ORDER SHEET
PUNJAB INFORMATION COMMISSION
64-Nursery Lane Lawrence Road Lahore.
042-99205794, rti.punjab.gov.pk

Muhammad Salman

VS

Deputy Commissioner Lahore

Subject: APPEAL / COMPLAINT REGARDING NON-PROVISION OF INFORMATION UNDER THE PUNJAB TRANSPARENCY AND RIGHT TO INFORMATION ACT 2013

07.09.2021 Complainant is present.

Sub-Registrar or any representative on his behalf has not turned up during office hours.

2. Commission has however received through a dispatcher a reply of Sub-Registrar Data Gunj Bukhsh Town dated 00/09/2021 which states as under;-

> *"The subject property and its alienation whatsoever has been stayed vide status-que order Issue by Mr. Mubassar Hussain Awan Hussain Learned Civil Judge 1st class, Lahore in a Civil Suit titled as Madrissa Anjuman-e-Nomania Lahore VS Mr. Muhammad Salman etc. dated 04.09.2021 (copy enclosed). The same is being forwarded to your good office for favour of your kind perusal, please."*

3. The reply also encloses copies of a Civil Suit titled "Madrissah Anjuman-e-Nomania" VS Muhammad Salman etc" along-with a stay order dated 04.09.2021 which is reproduced below;

> *"Relying upon affidavit and other documents, subject to service of notices, respondents/defendants are restrained not to interfere into peaceful possession of petitioner/plaintiff and not to further alienate the suit property illegally and unlawfully till next date. However, this order shall cease to have its effect*

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automatically if not extended on next date of hearing. This order shall not affect the proceedings of any other competent court or forum"

4. As per record the plaintiff prayed for following three reliefs;

   i. To restrain respondents from interreference into peaceful possession of petitioner/plaintiff;

   ii. To restrain further alienation of suit property, and

   iii. To restrain respondents No. 4 to 6 to issue certified copy of sale deed.

5. The learned Civil Court did not oblige the plaintiff to pass a restraining order against issuance of a certified copy of public record. Thus, Sub-Registrar can no longer resist under the pretext of pendency of civil suit.

6. It has been time and again clarified that "transparency" through issuance of certified copies of public information, as held by public bodies, unless exempted u/s 13 (1) of RTI Act, 2013, is mandatory obligation under the RTI Act, 2013. The access of citizens to public information "as it is maintained in official record" is a fundamental right of citizens. If citizens are deprived of access to public information they are obviously handicapped to even vindicate their rights in courts of law, what to talk of ensuring accountability of Government departments as provided in the "pre-amble" of RTI Act, 2013. It is for courts of law to finally decide what is fake or genuine but withholding of public record, by public functionaries, though maintained by themselves, under the assumption of fakeness, certainly amounts to playing mischief with public functions and to flout the constitutional obligation of "transparency" enshrined under Article 19/A of the Constitution. Moreover, the non-disclosure of public information

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adversely effects even the court proceedings by preventing citizens to properly assist the court. The Commission did address the assumption of fakeness by directing to issue certified copy with a note of "Subject to all Just and Legal Exceptions".

7. The Commission firstly passed a positive order on 22.06.2021 to issue certified copy of public record with a note "Subject to all just exceptions" but it was never implemented. On 24.06.2021 Sub-Registrar personally appeared and a comprehensive order was passed, thrashing out all legal and factual aspects, but the direction again met the same fate. The disclosure was again reiterated vide order dated 12.07.2021 with a warning of award of penalty u/s 15 of RTI Act, 2013 but of no avail. It was finally directed vide order dated 25.08.2021 that having no regard to the stated dissimilarities between the original registered sale deed produce by the complainant and the one available in official record, disclosure of public record cannot be withheld forever. The determination of genuineness of document always rests with the court of law. In view of such long drawn resistance the Commission is forced to declare that Sub-Registrar is willful violator of constitutional obligation.

8. It is regrettably observed that even long drawn restraint to invoke the power of award of penalty U/S 15 of RTI Act, 2013 failed to produce positive results. Sub-Registrar Data Gunj Bukhsh Town has malafidely denied to implement the order of Commission bringing his case within the ambit of Section 15 of RTI Act, 2013. In view of his personal contest and defiance to comply the order of disclosure of public information leaves no doubt for his personal liability.

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9. The Commission having lost all hopes for prevalence of sanity and after holding Sub-Registrar Data Gunj Bukhsh Town as a willful violator of law and orders of Commission have no choice but to invoke powers of award of penalty u/s 15 of RTI Act 2013. He is consequently awarded penalty/fine not exceeding his two days' salary for each day of delay since 22.06.2021 (when the Commission passed first direction) till to-date or to pay Rs. 50,000/- in lieu thereof, whichever is lesser. A copy of this order be forwarded to Accountant General, Punjab with a direction to accordingly deduct the amount of penalty/fine from the salary of Hafiz Muhammad Imran, Sub Registrar Data Gunj Bukhsh Town, Lahore subject to submitting a compliance report within a weeks' time.

10. As regards the question of disclosure of certified copy of public information held by the office of Sub-Registrar Data Gunj Bukhsh Town, in the manner directed by the Commission, the responsibility is assigned to Additional Deputy Commissioner (G) Lahore who is overall administrative head of all Sub-Registrars Lahore. He will accordingly ensure the disclosure of public information within 10 days and to submit compliance report on or before 20.09.2021. A copy of order be forwarded to ADC (G) Lhr. Announced.

11. To come up on 20.09.2021 for further proceedings.

07.9.2021

(Mahboob Qadir Shah)
Chief Information Commissioner

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Intimated Both the Parties. But none appeared. Moreover, the order of ours dated 28/08/2021 & 24/06/2021 has been suspended by Honorable, Lahore High Court, Lahore. Case fixed for Hearing on 28/10/2021. Be Letter written in 28/6/21 for order Copies which is ADL.