

## Pakistan Information Commission

### Government of Pakistan

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### In the Pakistan Information Commission, Islamabad Appeal No 722-11/20

**Sanaullah**

**(Appellant)**

Vs.

**Survey of Pakistan**

**(Respondent)**

### ORDER

**Date:** September 13, 2022

Zahid Abdullah: Information Commissioner

#### A. The Appeal

1. This commission has received an appeal from Mr. Sanaullah dated November 18, 2020, stating that he submitted information request dated August 20, 2020 under the Right of Access to Information Act 2017 to the Director, Survey of Pakistan. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. The information sought by the Appellant is as follows:
  - i. *“Ministry of Defense Notification No. F.3/2/02-D-34 dated 14.10.2020.*
  - ii. *Duty Slip of Official Vehicle QAS-0833 dated 11.11.2016 booked at serial 87 of in-out register and approved by DSG-I.*
  - iii. *Proof of payment by the user and its subsequent deposit by the user and its subsequent deposit in Government Exchequer against the duty slip mentioned at SL(ii) above.*
  - iv. *DWC letter No. 1951 / 29- G-2 dated 12.08.2013 with all its annexures / attachments.*
  - v. *Response to the letter at SL (i) above made by M.S Distributor vide its letter No. 2191/AD dated 10.12.2013*
  - vi. *Note Sheet of DWC file No. 29.G-2for the period 27.06.2013 to 01.01.2014.*
  - vii. *DSG –I letter No. 6344 / 14-A-2 dated 24-10-2018.*
  - viii. *DSG-I letter no 6486/14/14-A-2 date 24.10.2018*
  - ix. *DSG-I file No. 14-A-2 dated 24-10-2018.*
  - x. *TA/DA bill & copy of Cheque drawn against the tour program mentioned in letter at sl(vii) above.*
  - xi. *DSG-I letter No. 188-C / 1-A-PF (Sanaullah) dated 18.05.2020.*
  - xii. *Car Diary record of Government Vehicle GU 331 (Double Cabin) for the period before its transfer to a regional directorate and original office copies of bills charged from AGPR against its fueling for the period w.e.f. June, 2017 to September, 2017*
  - xiii. *Car Diary of Government Vehicle GS-543 and office copies of bills charged from AGPR against its fueling for the period w.e.f. 1st July, 2017 to 30<sup>th</sup> September, 2017.*
  - xiv. *Trip sheets of Government Vehicle GS-543 for the period 1<sup>st</sup> July, 2017 to 30<sup>th</sup> September, 2017.*

xv. *Approval of the Surveyor General of Pakistan in respect of SGO's Letter No 54-C/1-A-231 dated 14-05-2021*"

## **B. Proceedings.**

3. Through a notice dated November 26, 2020, sent to Surveyor General, Survey of Pakistan, the Commission called upon the Respondent to submit reasons for not providing the requested information, which was not replied with in the given time.

4. The public body vide its response dated December, 22, 2021 submitted that;  
*"Mr. Sanaullah, Deputy Director (appellant) was charge sheeted, on account of inefficiency & misconduct, under section 3 (a) & (b) of Govt servants (Efficiency & Discipline) Rules 1973 (Annex-A). A regular inquiry under the chairmanship of Mr. Asad Ali Bhellar, Director (BS-19) was also constituted against him by the authorized officer under section-5 of the Govt. Servants (Efficiency & Discipline) Rules, 1973 (Annex-B). The inquiry committee has the powers of a civil court trying a suit under the Code of Civil Procedure 1908 (Act V of 1908), in respect of the following matters, namely:*

- (a) Summoning and enforcing the attendance of any person and examining him on oath,*
- (b) Requiring the discovery and production of documents,*
- (c) Receiving evidence on affidavits,*
- (d) Issuing commissions for the examination of witnesses or documents*

*The proceedings under these rules shall be deemed to be judicial proceeding within the meaning of sections 193 and 228 of the Pakistan Penal Code (Act XLV of 1860) (Annex-C).*

*During course of inquiry. Mr. Sanaullah (appellant) requested Inquiry Committee for provision of the subject documents vide his letter No. 87-A/1-A-87, dated 20.08.2020 (Annex-D). Accordingly, his request was addressed by Inquiry Committee, which had judicial proceedings. The copy of Inquiry Report has already been provided to the appellant."*

5. The response received from the public body was shared with the appellant December 29, 2021. The appellant on January, 06, 2021 submitted rejoinder to the response of the public body, which is as under:

*" It is submitted that the undersigned being appellant is Not Satisfied with the response of department received vide letter cited at Sl. (ii) under reference. In fact, the response is just beating about the bush and not talking on the point under consideration!*

2. *First, the denial of requested record was made by the inquiry committee, under the Administrative Umbrella of a biased officer (Maj. Mehar Ali, DSG-I)<sup>1</sup> just to protect him. The inquiry Committee was well aware of the fact that the requested record will help the appellant in proving his main plea (that Maj Mehar Ali, DSG-I is a biased officer and has unduly engineered a bogus charges against the appellant) therefore, in order to protect Maj. Mehar Ali the Inquiry Committee deliberately declared the requested record as "Out of Scope" Further, the role & reputation of constituted Inquiry Committee was already under question<sup>2</sup>*

