IN THE PUNJAB INFORMATION COMMISSION

Ch Abdullah

Vs

Director Land Reclamation Lahore

Subject: **Review Petition against order dated 20.08.2018 passed under the Punjab Transparency and Right to Information Act 2013**

Order

20.04.2019

Rana Muhammad Iqbal/Director Land Reclamation and Tariq Yameen, Junior Research Officer/PIO of Directorate of Land Reclamation Punjab have filed the instant Review Petition directed against the order dated 20.08.2018 whereby both officials were found to have unjustifiably declined the provision of public information and to willfully defy repeated order of the Punjab Information Commission (PIC) for the same purpose hence liable u/s 15 of the Punjab Transparency and Right to Information Act 2013. Consequently, each of them was imposed fine Rs.50, 000/- to be deducted from their salaries vide impugned order dated 20.08.2018.

2. The grounds for seeking review are that the impugned order offends the principals of natural justice, that the Complainant never visited the office of respondent to collect the information, that the order was not in the knowledge of Tariq Yameen, Junior Research Officer, for remaining on flood duty out of office and Rana Muhammad Iqbal/Director, was also unaware of it and first time read RTI application on 27.08.2018 i.e after passing of impugned order, that the application was based on malafides as the applicant had been committing mischievous activities against Rana Muhammad Iqbal/Director and finally the both petitioners always discharged their duties with professional honesty and seek protection against malicious initiatives.

3. The RTI application was filed to Tariq Yameen/PIO on 27.09.2017 followed by filing RTI complaint to PIC ON 13.10.2017 after a lapse of 16/17 (one can approach PIC 14 days after filling of RTI application). The Commission issued five notices to Mr. Tariq Yameen/PIO dated 17.10.2017, 01.11.2017, 20.11.2017, 30.11.2017, and dated 13.11.2017. Final notice dated 07.08.2018 was issued calling upon Rana Muhammad Iqbal (head of Administrative unit) to personally appear on 20.08.2018 along-with requisite information clearly indicating legal action u/s 15 if failed to appear. The contents of last notice clearly indicated the seriousness of matter and a copy of it was also forwarded to Secretary Irrigation with direction to ensure personal appearance of Rana Muhammad Iqbal.

4. PIO/SO (A&B) issued a letter dated 10.10.2017 to the Director Land Reclamation Punjab (one of petitioners) forwarding a copy of original RTI application with request to treat the matter as top priority and a copy of same letter was also forwarded to PA to Deputy Secretary (Gen) Irrigation Department. It reflects that RTI application of Ch Muhammad Abdullah was circulating at different levels Irrigation department. it is verified from the fact that Chief Engineer Research Zone Lahore also forwarded a copy of RTI complaint to Tariq Yameen/PIO vide his letter dated 17.10.2017 emphasizing the compliance in accordance with law and PIO/SO (A&B) again acknowledged the pendency of RTI complaint in his letter to applicant/complainant dated 01.11.2017, copy where-of was forwarded to Rana Muhammad Iqbal (Review Petitioner). Thus no doubt is left as to broad-based knowledge of pendency of complaint in irrigation department

5. There is reflection of lingering anonymosity and bad blood between Ch Muhammad Abdullah/Complainant and Rana Muhammad Iqbal/Review Petitioner. A letter dated 10.10.2017 purportedly issued by Director Land Reclamation Punjab as a counter blast to Mr. Muhammad Abdullah requiring him to furnish a large number of documents lying in his custody, where upon the complainant protested through his reply dated 08.11.2017 addressed to PIO

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stating that he was an ordinary citizen and not a public body hence he could not be demanded for provision of public information, further stating that Tariq Yameen/PIO being a subordinate officer to Rana Muhammad Iqbal/DLR was not responding to his lawful request of provision of public information under his pressure. Rana Muhammad Iqbal could not hide his sentiments during arguments stating that the applicant/complainant being an ex-employee of Irrigation Department had been victimizing, vilifying and persecuting him on religious faith ground thereby causing him mental torture and harassment and the RTI application was also in the wake of same malice. The applicant/complainant contraverted said allegation and Commission has also decided to ignore the nature of personal relationship of complainant and respondent and to decide this complaint purely in the light of provisions of law declaring the provision of public information to citizen not as a privileged but as their fundamental right under the law and Constitution of Islamic Republic of Pakistan.

5. We have heard the arguments and gone through the record. We are of the considered view that where "Review" as a statutory remedy is not available to a legal forum as a matter of a course and where such forum was created by a special statute which finds itself helpless to review its own order effecting the rights of parties, then a citizen aggrieved from its order or decree can file a "Review Petition" before the same forum/court which passed the impugned order. In this regard the Commission owes for the said wisdom in keeping with the dictum of Hon'ble Superior Courts laid at following citations.

2018 CLC 1050 (PSH)
1995 PLD 577(KHI)
2012 CLC 1418 (PSH)
1992 CLC 1164 (LHR)
2005 PLD SC (311)

6. As already observed on the basis of over-whelming record during of a span of more than 10 months that all round knowledge of Irrigation department as to pendency of RTI application of Ch Abdullah is fully established and the contention that complainant first of all read RTI application on 28.08.2018 (i.e 7

days after passing of impugned order) is not tenable under the circumstance. At the same time the Commission does not find any incidence of violation of principles of natural justice as against petitioners. The provisions of the Punjab Transparency and Right to Information Act 2013 do not allow withholding of public information on any ground except u/s 13 of RTI Act 2013 therefore, the defense of failure of applicant to himself collect the requisite information is repelled. Rana Muhammad Iqbal was repeatedly reminded through Directives issued to PIO and final direction directly addressed to him in addition to a number of directions issued by different authorities within Irrigation Department but he failed to comply with statutory obligation.

7. The Commission made all possible efforts for DLR Punjab to respond to RTI application within stipulated period of maximum 28 days but he unfortunately kept the application pending for more than 10 months uptil 20.08.2018 when the impugned order was passed. We are of unanimous view that he deliberately defied his statutory obligation and repeated directions of the Commission probably out of bad blood created due to alleged vilification campaign launched by Ch Muhammad Abdullah to persecute Rana Muhammad Iqbal on account of his faith. In case of genuine grievance, Rana Muhammad Abdullah could resort to legal action against complainant but there was no justification to resist the discharge of his legal obligation under RTI Act 2013.

8. Consequently this review petition is dismissed on merits. However we are inclined to appreciate the humanitarian aspect that Rana Muhammad Iqbal/DLR has meanwhile retired from the service , therefore, a compassionate view is taken to reduce his penalty from Rs. 50,000/- to Rs.15,000/- as the spirit of law is not to collect revenue but to punish the infringement of law taking care of financial position and material hardships.

9. As regards the case of Tariq Yameen, Junior Research Officer, he has submitted irrefutable document i.e a copy of officer order No.2971/87M dated 08.09.2017 whereby office order dated 25.02.2017 of his appointment as Public Information Officer was withdrawn/canceled with immediate effect. It is explained that he was entrusted with flood duties ending his office duties as PIO.

No document to rebut said office order was produced nor Ch Muhammad Abdullah took a contrary view. Therefore the Commission giving him a benefit of doubt is inclined to recall/set aside the penalty imposed upon him vide order dated 20.08.2018.

10. The review petition is disposed of accordingly and a copy of this order be forwarded to Accountant General Punjab to implement the same in supersession of earlier order conveyed through letter No. PR-02/HM/750 dated 19.10.2018.

Announced

(Saeed Akhter Ansari)
Information Commissioner

(Hassan Iqbal)
Information Commissioner

(Mahboob Qadir Shah)
Chief Information Commissioner