

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1544-12-2021

Mariam Malik

versus

Prime Minister Office

Date of Hearing: 24.2.2022

Fawad Malik: Information Commissioner

Present: Mr. Naveed Khalid, Deputy Secretary (Admin) on behalf of the Prime Minister's Office (Public). Miss Mariam Malik, appellant present in person.

A. APPEAL.

1. Ms Mariam Malik filed the appeal dated December 14, 2021 before the Pakistan Commission on access to information complaining therein that the Prime Minister's Office failed to provide the requested information.
2. Through application dated December 1, 2021 addressed to the Deputy Secretary, EA II, Prime Minister's Office, Islamabad, she has asked for the information and record pertaining to File 1(1)/SI/2020/28 invoking the Right of Access to Information Act, 2017. The application detailed with the background facts make the following prayer:
 - i. *“From your records, please provide a copy of the letter dated 22nd March 2021, issued by CPEC Authority which was received by your office on March 24th 2021, with the subject “EMPLOYMENT GENERATION AND EMPOWERMENT FRAMEWORK AND NAYA MAZDOOR”.*
 - ii. *From your records, please provide the tracking i.e., dates, diary numbers and details on record with the movement (sending and receiving) of the above-mentioned letter.”*

APPEAL NO. 1544-12-2021

B. PROCEEDINGS.

3. During the course of hearing before the Commission Mr. Naveed Khalid, Deputy Secretary (Admin) appeared on behalf of the Prime Minister's Office (Public) and submitted the reply to the following affect:

"I am directed to refer to Hearing Summon issued by Pakistan Information Commission, Islamabad Appeal No. 1541-12/22.

In this regard it is informed that the applicant Ms. Maryam Malik R/o Islamabad has filed the subject appeals regarding provision of information pertaining to File No. 1(1)/SI/2020/28 (NAYA MAZDOOR PROJECT) of this office under the Right to Information Act. In her application attached with Appeal No. 1541-12/22 she has requested for 12 items pertaining to above referred file addressed to Mr. Muhammad Tariq, Joint Secretary of this office. In another application attached with Appeal No. 1544-12/22 pending with the Commission she has requested for similar information pertaining to said file. The said request was addressed to Mr. Ghulam Ali Malik, Deputy Secretary of this office.

From the perusal of the subject appeals, it is very much clear that the applicant requested Prime Minister's Office to provide her complete record pertaining to the said file as requested in her earlier Appeal Nos. 1501-11/21 and 1547-12/2021.

C. COMMISSION'S VIEW.

4. In the appeal in hand the appellant has asked for the provision of the copy of the letter issued by CPEC Authority along with the tracking i.e., dates, diary numbers and details on record of the said letter with the subject "EMPLOYMENT GENERATION AND EMPOWERMENT FRAMEWORK AND NAYA MAZDOOR". She is specific in locating the date on the letter i.e. 22nd March, 2021, issued by CPEC Authority and received on 24th March, 2021 by the respondent office. It is claimed by the appellant that through the said letter the CPEC authority has endorsed the idea/proposal floated by her. The respondent in the reply or during arguments has not denied the existence and reality of the requested record pertaining to the copy of the letter dated 22nd March, 2021 issued by CPEC authority. Rather it is informed that the appellant has filed two appeals i.e. Appeal No. 1541-12-2022 pertaining to 12 items and the instant Appeal No. 1544-12-2022 with the similar information. It is further stated that earlier she requested for the provision of complete record pertaining to said file in the Appeals Nos. 1501-11-2021 and 1547-12-2021 and further that the

APPEAL NO. 1544-12-2021

appellant is a habitual litigant and she may use the requested information in legal proceedings therefore is exempted under sub section (h) of section 16 of the Act.