3. *Secondly, when the proceedings of Inquiry had closed (without looking at the request judiciously) then the undersigned requested the same record. under the Access to information Act, 2017 therefore the comments of department for denying the desired information has no legal value as, under Section 14 & Clause 3(1) of the said Act, they are bound to provide the public information/record and under Clause 11(5) the department is not authorized to ask the reason from applicant against requested information.*

*On Record indicators of biased attitude of Maj. Mehar Ali, DSG-I already communicated to the head of department vide letter No. 88A /1-A-87 dated 20.08.2020 (Annex-A).*

*The Cause to Action behind the "No-Confidence, (Annex-B) on the constituted inquiry committee was not addressed and the proceedings were unduly imposed upon the appellant to either ask the reason from the applicant or to decide whether the requested public record is in the scope or otherwise (As for as the requested Information is a public record).*

4. It is also pertinent to mention here that after the appellant requested the said public record vide letter 114 A/ 1-A-87 dated 26.10.2020 the undersigned came to know that the record mentioned at Item No. iv, v & vi under para (1) of the said letter was missing from the concerned Directorate of Quetta.
5. Keeping the situation explained at Para (4) above in view, the appellant immediately lodged a Complaint regarding missing record to the Head of the Department vide letter No. 18-C/1-A-PF Dated 18.11.2020 (Annex-C) and requested to hold an inquiry into the matter as to why the requested record has been washed out from the record being subject of the appellant and an Offence under Clause 22(2) of the Access to Information Act, 2017. But despite the laps of more than 45 days no inquiry has been ordered by the Head of Department in this regard!.
6. In view of the above, it is therefore prayed before the Chief Information Commissioner that;
- (i) To direct the department for immediate production of the Public Information/ record requested and restrain them from wasting the precious time of PIC as well as the appellant.
- (ii) To direct the Competent Authority to order for an immediate inquiry into the matter as to why the requested record has been washed out from the public record and to fix the responsibility, please.”
6. The Appeal was fixed for hearing on January 28, 2021 and both parties were informed through notices sent on January 14, 2021.
7. Mr. Ijaz Hussain Shah, SAO, Survey of Pakistan and the appellant attended the hearing held on January 28, 2021. The respondent request time for the submission of response which was allowed and the appeal was adjourned for hearing on February 11, 2021.
8. The respondent submitted its response during the hearing held on February 11, 2021 which was shared with the appellant.
9. The appellant through a letter dated 24-02-2021 submitted rejoinder to the response of the public body. The appeal was fixed for hearing on 18-03-2021 and 15-04-2021.
10. The public body on 15-04-2021 submitted its response vide letter dated 13-04 2021 which was sent to appellant. The appellant once gain rebutted the response of public body vide letter dated 24-05-2021 with reference to the information solicited in Para. **iv to vi, ix and xv** of the initial information request made before the public body.
11. As regards the information requested in Para **iv, v, and vi**, the public body responded separately in the matter vide its letter No. 132-C/1-A-231 dated 12-04-2021 and stated as under;

*“In continuation of this office letter No. 26-C/ 1-A-231 dated 10-02-2021, following documents are enclosed, along with depts. Observations as mentioned below, for further necessary action under Information Act, 2017.*

<b>Sr. No</b>	<b>Required Documents</b>	<b>Deptt. Observation</b>
	<i>DWC letter No. 1951/29-F-2 dated 12.08.2018 with all its annexures/ attachments.</i>	<i>Mr. Bashir Ahmed Kherani Director (Routine duty) issued letter No. 1951/29-G-2, dated 12.08.2013 and administrative staff was unaware about the issuance of the said letter. It was neither made the part of relevant file nor it brought to the notice of Regular Director.</i>
<i>ii</i>	<i>Response to the letter at Si (i) above made by M.S Distributor vide its letter no. 2191/AD dated 10.12.2013</i>	<i>i. Normal channel in receipt of M.S Distributor's letter No. 2191/AD, dated 10.12.2013 was not followed by the Director (R.D) As such, the same was not available in office record.</i>

		<p>ii. Mr. Bashir Ahmed Kherani Director (R.D) has now provided copy of the said letter dated 10.12.2013 (copy enclosed).</p> <p>iii M/S MS Distributor denied to confirm invoices, whereas, the Cheque has been issued favor of the said firm. Copy of Cheque is enclosed</p>
iii	Note sheet of DWC file No. 29-G-2 for the period 27.06.2013 to 01.01.2014	There is no note sheet of file No. 29-G-2 for the period 27-03-2013 to 01-01-2014, As no letter were docketed during the period.

