

Pakistan Information Commission
Government of Pakistan
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In the Pakistan Information Commission, Islamabad
Appeal No 1658-01/22

Dr Usman Ghani

(Appellant)

Vs.

Ministry of Industries and Production

(Respondent)

ORDER

Date: April 29, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated January 11, 2022, to the Commission, stating that he submitted an information request to the Additional Secretary, Industries and Production Division on November 16, 2021 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:
 1. *“Copy of the Inquiry report conducted against Mr. Kamran Afridi (Asst) in bogus bills case.*
 2. *Copy of Order i.e. Punishment awarded to him in consequence of the subject inquiry*
 3. *Action Taken as per the punishment awarded to him i.e. Payslip salary deduction of three annual increments*
 4. *Copy of the Inquiry carried against Mr. Kamran Afridi in liveries fraud case.*
 5. *Copy of the Inquiry against Mr. Aimal Khan ex-account officer and SO(G) regarding embezzlement of labours payment*
 6. *Copy of the Charge Sheet/ allegations sent to Establishment Division along with approval on 02. 12-2020 against me.*
 7. *Copy of the Charge Sheet/ allegations sent to Establishment Division and approval of the Authority against me.*
 8. *Details of the charges/payment against me with proper legal*
 9. *Justifications under Staff Car Rules, 1980, log book and other relevant documents*
 10. *the by undersigned with documentary and substantial evidence*

B. Proceedings

3. *The record on the file shows that the Respondent on February 7, 2022 submitted its response which is as under:*

Access to information regarding the functioning of public authorities provided by Right to Information Act, 2017 is constrained by certain conditions. The information requested is addressed as per the provisions of he Ibid Act follows

<i>Sr. No</i>	<i>Documents requested</i>	<i>Provisions of RTI, Act 2017</i>
<i>1</i>	<i>Copy of the Inquiry report conducted against Mr. Kamran Afridi (Asst) in</i>	<i>Section 16 of the Act stipulates provisions for the exclusion of certain record from the ambit of this Act. Section 16(1)(b)(iii) states that information may be exempt if its</i>

	<i>bogus bills case.</i>	<i>disclosure is likely to reveal the identity of a confidential source of information. As the inquiry was conducted through interviewing/cross questioning of multiple individuals, the sharing of the inquiry report would reveal their identity.</i>
2	<i>Copy of Order i.e. Punishment awarded to him in consequence of the subject inquiry</i>	<i>Section 16(1)(b)(ii) states that information may be exempt if it is likely to harm the detection, prevention, investigation, or inquiry in a particular case; As the implementation of the punishment awarded is underway, its disclosure can be damaging to the inquiry.</i>
3	<i>Action Taken as per the punishment awarded to him i.e. Payslip salary deduction of three annual increments.</i>	<i>Implementation of the punishment is underway; Section 16(1)(b)(ii) states that information may be exempt if it is likely to harm the detection, prevention, investigation, or inquiry in a particular case. Disclosure of information at this stage is likely to impede the implementation.</i>
4	<i>Copy of the Inquiry carried against Mr. Kamran Afridi in liveries fraud case.</i>	<i>Section 16(1)(b)(iii) states that information may be exempt if its disclosure is likely to reveal the identity of a confidential source of information. As the inquiry was conducted through interviewing/cross questioning, the sharing of the inquiry report would reveal their identity. Moreover, the inquiry proceedings are underway & no final decision has been taken. Section 7(c) of the Act provides exemption from the disclosure of the record of any intermediary opinions or recommendations subject final decisions of the public body</i>
5	<i>Copy of the Inquiry against Mr. Aimal Khan ex-account officer and SO(G) regarding embezzlement of labours payment</i>	<i>Section 16(1)(b)(iii) states that information may be exempt if its disclosure is likely to reveal the identity of a confidential source of information. As the inquiry was conducted through interviewing/cross questioning of multiple individuals, the sharing of the inquiry report</i>
6	<i>Copy of the Charge Sheet/allegations sent to Establishment Division along with approval on 02. 12-2020 against me.</i>	<i>would reveal their identity. Establishment Division, being the cadre administrator, has sent the charge sheet to the applicant which may be contacted to get the subject charge sheet/allegations.</i>
7	<i>Copy of the Charge Sheet/allegations sent to Establishment Division and approval of the Authority against me.</i>	<i>Can't be provided as it is not specified that which charge sheet/allegation is requested.</i>
8	<i>Details of the charges/payment against me with proper legal Justifications under Staff Car Rules, 1980, log book and other relevant documents the by undersigned with documentary and substantial evidence</i>	<i>The misuse of official vehicle is the part of E&D proceedings initiated by Establishment Division and Section 16(1)(b)(ii) exempts the disclosure of Information if it is likely to harm the detection, prevention, investigation, or inquiry in a particular case.</i>

4 The Appellant submitted his response on April 26, 2022 expressing his dissatisfaction on the ground of information provided being incomplete.

C. Issues

5 The instant Appeal has brought to the fore following issues for the consideration of this commission:

- (a) Can the finalised enquiry report be exempted from the disclosure invoking Section 16(1)(b)(iii) of the Right of Access to Information Act 2017, henceforth referred to as the Act, 2017 on the ground that it would reveal the confidential source of information?
- (b) Can the Order and the action taken on this Order (Pay -slip salary deduction of three annual increments) based on the enquiry be exempted from disclosure invoking Section 16(1)(b)(ii) of the Act, 2017 on the ground that "the implementation of the punishment awarded is underway, its disclosure can be damaging to the inquiry"?

D. Discussion and Commission's View on Relevant Issues

6 The commission is of the view that enjoyment of fundamental freedoms and the exercise of fundamental human rights is dependent on our ability to exercise the right to information. Our constitutional right of access to justice is also dependent on the exercise of our constitutional right to information.

7 This commission has already held through its different Orders that information pertaining to finalised enquiry reports is public information. As such, this information is not only to be provided to citizens when requested but public bodies are obligated to proactively publish through their web sites all finalised enquiry reports as required under Section 5 (1) (i) of the Act.

8 The right of access to information in matters of public importance is not absolute right. However, the right of access to information in matters of public importance can only be restricted, as Article 19-A dictates, through "reasonable restrictions imposed by law".

9 This commission holds that information/records can only be exempted by following process laid down under the Right of Access to Information Act, 2017. Furthermore, this commission also maintains that the Act does not provide absolute and blanket exemption to any record.

10 While all federal public bodies are required to proactively publish all finalised reports and the records retrieved during the process of the enquiry, some of these reports, or, some parts thereof may be exempted from disclosure on legitimate concerns. The Act, 2017 itself recognizes the need for withholding certain information, or, parts thereof on legitimate grounds and has laid down process for withholding certain information/records.

11 This commission holds that if the public interest warrants the disclosure of a report, though some of its part may contain information which should be exempted from disclosure on reasonable grounds, those parts can be severed and the rest should be made public as required under Section 16 (1) (i) of the Act. The reasons for withholding any information/records are subject to the approval of this commission.

D. Order

12. The appeal is allowed. The Respondent is directed to provide the Appellant information/records requested in para 2 of this Order, within 7 working days of the receipt of this Order, with intimation to this office.

13. Copies of the Order be sent to the Appellant and the Respondent for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
May 10, 2022

This order consists of 6 (six) pages, each page has been read and signed