

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1742-02-2022

Zafar Iqbal

Versus

- 1 -Inter Board Committee of Chairmen
- 2- Federal Education & Profession Training Division

Date of Hearing: 12.04.2022

Fawad Malik: Information Commissioner

Present: Mr. Ghulam Murtaza Malik Advocate along with M. Ammad on behalf of the Federal Education & Profession Training Division.

A. APPEAL

1. Mr. Zafar Iqbal, preferred his appeal dated 8th February, 2022 before the Pakistan Commission on access to information, Islamabad. He alleged that the request for information has not been responded by the Secretary, Interprovincial Coordination within the frame of time stipulated under the Right of Access to Information Act, 2017.
2. Through an application dated 20th January, 2022 addressed to the Secretary, Interprovincial Coordination, he has desired the certified information as well as certified documents. The detailed particulars of the requested information are:

1- ڈی نو انکوائری کاپی آرڈر بائے سیکرٹری ائی پی سی این دی ایئر 2012 اور آخری حکم کی کاپی۔

Letter No.F.2-5/2011-NI/CCI dated 15.02.2013 -2

Letter No.F.1-1/2011-SR-JS(CCI) dated 23.01.2013 -3

Letter No.2-5/2011-NI/CCI-V-II dated 03.07.2012 -4

Letter No.1-13/INQ/ZI/2011/3449 dated 17.12.2015 -5

Letter No.F.2-5/2011-NI/CCI dated 15.02.2013 -6

Letter No.1-7/2011-IBCC dated 11.08.2021 -7

Letter No.F.7-7/2011-IBCC/Promo dated 16.09.2021 -8

Letter No.1-118/2018/(IHC)- Litigation dated 23.08.2021 -9

Letter No.IBCC.1-13/INQ/ZFR/741 dated 07.05.2011-10

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B. PROCEEDINGS

3. The Commission vide letter dated 3rd March, 2022 was informed that the Inter Board Committee (IBCC) has been transferred from Ministry of Interprovincial Coordination to Federal Education & Profession Training Division on 3rd December 2019.
4. Accordingly the notice was served to the Deputy Secretary (Coord), Federal Education & Profession Training. The Assistant Secretary, Inter Board Committee of Chairmen, Islamabad vide letter dated 29th March, 2022 submitted the following reply:

“That, the appellant was a contractual employee of IBCC. He was found guilty of Corruption and Misconduct through formal and proper proceedings and removed from service. After his removal from service, the Ex-Contractual UDC harassed and terrorized the senior officers of IBCC for dire consequences. He got made murder attempt on Ex-Secretary IBCC, fortunately the then Secretary was saved, but unfortunately son of ex-Secretary was seriously injured and grandson was murdered. The Subject Ex-Contractual UDC was declared accused for the said murder by the Police, after a long lengthy process of investigations. Whereas, he was not nominated by the Ex-Secretary for the said crime and he was jailed for almost five years. However, this criminal offence committed by appellant has nothing to do officially with IBCC or any of its employee, but his continuous threats to the employees through different modes and tactics matter.

That, after release from Jail, the appellant had filed a case for his restoration in service, side by side, he again continued same malpractice of threading the employees of IBCC to restrain from contesting/appearing before the court for and on behalf of Government/IBCC in the said case, where, he presented fake documents of his regularization of 2013, fake service certificate as regular employee, etc. In this regard, it is clarified that no official was regularized in a jumble order or communication in IBCC, but individually on the recommendation of Committee. According to record, the appellant was never regularized in service in IBCC, but he presented fake documents to this effect in the Islamabad High Court, against which the IBCC has filed a formal case against the appellant. Now, he has been applying tactics and demanding the same documents to be provided to him with attestation of IBCC through involving this Hon'ble Commission. Therefore, his plea is not entertainable being case pending adjudication before the Hon'ble Islamabad High Court, Islamabad.

That, the appellant has forged/fabricated the official documents in his favour as Regularization Order of service, he intends to obtain certain documents duly attested by IBCC to authenticate the said fake document already demanded in his appeal. It is also feared that he may further fabricate the official documents of IBCC after obtaining through this august Commission. Whereas, all documents were already annexed with the petitions by the appellant or by IBCC submitted

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before the Islamabad High Court, Islamabad. Therefore, these documents are already accessible to him. Hence, involving this Hon'ble Commission is not permissible as he intends to prevail upon submission of fake documents in the Hon'ble Islamabad High Court.