*It is worth mentioning that Mr. Bashir Ahmed Kherani Director (R.D) has retired from Govt. Service w.e.f 01-01-2019 on attaining the age of superannuation, please.”*

12. After receiving the response of public body mentioned above, the appellant responded vide his letter dated 24-05-2021 which is as under;

*“With reference to the letter cited above, it is submitted that the department under the administrative command of Mr. Mehar Ali, DSG-I, and just to conceal the facts, has given false statements in their response. The responses seems to be based on an engineered Fact Finding Inquiry against the undersigned had already tendered his “No Confidence” with justification at observations against Sl. iv, v & vi of previous response dated 24-02-2021.*

*2. Since, the matter pertains to the claim of an Ex-Director of Survey of Pakistan regarding 3 Missing/ Washed out official record documents from DWC Quetta (Appeal No. 1017-04/2021) therefore, a copy of letter cited under reference is being forwarded for due reply to PIC by Mr. Bashir Ahmed Kherani accordingly.*

For the sake of brevity, the relevant portion of “No Confidence” on the inquiry conducted through Mr. Haroon Majeed Veaser, Deputy Director tendered by the appellant vide observations made against Sl. iv, v & vi of his response dated 24-02-2021 is also reproduced below;

- a) As per the information provided by the primary source, Maj. Mehar Ali, DSG-I (Head of Administrative Wing) and Mr. Asad Ali Bhelar, Current Reporting Officer of the deputed Inquiry Officer are allegedly involved in the washing out said record.*
- b) Ironically, the nomination of inquiry officer has been made for approval by Maj. Mehar Ali (one of accused)*
- c) How a subordinate Officer (having conflict of interest) can conduct fact finding inquiry regarding financial embezzlement and an irregularity in which his reporting Officer, Countersigning Officer & Head of Admin Wing themselves are allegedly involved!!!*
- d) There is another legal question that why inquiry was not constituted around 4 months back when the appellant lodged compliant regarding the said missing record.*
- e) Request: Since, in view of the above observation, it is confidently apprehended that the constitution of present fact finding inquiry by accused hierarchy is just an attempt to dodge the system and the appellant tenders his No-Confidence on the constitution of present Inquiry. Therefore, the matter may be referred to an independent forum for proper and impartial Inquiry, please.”*

13. Mr. Bashir Ahmed Kherani, Ex-Director, Survey of Pakistan also submitted arguments in the instant appeal which are as under:

*“In continuation of undersigned’s Appeal No. 1017-04/2021 read with Survey of Pakistan’s letter cited at Sl(ii) under reference, the item wise comments against the observation of department are given as under;*

<i>Sl.No.</i>	<i>Documents under Consideration</i>	<i>Deptt. Observation</i>	<i>Due Comments</i>
i.	DWC letter No. 1951/ 29-G-2 dated 12-08-2013 with all annexures/ attachments.	Mr. Bashir Ahmad Kherani Director (Routine Duty) issued letter No. 1951/29-G-2, dated 12-08-2013 and administrative staff was unaware about the issuance of said letter. It was neither made the part of relevant file nor it brought to the notice of Regular Director.	<p><b>Denied;</b> The Administration of department has committed/issued false statement before PIC which is like to through dust in the eyes of Pakistan Information Commission. As a matter of fact, the letter No. 1951/29-G-2 dated 12-08-2013 (along with suspected invoices) was signed and issued by the undersigned himself and was got received by the vendor namely M.S Distributors at Quetta. A copy of said letter duly certified by the receiving end to be true copy is enclosed herewith as (<b>Annex-A</b>) for kind perusal of the Commission.</p> <p>The said letter was duly made part of the Note Sheet of File No. 29-G-2 at Sl-135 on its Page No. 28 and was put-up by the undersigned to the then Regular Director Mr. Noor Elahi. Copy of the said Note Sheet duly vetted by the undersigned is also enclosed herewith as (<b>Annex-B</b>) for ready reference.</p>
ii.	Response to the letter at Sl (i) above made by M.S Distributor vide its letter No. 2191/AD dated 10-12-2013.	<p>i. Normal channel in respect of M.S Distributor's letter No. 2191/AD dated 10-12-2013 was not followed by the Director (R.D) As such, the same not available in office record.</p> <p>ii. Mr. Bashir Ahmed Kherani Director (R.D) has now provided copy of the said letter dated 10-12-2013 (copy enclosed)</p> <p>iii. M/S M.S Distributor denied to confirm its invoices, whereas, the cheque has been issued in favor of the said firm. Copy of cheque is enclosed.</p>	<p><b>Denied;</b> The department has once again committed a false statement. The response of the vendor in respect of the bogus bills mentioned in undersigned's letter at Sl.(i) above was received by the undersigned vide M.S Distributors' dispatch No. 2191 /AD dated 10-12-2013 and was made the part of File No. 29-G-2 at Sl-136 of Page-28 of its Note Sheet. Further, copy of vendor's letter No. 2191/AD dated 10-12-2013 duly certified by himself is also attached herewith as (<b>Annex-C</b>) for kind perusal.</p> <p>ii) <b>Partially Admitted;</b> The copies of bogus invoices provided by the undersigned to the department have not been supplied to the appellant of appeal No. 722-11/20 along with letter No. 1951/29-G-2 dated 12-08-2013.</p> <p>iii) <b>Denied;</b> The vendor, vide his letter No. 2191/AD dated 10-12-2013, has already confirmed the invoices mentioned in undersigned letter No. 1951/29-G-2 dated 12-08-2013 as BOGUS and to the effect that same invoices were not issued by him. Moreover, the cheque shown by the department to be issued in favor of M.S Distributors (vendor) has been denied by the vendor himself with the following remarks;</p>

