

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 763-12-2020

Abdullah Malik

Versus

Federal Board of Revenue

Date: 16.7.2021

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr Abdullah Malik, President, Peoples Justice Forum and a known human right activist through his application dated 24.11.2020, under the Right of Access to Information Act, 2017, addressed to the Chairman, Federal Board of Revenue; Islamabad has requested the information/record. The text of his application is reproduced as under:

“It is requested that please provide the detailed information at the given format regarding vehicles which were taken into custody due to non-payment of custom duty from 1.1.2015 till to date and under what law an officer is using the same vehicles for their personal use as in Lahore the additional collector is using the said vehicles and there are four vehicles parked outside his residence 15-B, Askari 10, Lahore and the same were caught by the custom department Lahore for non-payment of custom duty. In 2018 the Chief Justice Supreme Court of Pakistan took the Sue Moto notice for misuse of unauthorized vehicles like land cruiser etc and the same is still pending but in spite of said notice the officer of FBR are still using the said vehicles un authorizingly and the act fall under misuse of power / authority serious action may be taken against them and the same may be communicated to the undersigned. We hope that your office will take serious notice at my complaint as the Prime Minister of Pakistan has already want to see corruption free FBR.”

2. Feeling aggrieved for the non-provision of the requested information and record within the stipulated frame of time provided in the Act, the appeal is filed before the Pakistan Commission on access to information.

B. PROCEEDINGS

3. The Secretary (DT-FATE) vide letter dated 29.1.2021 replied to the appellant as under:

“ I am directed to refer to the Hon’ble Pakistan Information Commission’s letter dated 30th December, 2020 in an appeal No. 763-12/20 on the subject and to say that information related to seizures of non-duty paid vehicles (non-tempered) is hereby enclosed.

I am further directed to say that no officer of the concerned formation resides at the given address nor is in possession of four vehicles as mentioned by you. Further, no officer is authorized to use non-custom paid vehicles for personal/operational purposes and only tempered vehicles are used for operational purposes as per policy of FBR.”

4. The appellant expressed his displeasure to the later part of the reply submitted by FBR terming it incomplete and charging the organization for concealing of the true facts. In rebuttal he has further documented the appeal with the photo snaps of the vehicles parked outside the house of the alleged officer residing in house number 15-BAskari 10, Lahore Cantt. The detail of the vehicles is given below:

- i. LWN 5742 Mercedes
- ii. MNW 9408 Government of Pakistan BMW
- iii. MNW 9764 Government of Pakistan LAND CRUISER
- iv. MNW 9931 Government of Pakistan

5. Since misuse of authority was alleged by the appellant therefore the Commission referred the matter to the Chairman, FBR for inquiry into the matter and to submit report before the Commission. The Chief Collector of Customs (Appraisalment) on the direction of the Chairman conducted inquiry and in the light of the autopsy provided the following information and record:

“The summary of Vehicles (NDP & Tampered) from 01.01.2015 till date, in accordance with the Section 155H of the Customs Act, 1969, is summarized below:

Non-Duty Paid Vehicles (01.01.2015 till date):

Formations	Total No. of seized NDP vehicles	No. of vehicles released	No. of vehicles auctioned	No. of vehicles under adjudication	Pending
DG I&U- Customs	3207	104	2679	131	293

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<i>Enf Lahore</i>	321	34	246	23	18
<i>Enf Multan</i>	414	20	329	0	2
<i>Sailkot</i>	97	0	64	21	12
<i>Enf Karachi</i>	336	37	93	74	132
<i>Hyderabad</i>	187	30	145	8	4
<i>Enf Quetta</i>	6,110	118	4,056	0	1,936
<i>Gwadar</i>	2,33	0	140	0	93 (Under auction)
<i>Enf Peshawar</i>	888	60	658	38	132 (under auction)
<i>D.I Khan</i>	21	0	0	21	0

Tampered vehicles (01.01.2015 till date):