5. Keeping in juxtaposition and the comparison of the prayer in the above referred appeals illustrates that the objection raised by the respondent is not correct and sustainable as the information requested by the appellant in the appeals Nos. 1541-12/22, 1501-11/21 and 1547-12/2021 though interconnected but are different from one another, however the subject matter in all the appeals is common. The substance in focus in all the appeals is the file “EMPLOYMENT GENERATION AND EMPOWERMENT FRAMEWORK AND NAYA MAZDOOR”.
6. The Commission has already dealt with the appeals Nos. 1501-11/21 & 1547-12/2021 and decided through a consolidated order dated 7.2.2022. The reasons recorded in the order dated 7.2.2022 may be considered as integral part of this order. The same are reproduced hereunder:

“Out of the divergent pleadings of the appeal and the reply submitted by the respondent the sole issue to be resolved by the Commission is to determine whether the requested information is exempted from disclosure as claimed by the respondent public body or the appellant has preferential, privileged and superior legal and fundamental right under the Act and as envisaged in Constitution of Islamic Republic of Pakistan to have access to the said information.

It would not be out of place to mention here that the Hon’ble Chief Justice, Islamabad High Court sought report and written comments from the Secretary, Ministry of Overseas Pakistanis and Human Resource Development in the writ petition no. 3046/2021 titled “Mariam Malik versus Principal Secretary to PM” filed by the appellant. In the light of the comments it was ruled by the Hon’ble Chief Justice vide order dated 20.10.2021 that the proposal submitted by the appellant has not only been considered but a process has been initiated for developing a digital platform to give effect thereto.

Since the appellant is the one who introduced the proposal/idea of ‘Naya Mazdoor’, reserves the right to know and to have access about the steps taken to process and to conclude the deliberations on the project. Her legitimate right cannot be denied or delayed at the whims of beurocratic hurdles and mind-set. The reference of section 16(h) of the Act by the respondent for denial does not carry weight for the reason that the desired information and record is not privileged from production in legal proceedings. Rather the relevant facts and

APPEAL NO. 1544-12-2021

background information related to important policies and decisions which have been adopted, along with the statement of policies adopted by the public body and the criteria standards or guidelines upon which discretionary powers are exercised by it is sort of information and record that ought to have been published and posted proactively as mandated in section 5(d) of the Act.

The argument of the respondent that there exists apprehension that the appellant may use the requested information in future in the legal proceedings is discarded by the Commission. Nobody can be barred from seeking the fundamental, legal, service, civil or any other legitimate right from any court of competent jurisdiction. The Commission is of the considered view that the requested information is not exempted from disclosure as claimed by the respondent public body and that the appellant has preferential, privileged and superior legal and fundamental right under the Act and the Constitution of Islamic Republic of Pakistan to have access to the said information. Even otherwise the requested stuff is matter of public importance more particularly in the interest of the laborers and skilled population of the country.

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 and inefficiency in the governance and making the process of employment transparent free of favoritism and nepotism.”

7. In the appeal in hand the appellant is asking for the letter through which her proposal has been endorsed by the CPEC Authority. The appellant cannot be denied the access to the desired letter particularly in the situation when the appellant is blaming the inordinate and unwarranted delay in processing on the file against the spirit of the vision of the Worthy Prime Minister aimed at the betterment of the masses. Certainly the appellant is a volunteer human rights activist, working for the interest of the laborers and skilled masses, the largest percentage in the population of the country, making it a matter of public importance. In the matter of the public importance the matter cannot be delayed or denied at the whims of the beurocratic hierarchy nor can the citizens be restrained from seeking their fundamental or legal rights from the courts or forums of competent jurisdiction.

APPEAL NO. 1544-12-2021

D. ORDER.

The appeal is allowed. The Deputy Secretary (Admin) / Designated Officer is directed to provide the appellant a copy of the letter dated 22nd March 2021, issued by CPEC Authority with the subject “EMPLOYMENT GENERATION AND EMPOWERMENT FRAMEWORK AND NAYA

MAZDOOR”, forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 7.3.2022
Certified that this order consists of five pages, each page has been read and signed.