

Pakistan Information Commission
Government of Pakistan

1st Floor, National Arcade, 4-A Plaza
F-8 Markaz, Islamabad
Website: www.rti.gov.pk
Phone: 051-9261014
Email: appeals@rti.gov.pk
@PkInfoComm



In the Pakistan Information Commission, Islamabad

Appeal No 950-03/21

Naeem Sadiq

(Appellant)

Vs.

Cantonment Board Malir Karachi

(Respondent)

Order

Date: June 23, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated March 09, 2021, to the Commission, stating that he submitted an information request to the Cantonment Executive Officer of Cantonment Board Malir dated January 29, 2021 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:

“1. Kindly provide complete copies of the latest current contracts between your Cantonment Board and janitorial Contractors for cleaning / sweeping / garbage collection / waste disposal etc performed in the Cantonment areas.
2. Please provide the following factual information after practically checking with janitors employed by the contractors:
a. Actual salary received by those janitors who perform 8 hour duty.
b. Actual salary received by those janitors who perform 12 hour duty.
c. Please provide a list of names of all contracted janitors and their EOBI numbers - in case they are registered with EOBI. If not registered, please say so.
d. Please provide a list of names of all contracted janitors and their Social Security numbers - in case they are registered with Social Security. If not registered, please say so”.

B. Proceedings

3. Through a notice dated March 29, 2021, sent to the Cantonment Executive Officer, Cantonment Board Malir, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. In response to notice sent on April 13, 2021, the Respondent stated through a letter dated April 26, 2021, that the requested information had already been shared with the Appellant on April 01, 2021.
5. The commission shared information with the Appellant on May 28, 2021 and the Appellant submitted his dissatisfaction on May 29, 2021. The Appellant stated that requested information in Q. No. 1 had been provided whereas the remaining queries remained unanswered.

6. The commission shared the response of the Appellant with the Respondent on June 07, 2021.
7. Through a letter dated 18 June, the Respondent provided requested information to the Appellant with copy to this office.
8. In response, through an E-mail dated June 22, 2021, the Appellant stated that “the complete info is STILL NOT PROVIDED.
9. More specifically - answer to Question 2 A of our request has been dodged by giving a wrong argument that "Conservancy Services are Outsourced and the contractor is bound to pay the minimum wages." This is NOT information but an opinion. Our question was very specific to check practically and provide factual information”.

C. Issues

10. The instant appeal has brought to the fore following issues:
 - (a) What is the relationship of employees whose services have been hired by Cantonment Board, Malir through a contractor to carry out *cleaning / sweeping / garbage collection / waste disposal etc performed in the Cantonment areas Cantonment Board, Malir?* and
 - (b) What is the responsibility of the Cantonment Board, Malir in enforcing laws of the land with regards to such employees?

D. Discussion and Commission’s View on Relevant Issues

11. This commission is of the view that the relationship of employees whose services have been hired by Cantonment Board, Malir through a contractor to carry out cleaning / sweeping / garbage collection / waste disposal etc performed in the Cantonment areas Cantonment Board, Malir is already settled in Sindh High Court Constitutional Petition No. D-852 of 2019 Dated 10 March 2021. It says “As regards the question of employees of a third-party contractor, suffice it to say that it is a normal practice on behalf of such employer to create a pretence and on that pretence to outsource the employment against permanent posts. This all seems to be a sham pretence and therefore it is not a case of any disputed fact and no evidence is required to record finding on the issue. Moreover, we have seen from the para-wise comments filed on behalf of respondents and the documents attached therewith, which shows that the janitorial staff are employees of the 3rd Party Contractor and are being paid their salaries from the account of Respondent-cantonment Boards.” While dealing with the question as to whether the employees of a labour contractor can be considered as the employees of the establishment, where they work through labour contractors, the Honourable Sindh High Court refers to the Honourable Supreme Court judgment (2013 SCMR 1253) by saying, “ In the case where an employer retains or assumes control over the means and method by which the work of a Contractor is to be done, it may be said that the relationship of employer and employee exists between him and the employees of the contractor”.
12. In the light of above-mentioned SHC judgement, all janitors are employees of the Respondent, Cantonment Board, Malir. As such, the Respondent, Cantonment Board, Malir should have checked with each janitor and provided the requested information based on their responses.

13. This commission has already held in Appeal No. 890-02/21 “it is responsibility of the public bodies to keep records of all the transactions to ensure that public funds, spent directly, or, through contractors, to perform official functions, are utilized in accordance with the laws of the land”.
- Otherwise, it would be tantamount to throwing the employees at the mercy of market forces.

E. Order

14. Appeal is allowed. Cantonment Executive Officer, Cantonment Board Malir is directed to provide the Appellant following requested information within 7 working days of the receipt of this Order, with intimation to this office after checking the status with each *janitor*:

- “a. Actual salary received by those janitors who perform 8 hour duty.
b. Actual salary received by those janitors who perform 12 hour duty.
c. Please provide a list of names of all contracted janitors and their EOBI numbers - in case they are registered with EOBI. If not registered, please say so.
d. Please provide a list of names of all contracted janitors and their Social Security numbers - in case they are registered with Social Security. If not registered, please say so”.*

15. Copies of this order be sent to Cantonment Executive Officer, Cantonment Board Malir and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
June 24, 2021

This order consists of 3 (three) pages, each page has been read and signed