



In the Pakistan Information Commission, Islamabad
Appeal No 1737-02/22

Naeem Sadiq

(Appellant)

Vs.

Federal Government Employees Housing Authority

(Respondent)

ORDER

Date: June 06, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated February 08, 2021, to the Director General, Federal Government Employees Housing Authority, on January 04, 2022 stating that he submitted an information request to the under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
 - i. *“Kindly intimate the total number of sanitation staff/ janitors employed in your organization through 3rd party contractors.*
 - ii. *Kindly intimate the exact actual monthly salary paid to this staff.
(please do not mention what your contract says, but the actual salary received by the sanitation / sanitary staff,)*
 - iii. Please mention if this staff is registered with EOBI. If so please mention the EOBI number against each sanitary worker.
 - iv. Please mention as to why they have not been made regular and kept in a cruel exploitative (3rd party) status for past many years.
 - v. Kindly mention the exact time by which the above mentioned illegal and immoral practices will be put a complete halt and the rights of these individual restored. This must be done immediately, as your actions are equivalent to indulging in criminal modern-day slavery.

B Proceedings

3. The commission held hearing on March 17, 2022 vide letter dated February 28, 2022.
4. The Respondent provided requested information to the Appellant on the intervention of this Commission.
5. On May 31, 2022, the Appellant submitted his rejoinder to the information submitted by the Appellant and its relevant portions are as under:
“Reference your Information sharing letter on Appeal no. 1737-02/22 dated May 24, 2022.
The Information supplied is completely unsatisfactory.

Information asked by applicant	Answer by FGEHA
Kindly intimate the exact actual monthly	The FGEHA has given irrelevant

salary paid to this staff. (Please do not mention what your contract says, but the actual salary received by the sanitation / sanitary staff.)	documents not asked for, such as a Tender document and an internal letter of the contractor. Both were neither asked nor required. The specific answer of the actual salary paid to each janitor is not provided.
Please mention if this staff is registered with EOBI. If so please mention the EOBI number against each sanitary worker.	No evidence given by FGEHA that all janitors are registered with EOBI. Letter of registration to EOBI for each janitor is the only evidence that should have been given.
Please mention as to why they have not been made regular and kept in a cruel exploitative (3 rd party) status for past many years.	No reason has been provided.
Kindly mention the exact time by which the above mentioned illegal and immoral practices will be put to a complete halt and the rights of these individuals restored. This must be done immediately, as your actions are equivalent to indulging in criminal modern-day slavery.	No reason or time frame provided.

C. Discussion and Commission's View on Relevant Issues

6. This commission concurs with the Appellant that with response to the actual salary paid to the sanitation / sanitary staff, the Respondent, "FGEHA has given irrelevant documents not asked for, such as a Tender document and an internal letter of the contractor. Both were neither asked nor required".
7. This commission also holds that the Respondent has not provided requested information as to whether its staff is registered with EOBI.
8. This commission holds that it is responsibility of the Respondent, FGEHA, being principal employer, to ensure that all laws of minimum wage are fully implemented even when sanitation / sanitary staff is employed through third party.
9. This commission is of the view that the requested information about the steps taken by the Respondent, FGEHA to protect legal rights of the contracted sanitation / sanitary staff to minimum wages and access to allied facilities is of public importance and hence be made available to the Appellant.
10. This commission holds that it is responsibility of the Respondent, FGEHA to keep records of the means of verification to ensure that the contractor is actually providing the minimum wages to sanitation / sanitary staff along with the allied facilities.
11. This commission also holds that expecting contractors to abide by the labour laws of the land, without ensuring implementation of these laws by seeking means of verification from the contractors is not only tantamount to violation of legal obligations on the part of the relevant officers of the Respondent, FGEHA but it also tantamount to throwing the employees at the mercy of market forces.
12. It is responsibility of the Respondent, FGEHA to maintain and disclose records pertaining to the current monthly salary actually paid to sanitation / sanitary staff, their duty hours, information about weekly holiday, number of sanitation / sanitary staff registered with EOBI along with EOBI registration numbers of those registered with EOBI, information total number of sanitation / sanitary staff registered with Social Security along with Social Security registration numbers of those registered with Social Security.

13. The disclosure of the requested information will shed light on how public funds are being spent through the contractor and the extent to which the Respondent, FGEHA has ensured that these public funds are spent in line with the laws of the land.
14. In the instant Appeal, Sindh High Court Constitutional Petition No. D-852 of 2019 Dated 10 March 2021 is also relevant. While dealing with the question as to whether the employees of a labour contractor can be considered as the employees of the establishment, where they work through labour contractors, the Honourable Sindh High Court refers to the Honourable Supreme Court judgment (2013 SCMR 1253) by saying, “ In the case where an employer retains or assumes control over the means and method by which the work of a Contractor is to be done, it may be said that the relationship of employer and employee exists between him and the employees of the contractor. Further, an employee who is involved in the running of the affairs of the company; under the direct supervision and control of the company; working within the premises of the company, involved directly or indirectly in the manufacturing process, shall be deemed to be employees of the company. The Honourable Sindh High Court judgment further declares, “Keeping in view the rule of parity and equity, all the janitorial staff even if considered to be the employees of the contractor, which is not the correct position, they have been performing duties of permanent nature ought to have been on regular strength of respondent-cantonment boards.”.

D. Order

15. Appeal is allowed. Director General, Federal Government Employees Housing Authority is directed to provide the Appellant information requested in para 2 of this Order within 7 working days of the receipt of this Order.
16. Copies of this Order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: June 06, 2022

This order consists of 3 (three) pages, each page has been read and signed.