			<p>“This cheque if received was not against the bogus bills mentioned in DWC letter No. 1951/29-G-2 dated 12-08-2013 ”</p> <p>The copy of said cheque along with the original remarks of vendor is enclosed herewith as (Annex-D) for perusal.</p>
iii.	Note sheet of DWC file No. 29-G-2 for the period 27-06-2013 to 01-01-2014.	There is no note sheet of file No. 29-G-2 for the period 27-03-2013 to 01-01-2014, as no letters were docketed during the period.	<p><b>Denied;</b> Again, the department has concealed a fact. In fact, the Note Sheet of File No. 29-G-2 for said period duly existed and a certified copy of the same has been attached herewith as Annex-B.</p> <p>However, there are apprehensions that the department, in order to just cover and hide its financial embezzlement, might washed out the said record from the office which needs to be properly inquired through the competent forums.</p>

2. In addition to the above, the undersigned also intends to record his statement regarding the missing official record from Directorate of Western Circle (DWC), Survey of Pakistan, Quetta as under; (The same statement was being given to Mr. Haroon Majeed Veseer, Inquiry Officer telephonically but it is apprehended that same might have been concealed by the Inquiry Officer due to the pressure of those high ups who remained involved in the said Financial Embezzlement).

**STATEMENT:-**

{“During the respective dates of 2013, when the undersigned was given the routine duty charge of Director, DWC, Survey of Pakistan Quetta, it came to the notice of undersigned that Mr. Asad Ali Bhelar, the then DWC in Collusion with his niece/nephew Mr. Wasif Ali Bhelar, the then TA Store, DWC were involved in financial embezzlement of Govt. Money through fraudulent means. The undersigned vide letter No. 1951/ 29-G-2 dated 12-08-2013 forwarded the suspected invoices to the vendor i.e M.S Distributors, Quetta for verification. In response to the preceding letter of undersigned, M.S Distributors vide his letter No. 2191/AD dated 10-12-2013 stated as under;

“ The photo copies of the sales tax / invoices were received for verification through your letter No. 1951 /29-G-2 dated 12-08-2013. After checking of our record, it was found that all of them were bogus/ fake, your official misused the name of our firm fraudulently.

Therefore, M/S M.S DISTRUBUTORS Thana Road, Near M.A Jinnah Road, Quetta, does not own these sales Tax / Invoices (attached herewith). Moreover, it is assured that our firm has not submitted such claims of amounts on described dates to Survey of Pakistan, Brewery Road Quetta.”

On receipt of the above response from the vendor, the undersigned put-up the matter to the then Regular Director Mr. Noor Elahi (after his return from leave/training) on the Note Sheet of File No. 29-G-2 vide Sl. Nos. 135 & 136 on Pages 28 & 29 as under;

“The Company M.S Distributors has refused to accept the bills /Sale tax invoices and stated that all of them are bogus, it is serious financial matter and embezzlement of National exchequer. The case needs an early action in order to protect evidence for avoiding any corruption. Therefore, it may be submitted to Head Office for an early perusal and appropriate necessary action, please”

After that, the then Regular Director Mr. Noor Elahi got the said file from me and , till my posting out from Quetta station on 04-02-2015, I was not kept in loop by the then Regular Director and

*as per my information the file No. 29-G-2 along with the Noting put-up by me was in his custody.”}*”

14. The appeal was again fixed for hearing on September 23, 2021 and both parties were informed through notices sent on September 06, 2021.
15. Mr. Muhammad Arshad Iqbal, Director/ Public Information Officer, Survey of Pakistan and the Appellant were present in the hearing held on September 23, 2021. Mr. Bashir Ahmed Kherani, Ex-Director, Survey of Pakistan also appeared as witness before the Pakistan Information Commission in support of the written statement he submitted to the commission vide his letter dated 02-06-2021. The commission asked the witness to submit an affidavit before the commission in support of his statement recorded. The witness submitted his affidavit on the same date i.e 23-09-2021 the contents of which are as under;

“

#### **AFFIDAVIT**

*It is certified that I, Bashir Ahmad Kherani S/O Ahmad Bakhsh Kherani, Ex-Director Survey of Pakistan, CNIC No. 37405-7008150-3, do hereby solemnly declare that I with sound senses is appearing as witness before Pakistan Information Commission (PIC), Islamabad in Appeal No. 722-11/2020 Sanaullah Vs Survey of Pakistan for the following items:-*

