

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 383-06-2020

Dr. Farid Ahmad Malik

Vs

Ministry of Foreign Affairs

Fawad Malik: Information Commissioner

Date: January 19, 2021

A. APPEAL:

1. The brief facts of the appeal are that Dr. Farid Ahmad Malik filed a request under the 'Information Ordinance', to the Foreign Minister of Pakistan through e-mail message on 28.4.2020. The contents of the information request are as under;

*In September 2019 the PM Secretariat notified a search committee for the above (Appointment of Coordinator General COMSTECH) appointment under your Chairmanship. After consultation between you and the Minister of Science and Technology (MOST) a three member panel of experts that included my name was forwarded to your office on November 27, 2019 for final selection by the committee.*

*On April 18, 2020 the President of Pakistan as Chairman of the OIC Standing Committee on Scientific and Technological Cooperation (COMSTECH) notified the appointment of Dr Mohammad Iqbal Chaudry. On inquiry from the President I was told that three candidates were interviewed by the President for final selection for appointment.*

*Under the 'Information Ordinance', please inform me about the procedure followed by the committee for the final nomination together with the reason of dropping my name despite being forwarded by MOST in the panel of experts.*

2. Later through a letter dated 18.5.2020 sent to the Pakistan Information Commission, although not specifically under the Right of Access to Information Act 2017, the appellant has reiterated the contents of his application.

B. PROCEEDINGS:

3. The Commission vide notice dated 17.6.2020 addressed to Ayesha Farooqui, spokesperson of the Ministry of Foreign Affairs, directed to provide reasons in writing within seven working days of the receipt of the notice as to why the requested information has not been provided to the applicant as under section 14

of the Act, each federal public body is bound to respond to a request as early as possible and in any case not later than ten working days.

4. The notice was not followed therefore the appeal was fixed for hearing on 26.8.2020 before the Commission and both the appellant as well as the respondent were informed accordingly vide notices dated 22.7.2020.
5. The spokesperson of the public body vide letter dated 5.8.2020 informed the Commission that in pursuance of the Ministry's legal obligations under the Act and on the direction of the Commission, a detailed reply has been lead to Dr. Farid Ahmad, in response to his request. The contents of the response are reproduced as under;

- *COMSTECH is one of the Ministerial-level inter-governmental Standing Committee of the OIC. The President of Pakistan is the Chairman of COMSTECH as per the decision of the OIC Islamic Summit Conference held in Makkah in 1981.*
- *In line with Article 12(2) of the COMSTECH Statute, it is the discretion of the Chairman (President of Pakistan) to appoint the Coordinator General of COMSTECH. A Search Committee was nevertheless constituted to head-hunt a suitable candidate.*
- *Subsequent to its constitution the Search Committee agreed on a set of criteria to evaluate all the applications.*
- *The three names suggested by the Ministry of Science & Technology, which included your name, were nominations by one member of the Search Committee. Similarly, other members of the Search Committee shared their nominations. Accordingly, the Search Committee members thereafter evaluated the applications of several candidates. Based on these evaluations by the Search Committee members, a panel of 3 candidates was short-listed.*
- *It would be pertinent to point out that in order to maintain neutrality as the Chairperson of the Search Committee, the Foreign Minister did not partake in the short-listing process.*

6. The information provided by the public body was shared with the applicant through information sharing letter dated 11.8.2020, by the Commission. The appellant appeared before the Commission on 26.8.2020, whereas no one appeared on behalf of the public body. The appellant through his even dated letter addressed to the Chief Information Commissioner, grounded his dissatisfaction to the response provided by the Ministry of Foreign Affairs. He asked for the particulars and detail of his desired information as under;

- i. *Record of the meetings held by the Search Committee.*
- ii. *Who presided over these meetings as the letter indicates the Chairperson abstained.*
- iii. *What was the set criteria of evaluation developed by the Search Committee.*
- iv. *Who nominated Dr. Muhammad Iqbal who is a subordinate of Dr. Atta-Ur-Rehman a member of the Search Committee, there seems to be a conflict of interest.*
- v. *Did MOFA follow the same procedure in the nomination as was followed before in the selection of Dr. Atta-Ur-Rehman and Dr. Shaukat Hameed.*
- vi. *By order of merit based on the criteria of the search committee what was my position and what were the total number of nominations.*
- vii. *What was the role of Chairman of the search committee.*

The information in amended and modified form was sought by the appellant at the time of hearing through his written application which was transmitted to the respondent along with the notice of hearing. The appeal was fixed for hearing on 16.8.2020. Both the parties were informed vide notices dated 31.8.2020.

