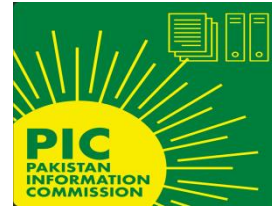


**Pakistan Information Commission
Information Service Academy
Zero Point, Islamabad**



Appeal No. 042-04/19

Muhammad Akram

VS

Utility Stores Corporation of Pakistan

ORDER

Date: 21-01-2020

Mohammad Azam: Chief Information Commissioner

1. The Appeal No. 042-04/19 was filed by Muhammad Akram (appellant) before the Commission dated November 29, 2018 complaining therein that he submitted a request for provision of record/Information in the light of Article 19-A of Constitution of Islamic Republic of Pakistan read with Right of Access to Information Act, 2017, and Public Procurement Rules, 2004 to the Managing Director /principal officer, Utility Stores Corporation of Pakistan (Pvt) Ltd. However he failed to provide the requisite record. The text of his appeal is as under:

“It is stated that Article 19A of Constitution of Islamic Republic of Pakistan establishes right of access to information read with Right of Access to Information Act 2017 and Public Procurement Rules, 2004.”

(2) Following record is requisitioned in the light of ibid legal framework,

a. **Record Pertaining to the office of Chief Financial Officer USC**

Sr. No.	<u>Detail of Tender & News Paper</u>	<u>Particulars of Tender</u>	<u>Required Record (Both Tenders)</u>
A	Daily Express 07.02.17	Tender for Purchase of Rice dated 23.02.2017	1. Payment details of all successful Contractors 2. Ledgers (Parties Statements) of successful Contractors 3. Payments Advices Invoice wise (Covering Letters) of all successful Contractors.
B	Daily Express	Tender for Purchase of Rice dated 17.04.2017	

b. **Record pertaining to the office of General Manager (Procurement USC)**

Sr. No.	<u>Detail of Tender & News Paper</u>	<u>Particulars of Tender</u>	<u>Required Record (Both Tenders)</u>
A	Daily Express 07.02.17	Tender for Purchase of Rice dated 23.02.2017	1. All procurement proceedings 2. Procurement Policy and SOPs copy 3. Award of Contracts. 4. Payments details to Contractors with dates and amounts (Invoice wise) 5. Details of Payment not yet cleared (Invoice wise) 6. Analysis and DNA test reports (Rice & Broken Rice) of all contractors of all Products
B	Daily Express	Tender for Purchase of Rice dated 17.04.2017	

c. **Record pertaining to the office of Chairman Payment Review Committee USC**

Payment Review Committee has been working in USC as “**Payment Distribution Authority**” to its suppliers and contractors. Prime purpose is to take control of financial imbalances and equality manage the financial resources to suppliers and contractors to meet their expenditure liabilities while alleviating the horizontal and vertical fiscal imbalances and to optimize allocation of resources.

- i. Authority / approval of Principal Accounting Officer for constitution of Payments Review Committee as the duties and responsibilities of the Principal Accounting Officer, finance is an essential element in policy questions and the Principal Accounting Officer is ;to ensure that financial considerations are taken into account at all stages in framing and implementing decisions.
 - ii. Terms of References (TORs) of Payment Review Committee in respect of
 - a. Vision, objectives, scope and limitations.
 - b. Stakeholders, roles and responsibilities. Monitoring and controlling mechanism.
 - c. Resources, financial and quality plans including work breakdown structure in respect of quantum of payments allotted to the categories of all suppliers.
 - d. Reasons / justifications for constitution of Payment Review Committee.
 - e. Success factors, risks and constraints.
 - iii. Chronological details of meetings convened (date wise). Complete detail of payments recommended and actualized in the light of devised payment distribution, mechanism as well as complete details of revenues against them payment were made.
 - iv. Details of unauthorized payments i.e. Amounts paid other than Payment Review Committee devised official mechanism.
 Preferential treatments for authorizing inordinate payments to supplier / contractors by ignoring qualified contractors for payment as per official payment plan.
 - v. Liabilities of financial year 2016-17 and 2017-18 incurred upon along with detail of suppliers and contractors who have not been paid more than one year along with reasons and justifications.
- (3). Requisition of record / information in the light of legal framework of State of Pakistan is a Fundamental Right, which cannot be denied otherwise than legal procedure. I anticipate requisite record / information within prescribed time period allowed by law and prescribed fee may be charged for the cost of reproducing information and sending. Otherwise, I reserve right to approach appropriate legal forum for provision of record taking into consideration of Right of Access to Information Act, 2017”.

