

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

**APPEAL No. 209-12/2020**

**M/S ICON Marketing (Pvt) Ltd**

Vs

1. Director General, Federal Government Employees Housing Authority
2. Chief Executive, M/S Employees Housing Foundation Progressive (Pvt) Ltd

Date: 26-02-2020

**Fawad Malik: Information Commissioner**

Present: Mr. Imran Khan Niazi Advocate on behalf of the appellant.

**A. APPEAL:**

1. The instant appeal under section 17 of The Right of Access to Information Act 2017, has been filed with the Commission by M/S ICON Marketing (Pvt) Ltd (Appellant) with the contentions that M/S Employees Housing Foundation Progressive (Pvt) Ltd (Respondent) has failed to share the requested information with the appellant, within the prescribed time limit provided in the Act, as such the appellant has been denied the fundamental right provided under Article 19-A of the Constitution of Pakistan. The appellant is seeking forthwith provision of the certified copy of the requested information/record and initiation of inquiry for willfully breaching the fundamental and statutory rights provided under the Constitution of Pakistan and the Act respectively.
2. The appellant through the application dated May 25, 2019 addressed to the Chief Executive, EHFPRO Pvt Limited with copies to the Director General and Director Finance, Federal Government Employees Housing Foundation (FGEHF) (Now authority) has requested for providing certified copy of agreement dated 11.02.2016 for termination of marketing services contract dated 27.11.2010, executed between M/S ICON Marketing (Pvt) Ltd and M/S Employees Housing Foundation Progressive (Pvt) Ltd. The application was duly received in the office of the respondent on 30.05.2019 and the office stamp has been endorsed thereon.

**B. PROCEEDINGS:**

3. The respondent No. 1 was served with a notice dated 11.12.2019 with the direction to provide reasons within seven working days as to why the requested information/record

has not been provided to the applicant as required under section 14 of the Act, as each public body is bound to respond as soon as possible and in any case within ten working days of the receipt of the request.

4. The notice was not responded by the respondent No.1 hence the appeal was fixed for hearing before the Commission on 12.02.2020 and both the appellant as well as the respondent No.1 were informed accordingly vide notice of hearing dated 27.01.2020.
5. Mr. Imran Khan Niazi Advocate appeared before the Commission on behalf of the appellant while no one appeared on behalf of the respondent No.1 to represent the public body. The appeal was adjourned and the Respondent No 2 was informed through notice dated 17.2.2020 that the appeal is fixed for hearing on 26.2.2020. Again on 26.2.2020 at the time of hearing the public body remained unrepresented however the learned counsel appeared on behalf of the appellant and reiterated for the provision of the requested information.

**C. ISSUES:**

6. Out of the pleading following issues are framed for determination;
  - a) *Whether the M/S Employees Housing Foundation Progressive (Pvt) Ltd is a public body?*
  - b) *Whether the respondent has delayed the sharing of information/record deliberately?*
  - c) *Whether the executant party has the privileged right to acquire the copy of the agreement?*
  - d) *Whether the right to information is key to all rights?*
  - e) *Whether the delay in the sharing of information is liable to fine?*

**D. COMMISSION'S VIEW:**

7. After hearing the arguments of the learned counsel on behalf of the appellant and perusing the record the Commission has concluded and decided as under;
  - a. The core issue in this appeal is whether the M/S Employees Housing Foundation Progressive (Pvt) Ltd is a public body within the meanings of the Right of Access to Information Act 2017.
  - b. The learned counsel on behalf of the appellant while addressing on this issue has argued that the Ministry of Housing & Works has established the respondent Private

- Limited Company as Special Purpose Vehicle (SPV) under the joint collaboration with the Federal Government Employees Housing Foundation (now Authority), that it was established specifically to develop Lifestyle Residency Project in G-13/1 &4, Islamabad for the Federal Government Employees, and that the Secretary Ministry of Housing & Works is the ex-officio Chief Executive of the respondent Company, therefore claims that the respondent is a public body within the meaning of section 2(ix)(f)(g) &(h) of the Act.
- c. The Commission is of the view that any incorporated or unincorporated body of the public body under its control in receipt of substantial funding for undertaking a public function falls within the definition of the public body.
  - d. The information request was submitted in the office of the respondent. The copy of the application duly received on 30.05.2019 endorsed with the office stamp is submitted along with the appeal. After receiving application the respondent has failed to adopt the procedure provided in section 13 and has ignored the time limit provided in section 14 of the Act. The respondent has also ignored the notices of the Commission, by not filling the written reply and refrained from appearing before the Commission at the time of hearing of the appeal. The conduct of the respondent amounts to willful and deliberate obstruction by preventing and delaying the disclosure of information/record to the appellant.
  - e. The appellant is seeking the certified copy of agreement dated 11.02.2016 executed between the appellant and the respondent. The appellant is directly interested party in the document in issue and to acquire the copy of the same is his legal, constitutional and statutory right which cannot be denied to the appellant for availing his other legal remedies available to him.
  - f. The Right to Information provided to the citizens under Article 19A of the Constitution and the Right of Access to Information Act 2017 is considered as the key to all the fundamental rights guaranteed by the Constitution of Pakistan 1973. This right cannot be denied, withheld or delayed from disclosure if the requested information/record falls within the definition of the public record as defined in the act.

**E. ORDER:**

8. The Appeal is Allowed. The respondent is directed to provide the appellant a certified copy of the agreement dated 11.02.2016 for termination of marketing services contract dated 27.11.2010, forthwith and submit the compliance report with the Commission within seven days of the receipt of this order.

It is established from the conduct of the respondents that they have willfully and deliberately obstructed the disclosure of the requested information causing delay hence under section 20(f) of the Act are liable to imposition of fine but taking lenient view the respondents are directed to be careful in future.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

**Announced on:**

February 26, 2020.

This order consist of 04 (Four) pages, each page has been read and signed.