- i. Note sheet portion of DWC file No. 29-G-2 for the period w.e.f 27.03.2013 to 01.01.2014 in which the undersigned put up DWC letter No. 1951 /29-G-2 dated 12.08.2013 and the letter of vendor MS Distributor bearing No. 2191/AD dated 10.12.2013 at its serial 135 & 136 of the said note sheet respectively but the same had been washed out from the record after my transfer from Quetta Station.*
- ii. However, the undersigned is producing a certified copy of said Note sheet with particular reference of letters docketed at its serial 135 & 136 before Honorable PIC today on 23.09.2021. These letters were duly put up to the then DWC Mr. Noor Elahi as evident from the produced certified copy of said note sheet.*
- iii. Certified copy of in writing statement of undersigned dated 02-06-2021 in the matter which was previously dispatched to commission is also being produced before this commission on 23.09.2021 as witness of the case record.*

*That the contents of this Affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed or withheld.”*

16. PIC also received an additional statement by the witness in the matter i.e Mr. Bashir Ahmed Kherani, Ex-Director vide his email dated 10-10-2021 wherein he submitted that when he put up the matter to the then Regular Director at the time of incident then he received a telephonic call from Maj. Mehar Ali, DSG-I (the then DSG-II) who tried to refrain him from pursuing the matter.
17. After receiving the certified copies of disputed Note Sheet of DWC Quetta file No. 29-G-2 (page 27, 28 & 29 of said note sheet) from Mr. Bashir Ahmed Kherani, Ex- Director, Survey of Pakistan, the Commission directed the public body to bring the Original File for examination by the Commission on 07-10-2021.
18. The public body on the direction of PIC produced the Original File No. 29-G-2 of DWC, Quetta before the Commission on 07-10-2021. The file was brought in sealed envelope and the same was opened in presence of the commission at Islamabad. On examining the said file it was observed that a piece of paper was pasted at the lower portion page 28 of its Note Sheet where under docketing of serial 135 and 136 were concealed and the page 29 of the said note sheet as provided by the witness was missing from the Original File No. 29-G-2. During the course of proceeding,

Mr. Arshad Iqbal, Director/PIO maintained that before his posting at Rawalpindi station he was serving as Director Western Circle (DWC) Quetta and the same file was inspected by him after the matter surfaced through the subject appeal and he had not observed any such pasting of paper on the said page of file No. 29-G-2. Mr. Tahir Iqbal Butt, Chief Administrative Officer of the public body rest assured the Commission for conducting a High Level Inquiry into the matter however the appellant shown his “No-Confidence” in any such inquiry likely to be conducted by the department itself mainly on the plea that the beneficiary of the alleged financial embezzlement were serving in the public body at highest level of management and the Chief Administrative Officer assuring conduct of such inquiry was working under the command of alleged beneficiaries of reported financial embezzlement of which the official record from the file was concealed.

19. In the meanwhile the public body through its letter 2851/ 52-D-PIC dated 06-10-2021 submitted its response with reference to the proceedings held on 23-09-2021 which is as under;

*“In pursuant to above referred summon, the replies to the two pending issues against the subject appeal are as under;*

<b>Point</b>	<b>Documents Required</b>	<b>PIC Direction on 23-09-2021</b>	<b>Department Reply</b>
6	<i>Note Sheets of DWC file No. 29-G-2, for period 27-06-2013 to 01-01-2014</i>	<i>Produce the Volume of required file to commission on 07-10-2021</i>	<i>The attested copy of Note Sheet (as received from Mr. Bashir Ahmed Kherani through Commission proceeding on 23-09-2021 is enclosed herewith (Annex-I) for onward submission to the applicant. 2x volumes (in Original of Note Sheet portions of files 29-G-2 are submitted for perusal of the Commission.</i>
15	<i>Approval of the Surveyor General of Pakistan in respect of SGO's Letter No 54-C/1-A-231 dated 14-05-2021</i>	<i>Reason for not submitting with justification is submitted on next Monday i.e. on 27-09-2021</i>	<i>The details justification for not providing the note sheet containing approval of the Surveyor General of Pakistan in respect of SGO's Letter No. 54-C/1-A-231 dated 14-05-2021 was submitted on 27-09-2021. The copy is enclosed as (Annex-II). The note sheet is part disciplinary action against the applicant. The same is under consideration of secretary Defence. Once action will be complete, the applicant request will be considered</i>

*It is requested that appeal is disposed off on compliance, please.”*

20. The appellant after receiving the letter of public body No. 2851/ 52-D-PIC dated 06-10-2021 during the hearing proceeding on 07-10-2021, he submitted his response though Email dated 07-10-2021 which is as under;

*“This email is with reference to the hearing proceeding in subject appeal on 07.102021.*

*I being the appellant intends to place the following submissions on record.*

1. Since as per the statement of witness in the matter regarding item No. 6 , the sitting Head of Administration DSG-I and DSG-II were allegedly involved in washing out of the said record from the concerned file that's why I being appellant tenders my "No. Confidence" any inquiry in the matter at departmental level as there exist conflict of interest.