That the section 16 of Act No. XXXIV of 2017 indicates that information may be exempt if its disclosure likely to cause serious prejudice the proceedings in a court and undermine the deliberative process in a public body by inhibiting exchange of views. Any civil proceedings which are brought by or on behalf of a public body and information relating to prevention or deduction of crime and administration of justice are also fallen in the same category”.

5. During the course of arguments it was argued by the learned counsel that the Zafar Iqbal appellant has already invoked the jurisdiction of Islamabad High Court under Article 199 of the Constitution of Islamic Republic of Pakistan therefore this forum/Commission lacks jurisdiction to entertain and adjudicate upon the matter, that the provision of information is subject to certain restrictions, that the requested information is not permissible under Rule 18 of the Government Servants (Conduct) Rules, 1964, that he has filed departmental appeal, representation, writ petitions and civil suit for damages etc., that he has annexed forged document with the writ petition for which legal course has been initiated under section 476 Cr.P.C, that after release from jail he is seeking restoration of service and that the instant appeal before the Commission has been filed with *malafide* intentions with unclean hands and that the disclosure is likely to cause serious prejudice to the proceedings in the court therefore are exempted u/s 16 of the Act. He has also provided copies of Writ Petition No. 4031/2020 filed by Zafar Iqbal appellant versus the Federation of Pakistan and another against the *denovo* inquiry pertaining to his termination of services, Crl. Misc. petition No. 2217/2021 u/s 476 Cr.P.C filed by IBCC against the appellant before Islamabad High Court, Islamabad, suit for recovery of damages filed by the appellant before the Senior Civil Judge, Islamabad and prayed the dismissal of the appeal.

C. COMMISSION VIEW

6. Admittedly the appellant is a former contractual employee of Inter Board Committee of Chairmen. He was imposed major penalty of dismissal from service on the charges of Corruption and Misconduct. It is also alleged in the

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written reply and during the arguments that the appellant was penalised for about five years for being involved in crime and after his release from jail he is availing his remedies for the restoration of his service from the court/forums of competent jurisdiction. The public body has denied the access to the desired

information/record for the reason of malice on the part of the appellant for having locked horns with the department. It is also apprehended that the disclosure would prejudice the proceedings in the courts as such is exempted u/s 16 of the Act.

7. The argument advanced by the respondent that during the pendency of the litigation between the parties the seeking of the requested information by the appellant would prejudice the proceedings in the courts as such is exempted u/s 16 of the Act, do not carry weight. The pendency of the litigation is not a bar for the provision of the information under the Act rather fortifies the right of the citizens. The appellant has asked for the provision of the documents/information *prima facie* to defend the charge levelled against him by the department or in other words to defend his legal/service rights. Article 10 A of the Constitution of Islamic Republic of Pakistan, 1973 provides right of fair trial for the determination of civil rights and obligations. However it is informed by the learned counsel that qua the Letter No.F.1-1/2011-SR-JS(CCI) dated 23.01.2013 mentioned at serial No. 3 of the request CrI. Misc. petition No. 2217/2021 u/s 476 Cr.P.C filed by IBCC against the appellant before Islamabad High Court, Islamabad is pending adjudication wherein forgery has been alleged against the appellant.
8. The Right of Information is considered as “key to all rights”. Every citizen has been provided the right to have access to the information held by the public bodies, under the Right of Access to Information Act, 2017. This right cannot be denied during the pendency of the litigation between the parties rather it provides the right to have access to the necessary information required for the perusal of the litigation. The respondent has failed to point out the relevant proviso of the Act that bars the public body to share the requested information during the pendency of the litigation. The Commission finds no reason that disclosure is likely to cause serious prejudice to the proceedings in the court.

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9. Article 19.A of the Constitution of Pakistan provides every citizen right of access to information subject to reasonable regulations and restrictions. This is fundamental right guaranteed by the Constitution, cannot be denied at the whims of the public bodies.

10.All the public bodies are required to publish including uploading over the internet and computerisation for voluntary disclosure of category of record as mandated in sections 5 & 8 , within six months of the commencement of the Act. 16.

D. ORDER:

The Appeal is partly allowed. The Assistant Secretary, Inter Board Committee of Chairmen, Islamabad is directed to provide the appellant the requested information except the Letter No.F.1-1/2011-SR-JS(CCI) dated 23.01.2013 mentioned at serial No. 3 of the request, forthwith but not later than five days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 18.5.2022
Certified that this order consists of 05 pages, each page has been read and signed