34 (b) and (c). The aforesaid judgement dated 16.09.2019 was passed in writ jurisdiction in which the petitioner did not seek to exercise her right to information under

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Article 19 of Constitution or under Punjab Transparency &Right to Information Act, 2013 ("RTI Act, 2013"), neither the effect of aforesaid provision and statute was discussed by the Hon'ble Court. As is obvious from paragraph no 5 of the said judgement, had the petitioner challenged vires of policy of respondent public body, outcome could have been different. While deciding this Complaint, this Commission must look at provisions of both PPSC Regulation, 2022 and those of RTI Act, 2013. Such evaluation, being not a moot point before Hon'ble LHC, judgement under reference is sub-silencio on the issue at hand.

5. While refusing to divulge information sought by the complainant, it is not the case of PPSC that the said information is exempted from disclosure u/s 13 of RTI Act, 2013 but only that the aforesaid Regulations No. 34(b) & 34(c) prohibit such disclosure. Argument advanced by PPSC is not supported by any of the provisions of RTI Act, 2013, hence decision on this Complaint calls for evaluation of the effect of Regulations No. 34(b) & 34(c). For the afore-stated purpose, questions such as inter-se operation and preferential effect of RTI Act, 2013 and PPSC Regulations, 2022 need to be evaluated.

6. PPSC Regulations, 2022 are executive pronouncement and were promulgated under the Punjab Public Service Commission Ordinance 1978; a statue enacted for a constitution of special agency for the purpose of recruitment against public posts in Punjab, 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 PPSC Regulation, 2022 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 PPSC Regulation, 2022 framed by the

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executive. In the aforesaid judgment, it was held in unequivocal terms that "10.....*the Rules or the by-laws made under the statues or Act cannot override the provisions of other statue".*

7. 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.

While declaring that in presence of Section 13 read with Section 24 of RTI Act, 2013, information cannot be withheld on the basis of PPSC Regulations, 2022, 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).**

8. 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 PPSC Ordinance, 1978 as well as regulations framed under the same.

ii) In the present case, there is no conflict between provisions of two statues; rather the conflict is rooted in Regulations framed by an executive agency which run contrary

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to the legislative provisions. Such regulations, when collide with provisions of any statue shall give way to the latter.

9. 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 information/documents to the complainant within seven (07) days, under intimation to this Commission.

10. 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.

Copy of this order shall be sent to Secretary PPSC with a recommendation that necessary amendments be brought in PPSC Regulations, 2022 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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