7. On 16.9.2020 Dr. Farid Ahmad appellant appeared in person whereas Mr. Syed Faraz Raza, Assistant Legal Advisor along with Mr. M. Saad Butt, Assistant Director represented the public body and sought some time to file the reply to the amended request therefore the appeal was adjourned to 24.9.2020.
8. The respondent vide letter dated 22.9.2020 filed para wise replies to the above stated queries by the appellant which are reproduced here under;
  - i. ***Record of the meetings held by the Search Committee***  
*The redacted record of the meeting held by the Search Committee is attached at (Flag/C)*
  - ii. ***Who presided over these meetings as the letter indicates the Chairperson abstained.***  
*The chair of Search Committee, the Foreign Minister, presided over the meetings. It may be clarified that the Chair did not participate in the voting for the sake of impartiality but did preside over the meetings himself (the Foreign Ministry candidates could not meet the Selection Criteria and were therefore not considered during the voting phase).*
  - iii. ***What was the set criteria of evaluation developed by the Search Committee.***  
*The selection criteria, as agreed to by consensus among the Search Committee members is at (F/D).*
  - iv. ***Who nominated Dr. Muhammad Iqbal who is a subordinate of Dr. Atta-Ur-Rehman a member of the Search Committee, there seems to be a conflict of interest?***

*Dr. Mohammad Iqbal Chaudry was nominated by Dr. Ata- ur-Rahman since each Search Committee was asked to nominate suitable candidates as a part of the head-hunting process (similarly Dr. Farid Malik's name was proposed by Secretary Ministry of Science and Technology, who was also a member of the Search Committee).*

- v. ***Did MOFA follow the same procedure in the nomination as was followed before in the selection of Dr. Atta-Ur-Rehman and Dr. Shaukat Hameed?***

*The appointment of the Coordinator General COMSTECH is the prerogative of the COMSTECH Chairman i.e. the President of Pakistan (relevant abstract of the COMSTECH Statute-F/B). The Chairman has freedom to appoint the Coordinator General, since the Coordinator General has to act on behalf of the Chairman.*

*Since the establishment of COMSTECH, Coordinator Generals have been appointed 8 times.(from 1988 to 2020). The founding Coordinator General COMSTECH, Dr.M. A. Kazi was appointed directly by the President of Pakistan in 1988. He had two terms i.e. July 1988- June 1992 and July 1992 – June 1996. The second Coordinator General, Prof. Ata-ur-Rehman was also directly appointed by the President/Chairman. He had four tenures of four years each from July 1996 to June 2012.*

*The appointment of the third Coordinator General was made after a period of two years during which Dr. Javed Laghari (former Chairman HEC) and Dr. Mohammad Ali Mahesar (COMSTECH employee) were given additional charge respectively by the president.*

*In the meanwhile, the President/Chairman COMSTECH constituted a Search Committee under the then Advisor to the Prime Minister on the Foreign Affairs, Mr. Sartaj Aziz. The Search Committee was tasked to nominate a panel of three scientists. This panel of 3 was proposed to the President through the Prime Minister. In June 2014, the President upon the advice of the Prime Minister, approved the appointment of Dr. Shaukat Hameed Khan, who was the last Coordinator General COMSTECH before the recently appointed Coordinator General Dr. Iqbal Chaudhry.*

*For the appointment of Dr. Iqbal Chaudhry, the current Coordinator General of COMSTECH, the same procedure was adopted in 2014, and as desired by the President/Chairman, was followed.*

*The President/Chairman COMSTECH desired a head-hunting process in line with his prerogative to appoint the Coordinator General of COMSTECH. The Committee's composition was notified by MoST(F/E).*

- vi. ***By order of merit based on the criteria of the search committee what was my position and what were the total number of nominations?***

*Each member of the Search Committee was asked to propose names of eminent scientists. As a result, 16 nominations were compiled based on the*

*proposals of the Search Committee members. Based on the agreed criteria, each Search Committee member short-listed 3 candidates each in order of merit. Mr. Iqbal Chaudry was nominated as merit No. 1 candidate by majority of Search Committee members. His name was, therefore, proposed at No. 1 in the panel of 3 candidates put up for consideration by the President. Similarly, other two candidates were chosen in the Panel based on the short-listing done by the Search Committee members. Mr. Farid Malik's name was in the list of three short-listed candidates by Secretary MoST. However, he was at priority 2 in the list of his proponent. Even Secretary MoST listed Dr. Iqbal Chaudhary as his first priority. The complainant was not in any other member's list of 3 short-listed candidates. He could not, therefore, make it to final panel of three to be proposed to the President.*

**vii. What was the role of Chairman of the search committee?**

*Please refer to reply of query No. 2.*

9. Mr. M. Saad Butt, Assistant Director submitted the above said reply during the course of hearing on 24.9.2020 on behalf of MoFA. The same was shared with the appellant present in person, who feeling dissatisfied filed another set of queries which is reproduced as under;

**HEARING OF APPEAL AGAINST IRREGULARITIES IN APPOINTMENT  
OF COORDINATOR GENERAL COMSTECH APPEAL 383-06/2020  
HEARING SEPT. 24,2020**

**I. INFORMATION PROVIDED BY MR SAAD BUTT**

- (i) *Minister of Foreign Affairs to chair the Search Committee.  
Not stipulated in the Act.*
- (ii) *United Nation preferential voting procedure.  
Not included in the Recruitment policy of any department of  
the Government.*
- (iii) *Priority position on MoST panel of experts.  
Haved checked with MoST priority position determination  
was left with the Search Committee. All three sent names  
had equal merit.*