Collectorate	Total No. of tampered vehicles	No. of not road-worthy vehicles	No. of vehicles sold to other departments	No. of vehicles allotted for operational use	Under adjudication
<i>DG I&U-Customs</i>	495	34	100	123	24
<i>Enf Lahore</i>	291	168	15	108	0
<i>Enf Multan</i>	188	0	34	154	0
<i>Sailkot</i>	46	7	1	12	17
<i>Enf Karachi</i>	111	21	9	64	10
<i>Hyderabad</i>	47	7	2	37	1

<i>Enf Quetta</i>	174	0	91	83	0
<i>Gwadar</i>	32	24	0	8	0
<i>Enf Peshawar</i>	163	47	52	63	1
<i>D.I.Khan</i>	0	0	0	0	

6. The report was shared with the appellant who has expressed his concern for not providing complete information and record, requested in his application with reference to the Suo Motu case No.11/2018 wherein the Hon'able Supreme Court of Pakistan during the proceedings directed the Chairman FBR that all vehicles which are beyond the entitlement of the officers be immediately withdrawn from all officers. He was also directed to submit an affidavit in the Supreme Court to the affect that such vehicles, either confiscated/tampered/purchased, beyond the entitlement of the officers have been recalled from all officers in the FBR (HQ) and field formations of PCS and IRS and that the same have been parked and are no more in use of any officer. Further that besides identified luxury vehicles which have been grounded, no luxury car/jeep beyond the entitlement of the officers will be in use of any officer whatsoever. The appellant has desired the detailed information in this regard as to whether the compliance of the orders of the Supreme Court has been made in letter and spirit. In the later part of the request he has specifically asked for the information regarding the action taken against the officers misusing the authority and the detail of the vehicles that are confiscated from them in compliance of the orders of the Supreme Court.

C. COMMISSION'S VIEW

7. The Honorable Supreme Court of Pakistan during the proceedings of suomoto case no. 11/2018 directed the Chairman FBR to move a summary to ECC for the review/recall of ECC's earlier decision made in Case No. 44/3/2006, dated 03.03.2006, regarding use/disposal of tempered vehicles. The Chief Justice was informed that all vehicles which are beyond the entitlement of the officers are being withdrawn from all officers without fail. The Chairman FBR

was also directed to submit an affidavit in the Supreme Court to the affect that such vehicles, either confiscated/tampered/purchased, beyond the entitlement of the officers have been recalled from all officers in the FBR (HQ) and field formations of PCS and IRS and that the same have been parked and are no more in use of any taxmen. Further that besides identified luxury vehicles which have been grounded, no luxury car/jeep beyond the entitlement of the officers will be in use of any officer whatsoever.

8. The respondent organization has although provided the lists of non-duty paid and tempered vehicles from 01.01.2015 till date but has not provided the list of vehicles withdrawn from all officers, beyond the entitlement of the officers in the FBR (HQ) and field formations of PCS and IRS, in compliance of the direction of the Supreme Court and the affidavit submitted in the Supreme Court to that affect. The appellant has desired the provision of that list as well in his rejoinder.
9. Under article 189 and 190 of the Constitution of Islamic Republic of Pakistan 1973 judgment of Supreme Court is binding on each and every organ of the state. All the public organizations are under obligation to obey and implement the order of the Supreme Court in letter and spirit.
10. Article 19A of the Constitution of Pakistan read with Right of Access to Information Act, 2017 envisages the disclosure of all matters of public importance. Further, the information and record submitted in the courts are public record in the light of Article 85 of the Qanun-e-Shahadat Order, 1984.
11. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption, nepotism, misuse of authority and power and inefficiency in the governance.

D. ORDER

12. The appeal is allowed. The Public Information Officer/ Secretary (DT-FATE), Federal Board of Revenue is directed to provide the

appellant the list of vehicles withdrawn, beyond the entitlement of the officers in the FBR (HQ) and field formations of PCS and IRS, in compliance of the direction of the Supreme Court in suomoto case no. 11/2018 and the affidavit submitted in the Supreme Court to that affect.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 05.01.2022

Certified that this order consists of six (6) pages, each page has been read and signed.