It is therefore requested that PIC may be please to issue direction for an impartial inquiry through an independent forum like MoD or FIA in the matter, please.

2. As regards the item No. 15, the department has denied to supply the copy of Approval of said letter which was served to the appellant in May, 2020. As per the stance of appellant, the said letter was served to the appellant in May, 2020 therefore it's approval do not fall under clause-7 but the department insisted not to provide the same under the plea that the approval of said letter (which was served to the appellant) is part of a proposal of inquiry against the appellant. In this regard, PIC is requested to plz mention in the order to the effect that if any charge sheet is served to the appellant then the submission of response to such charge sheet would be subject to the provision of said approval of letter to the appellant.”

21. The public body vide its letter dated 14-10-2021 also submitted its interim response by referring to the hearing proceeding held on 07-10-2021 as stated as under;

*“In pursuance of PIC's directions given in hearing referred at Serial- above, the required documents (duly verified) have already been provided to Mr. Sanaullah, Deputy Director (BS-18) of this department through PIC. Therefore, it is requested that instant appeal may be disposed of & case may be closed. As regards matter of pasting of paper (sheet) on page No. 28 of Note Sheet, the issue will be inquired & findings shall be shared with PIC within two months, please.”*

22. The public body after laps of around 02 months submitted its response through letter No. 2556 /1-A-231 dated 07-12-2021 which is as under;

*“On 07-10-2021 during hearing in the subject appeal, it was observed that a piece of paper has been pasted on page 28 of N/sheet of file 29-G-2 (DWCO's file) & PIC's authorities desired to investigate the matter. Accordingly, M/S Faisal Shahzad, Deputy Director (BS-18) & Gul Faraz, Survey Officer (BS-16 of DWCO, SOP, Quetta have enquired the matter in question & opined that pasting was existing before it was sent to SGO (HQ) on 28-09-2021. Due to lack of evidence and lapse of long period of time it is very difficult to fix the responsibility and determine the period.*

*In pursuance of PIC's directions, the requisite documents (14 items duly verified have been provided to Mr. Sanaullah, Deputy Director through PIC on 10-02-2021 & 12-04-2021 (Annex-A & B). It is, therefore, requested that the instant appeal may be disposed off & case may be closed, please.”*

23. The response of public body vide letter No. 2556 /1-A-231 dated 07-12-2021 was shared with the appellant on 12-01-2022 against which he submitted a rejoinder dated 15-01-2022 which is as under;

*“ It is stated that the undersigned is appellant in appeal No. 722-11/2020 which is pending before PIC, Islamabad w.e.f November, 2020. On 12-01-2022 the undersigned received the response of department dated 07-12-2021. Having being aggrieved and dissatisfied from the said response the undersigned preferred to file this rejoinder to the response of department as under;*

I. Yes, on 07-10-2021 during the hearing it was observed by the commission that a piece of paper had been pasted on page 28 of the Note sheet of file No. 29-G-2 in order to conceal the following letters docketed on the said page of note sheet.

i. DWC letter No. 1951/29-G-2 dated 12-08-2013 written by Mr. Bashir Ahmed Kherani, Ex-Director, Survey of Pakistan.

ii. Response to the above letter at Sl (i) above made by MS Distributer vide its letter No. 2191/AD dated 10-12-2013.

- II. *The docketing of the above letters on file note sheet implies that these letters were made part of the concerned file as well by Mr. Bashir Ahmed Kherani, Ex-Director but the department has failed to tell PIC about those original letters which is alarming.*
- III. *The department has also failed to produce the original page No. 29 of the same file of which secondary evidence was produced by Mr. Bashir Ahmed Kherani, Ex-Director, SoP before PIC on 23-09-2021 being witness in the subject appeal. The secondary evidence clearly shows that after docketing the above two letters in file No. 29-G-2 Mr. Bashir Ahmed Kherani, Ex-Director duly put-up the matter on file to the then Director Western Circle which indicates that, later on someone (other than the officer who put up the matter) washed out that record from the file in order to protect the mal-practices.*
- IV. *In recent past when PIO of the public body was himself serving as Director Western Circle, Quetta once on the query of higher office, he himself gave his feedback to the higher office that No such Note sheet was existing in the said file.*
- V. *It is regrettably noticed that the department has used the shoulder of PIC in subject letter that it has conducted inquiry “on the desire of PIC” which is beyond comprehension on the following facts and grounds;*
- i. *On 07-10-2021 the undersigned was present in the hearing proceedings and PIC did not ask the department to itself conduct the inquiry in the matter rather when the appellant shown his no confidence on any departmental inquiry than PIC reiterated that it will issue order in this regard as to who will investigate the matter independent. Then why the department did not wait for PIC’s order and once again conducted an engineered inquiry by a Junior Officer.*
  - ii. *It is also pertinent to mention that PIC had already shown its concern on the Inquiry conducted in the matter by Mr. Haroon Majeed Veaser, DD with the remarks as to how a junior officer in the department can inquire such matter which pertains to his own seniors in the department?. Further, the appellant had already submitted his No Confidence on the said inquiry being engineered by the alleged beneficiaries of said corruption and holding senior positions in the department.*
  - iii. *After the concern shown by PIC on the Inquiry Conducted by Mr. Haroon Majeed Veaser, DD being junior officer, Ironically, the department get conducted another inquiry itself through Mr. Faisal Shahzad, DD who is even further junior to Mr. Haroon Majeed Veaser, DD!.*
2. *In view of the above, it is therefore prayed that;*
- a) *The Hon’ble Commission, keeping in view the whole correspondence in the instant appeal may proceed against the public body as per the **Clause 22(1)(d) and 22(2)** of the Access to Information Act, 2017.*
  - b) *The Hon’ble Commission may refer the matter to any third party for fair investigation in the matter as per 13 points of determination placed by the appellant on record vide his letter No. 34-C/I-A-PF (Sanaullah) dated: 16-11-2021 under intimation to PIC in connection with appeal No.1017-04/2021.*
  - c) *The public body may also be served a Show Cause Notice for misusing the name of PIC for concealment of the record as elaborated under para 1(V) above.*
  - d) *The public body may also be directed to share the Approval of the Surveyor General in respect of the letter No. 54-C/I-A-231 dated 14-05-2020 served to the appellant being disposed-off letter and not falling under Clause-7. (Item No. xv of the main Appeal).”*