B. PROCEEDINGS

4. Through notices dated 14-03-2019, 19-04-2019 and 26-06-2019 the commission asked the public body to submit reasons as to why the required information has not been provided to the appellant. Three notices were not responded by the Public body/respondent, hence the appeal was fixed for hearing on 31-07-2019 and the respondent and the appellant were informed vide notices dated 11-07-2019, accordingly.

5. No one appeared on behalf of the respondent. The appellant Mr. Mohammad Akram in person along with Mr. Zain Shairazi Advocate appeared and informed the Commission that they have received a letter from Utility Store Corporation dated 31-07-2019 signed by Syed Mehtab Shah Banori, Manager Procurement without enclosures. The copy of the same letter was received by the Commission stating, “....Further to this office above quoted letter following record/information pertains to procurement Department is enclosed:-

(1)- Letter No. 4014/MAR/9935 dated 04-05-2017 along with tracking number

(2)- Letter No. 4014/MAR/10417 dated 03—06-2017 along with NIBGE report of M/S Muhammad Akram &Company”. However the copy of this letter was also without any enclosures though cleared mentioned in the text.

6. A final hearing notice for 25-09-2019 was issued to the respondent on 03-09-2019 directing them to appear personally before the Commission with all the record/information requested by the appellant and also explain the reasons for not providing the requested information to the appellant. Otherwise, the Commission will take action under Section 20 (f) of the Right of Access to Information Act 2017. No one appeared on behalf of the Respondent. The appellant Mr. Mohammad Akram in person along with Mr. Zain Shairazi appeared for the hearing and informed the Commission that they have not received the requisite information.

7. Another hearing notice for November 19, 2019 was issued to the respondent on October 28, 2019 along with a copy of letter No. MAC/786/D/138 dated October 25, 2019 from the respondent addressed to the Commission. Syed Mehtab Shah Banori Manager Procurement and Sardar Muhammad Khan appeared on behalf of the Utility Stores Corporation but they could not provide the requested information to the appellant

without giving any cogent reason. They requested for giving time till December 09, 2019 to produce the record. The Commission allowed the desired extension in time with the consent of the appellant. However the respondent neither came for hearing nor provided the requested information to the appellant as promised at the time of hearing on November 19, 2019.

C. DISCUSSION AND COMMISSION'S VIEW ON RELEVANT ISSUES

8. The requested Information by the appellant in his original request to the Managing Director of Utility Stores Corporation regarding procurement of rice under the Right of Access to Information Act, 2017 and under article 19-A of the Constitution of Islamic Republic of Pakistan is a public document which cannot be denied under the Act. Even according to PPRA Ordinance 2002 the procurement by all the Government Departments is done in a transparent manner. The respondent has shown a very casual attitude firstly by not attending the first two hearings and secondly not providing the record /information to the appellant on December 9, 2019 after undertaking during the hearing on November 19, 2019. The denial of Information regarding procurement of any item by Utility Stores Corporation is totally against the spirit of the Act. Access to Information is statutory right under the Act, further endorsed by article 19-A of the constitution of Pakistan, therefore the citizen cannot be denied their fundamental and constitutional right.

9. As per request of the respondent the Commission has extended sufficient opportunities to provide the requisite Information to the appellant. However, the respondent failed to comply with the provisions of the Act. The requested information is not exempted from disclosure under any clause of the Act, nor the respondent has claimed as such.

D. ORDER

10. For the reasons mentioned above the appeal is allowed. The respondent is directed to provide the requested information to the appellant as per his original request dated November 12, 2018 to the extent of procurement of rice only and related requested documents in this regard at the earliest but in any case not later than 20 working days of the receipt of the order with copy to this Commission. The respondent is also directed to take immediate steps to proactively share through their website all categories of information mentioned in section 5 of the Right of Access to Information Act 2017 and submit the compliance report to the Commission by 20-02-2020.

Copies of this order being sent to the respondent and the appellant for information and necessary action

Muhammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 21.01.2020.

This order consist of 6(six) pages; each page has been read and signed.