24. The Situational Analysis and 13 Points of Determination in the matter as communicated to the commission through appellants letter No. 34-C/1-A-PF (Sanaullah) dated 16-11-2021 are as under;

*“SITUATIONAL ANALYSIS*

*a. The record of secondary evidence infers that Mr. Bashir Ahmad Kherani, Ex-Director put up the above matter to the then Regular Director on 20-12-2013 and, as per his own statement made before PIC, till his posting out from the DWC in 2015 neither he was taken in loop regarding further proceedings in the matter nor the file was returned to him.*

*b. Having the back ground mentioned earlier the department, under the influence of alleged beneficiaries of said financial embezzlement, when came to know that Mr. Bashir Ahmad Kherani, Ex-Director has appeared before the commission as witness in the matter against department then the department after hearing essence that the matter may be disposed off from PIC against the department therefore they, for diverting the attention from actual issue of financial embezzlement and washout of the original record from the concerned file, prima facie, under their own custody and supervision, has started harassment & victimization of Mr. Bashir Ahmad Kherani, Ex-Director (in back date) just to make up their revenge who had served the department fairly and transparently and had not even a single spot at him during the whole service.*

*c. The contents of Chief Admin Officer’s (CAO) letter No. 1979/1-A-225 dated 17-09-2021 clearly reflects negligence on the part of Chief Admin Officer himself who is deemed to be Chief Security Officer and is under obligation to ensure proper security of records and must remain careful while issuing such communications.*

*d. Since the matter has now been reported to the higher office once again at Islamabad in August, 2020 but, even then, it is seemed that no any inquiry / disciplinary proceedings has so far been initiated against the beneficiaries of the said financial embezzlement through any committee or board till to date and all efforts and energies of the sitting management of SoP are being utilized in diverting the matter from its due course!!!.*

**3. POINTS OF DETERMINATION / RESEARCH QUESTIONS**

*Since, as of today, the matter has been confused and amalgamated with illusion, prima facie, under the influence of senior management of the department therefore if, in future, any impartial inquiry is being conducted to probe the matter then the same would face many challenges due to the amalgamation and illusion introduced by the management of department. Therefore, following Points of Determinations/Research Questions would definitely act as an Anti-dot for any such illusion/confusion and would help the investigation to reach at some transparent conclusion;*

*I. **Whether** financial embezzlement with Govt. exchequer was done in DWC which for the first time surfaced in 2013 by Mr. Bashir Ahmed Kherani, Ex-Director, Survey of Pakistan?*

*II. **Was** any Inquiry conducted by the higher authorities in 2013 as recommended by Mr. Bashir Ahmed Kherani through the Note sheet of file No. 29-G-2 at its page numbers 28 & 29?*

*III. **Who** were the beneficiaries of said financial embezzlement?*

*IV. **Why** an engineered fact finding Inquiry was conducted by the department through a Junior Officer in Feb-March, 2021?*

*V. **Why** the inquiry had been avoided till Feb- 2021 even when the matter surfaced again in August, 2020?*

- VI. **When** the Inquiry was completed by Mr. Haroon Majeed Veaser, DD and he had submitted his report then, fairly speaking, being public record and not falling under the Clause-7 of the Access to information Act. 2017, **why** it was not provided to Mr. Bashir Ahmed Kherani on his request for perusal?
- VII. Despite the “No Confidence” on the inquiry conducted by Mr. Haroon Majeed Veaser, DD expressed by PIC during proceedings on 07-10-2021 in the matter **why** is the department in so hurry now to take such actions (allegedly in back dates) which are not only creating harassment to the other end but also creates suspensions?
- VIII. **Why** is the department even not waiting for PIC’s order in Appeal No.722-11/2020 which otherwise it should wait for?
- IX. **Are** the documents under consideration fall under the preview of Official Secret Act as claimed by the department?
- X. **Was** Mr. Bashir Ahmed Kherani justified in retaining the photocopies (secondary evidence) of correspondence made regarding the said financial embezzlement?
- XI. **Was** the original record of the correspondence from File No. 29-G-2 washed out after Mr. Bashir Ahmed Kherani put up the same to the then Regular Director or otherwise?
- XII. **Has** the production of Secondary Record of said financial embezzlement including the photocopy of Note Sheet’s page Nos. 28 and 29 of file No. 29-G-2 by Mr. Bashir Ahmed Kherani, Ex-Director before the department during the inquiry of Mr. Haroon Majeed Veaser, DD in Feb-March, 2021 **exposed** the beneficiaries of said financial embezzlement in Government Exchequer?
- XIII. **Are** the officers who, prima facie / allegedly involved in washout/ concealment of the original record from concerned file currently working at the top most positions in the department or otherwise?”

### **C. Discussion and Commission’s View on Relevant Issues**

25. This commission holds that following letters were docketed at serial 135 & 136 at page 28 of the Note Sheet of File No. 29-G-2 of which the docketing on the note sheet was concealed through pasting of paper as found during the examination of Original File by the Commission on 07-10-2021 & page 29 of the Note Sheet was missing in the original file No. 29-G-2 examined by the Commission on 07-10-2021.
- i. DWC letter No. 1951/29-G-2 dated 12-08-2013 written by Mr. Bashir Ahmed Kherani, Ex-Director, Survey of Pakistan.
  - ii. Response to the above letter at Sl (i) above made by MS Distributors vide its letter No. 2191/AD dated 10-12-2013.
25. The Respondent vide its letter No. 132-C/ 1-A-231 dated 12-04-2021 submitted before this commission that correspondence requested by appellant vide Sl. iv, v & vi of the information request were not made part of the record by Mr. Bashir Ahmed Kherani, Ex-Director and therefore disowned the same information to be part of official record.
26. Mr. Bashir Ahmed Kherani, Ex-Director being witness in the matter denied the stance of public body during the course of hearing on 23-09-2021 and through his written statement dated 02-06-2021 & affidavit dated 23-09-2021. The witness maintained that that he had properly made the correspondence under consideration part of official record by docketing it at serial 135 & 136 at page 28 of the Note sheet of File No. 29-G-2.

27. The examination of the Original File by the Commission on 07-10-2021 at PIC Islamabad conforms with the statement of witness in this regard.
28. This commission is of the view that this is not a matter of mere error and omission but matter of unlawful appropriation of powers through tampering of official records. This commission hopes that it is only a one-off case and not a trend.
29. This commission holds that it is prima facie a case of destruction or, tampering of official records, or both. As such, it needs to be investigated as an offence under Section 22 (1) (d) and (2) of the Right of Access to Information Act which is as under:  
*(d) "Destroying a record without lawful authority, shall be punishable with a fine not exceeding fifty thousand rupees"*  
*(2) In addition to any other action that may be taken under any other law for the time being in force, any person who wilfully destroys a record which at the time it was destroyed was the subject of an application for access to information which is the subject of an application or appeal, with the intention of preventing its disclosure under this Act, commits an offence punishable with imprisonment for a term which may extend to two years or with fine which shall not be less than one hundred thousand rupees or with both".*
30. As such, this commission is obligated to refer all record on the file to relevant agencies as required under Section 20 (1) (h) of the Act which is as under:  
*"The information commission after determination of willful destruct of record shall refer such matters to the relevant agencies"*
31. This commission is of the view that this matter needs to be investigated by relevant federal agencies. The commission hopes that if the investigating agency determines that the documents have been tempered with for nefarious ends, those involved will be brought to justice.

#### **D. Order**

32. Appeal is allowed. In pursuance of Section 20 (1) (h) of the Right of Access to Information Act, 2017, the matter is referred to the Federal Investigation Agency (FIA) and Islamabad Capital Territory Police, (ICTP) in order to have an impartial inquiry into the matter with special reference to the concealed/ destructed record requested by the appellants vide items No. iv, v & vi of the appeal.
33. The Respondent is directed to provide certified copy of the remaining information requested by the appellants vide para (xv) of his information request/ appeal.
34. Copies of this order be sent to Surveyor General, Survey of Pakistan, Secretary, Ministry of Defence, Inspector General, Islamabad Capital Territory Police, Director General, Federal Investigation Agency (FIA) and the Appellant for information and necessary action.

**Mohammad Azam**  
Chief Information Commissioner

**Fawad Malik**  
Information Commissioner

**Zahid Abdullah**  
Information Commissioner

Announced on: September 13, 2022

This order consists of 13 (thirteen) pages, each page has been read and signed.