**II. UN-ANSWERED QUESTIONS**

- (i) *The United Nations Preferential Voting Procedure was  
inappropriate for recruitment, why was it adopted?*
- (ii) *When members of the Search Committee objected to this  
procedure, why was it followed?*
- (iii) *When there was dissent in the selection of short listed  
candidates why was it not reflected in the summary.*

- (iv) *In case of previous selections the President did not interview the panel submitted, he choose one name, who suggested the interviews by the President?*

**III. ROLE OF THE CHAIRMAN OF THE SEARCH COMMITTEE**

- (i) *Why the name of the Minister MOST replaced by MOFA? When he just abstained in the proceedings.*
- (ii) *Considering serious conflict of interest by one member of the Search Committee, why was the principal of recusal not applied?*

10. Keeping in view the dissatisfaction expressed by the appellant, the appeal was again set down for hearing on 7.10.2020 when Mr. Saad Butt, representative of the MOFA produced the following information and record before the Commission.

- a. *Minutes of Meeting of the Search Committee for Nomination of the Suitable Candidates for the Post of Coordinator General COMSTECH, 7<sup>th</sup> February, 2020.*
- b. *List of Participants of the Search Committee for the appointment of Coordinator General of COMSTECH, 7<sup>th</sup> February, 2020.*
- c. *Priority list of nominations proposed by members of the Search Committee.*
- d. *Minutes of Meeting of the Search Committee for Nomination for Suitable Candidates for the post of Coordinator General COMSTECH, December 30, 2019.(Severing the exempted parts).*
- e. *Selection Criteria for Coordinator General of COMSTECH.*
- f. *Copy of Article 12 of .....*
- g. *Notification No. 1(3)/2018-COMSTECH/ASA(IL-II) dated 2<sup>nd</sup> October, 2019 through which five member Search Committee was approved by the President Islamic Republic of Pakistan being the Chairman OIC Standing Committee.*

11. The appellant present in person received the above stated information and record during the course of hearing on 7.10.2020 and filed yet another even dated application raising certain objections and explanations. The same are reproduced as under;

- (i) *According to the minutes of meeting a selection criteria was agreed upon with complete breakdown of marks which has not been provided for each candidate.*
- (ii) *There is no mention of preferential voting method for selection in the minutes.*
- (iii) *Attendance record has not been provided.*
- (iv) *Portions of minutes have been blackened.*

- (v) *Instead of panel of experts a list of short listed candidates was sent for interview to the President. In the past a panel was proposed from which the President selected one, no interviews were even held by the President. In the first meeting a panel was proposed. Under the circumstances please provide the relevant record.*

12. The appeal was adjourned for hearing on 14<sup>th</sup> Oct and finally on 21.10.2020. After hearing the vehement arguments advanced by the appellant, the Commission vide interim order dated 21.10.2020 directed the public body to provide the appellant (i) list of the participants of the meeting and (ii) detached paragraphs 7 & 8 of the minutes of meeting where after the appeal will deemed to be closed. The public body complied the direction of the Commission and provided both the documents through letter dated 23.10.2020 with a copy to the appellant, which were also shared with the appellant vide information sharing letter dated 10.11.2020 by the Commission.
13. The appellant once again is not satisfied and has desired the following information;

- (i) *Un-audited copies of the two selection committee meetings should be provided.*
- (ii) *Complete attendance of the two meetings should also be provided including absentations and dissent by members.*
- (iii) *List of ranking based on the agreed selection criteria should also be provided.*
- (iv) *Was the Principal of recusal followed as there was conflict of interest?*

#### C. COMMISSION'S VIEW.

14. The original request to the public body and the appeal were not filed under the Right of Access to Information Act 2017, rather under the information ordinance, the repealed ordinance. Instead of striking the appeal on technical reason the Commission has treated and processed the appeal under the Act of 2017 in order to facilitate and ease the citizens and keeping in view lack of awareness of the citizens regarding the enactment of the Act. Even otherwise the right of access to information is a fundamental right guaranteed under the Constitution of Pakistan and the citizens cannot be deprived of their right mere on the technical error.
15. In the basic request the appellant has sought the information about the procedure followed by the committee for the appointment of Coordinator General COMSTECH and reason for dropping his name despite being forwarded by Ministry of Science and Technology (MOST). It is stated that after consultation between the MOFA and MOST, a three member panel of experts included the name of the appellant but subsequently his name was dropped and the President of Pakistan as Chairman of the OIC Standing Committee on Scientific and

Technological Cooperation notified the appointment of Dr. Mohammad Iqbal Chaudhry for the post.

16. The request was replied by the MOFA but could not aptly soothe the appellant's thirstiness therefore the appellant supplemented the modified application in more particularized and elaborated form.
17. The Minutes of Meeting of the Search Committee for Nomination of the Suitable Candidates for the Post of Coordinator General COMSTECH, 7<sup>th</sup> February, 2020, the List of Participants of the Search Committee for the appointment of Coordinator General of COMSTECH, 7<sup>th</sup> February, 2020, the Priority list of nominations proposed by members of the Search Committee, the Minutes of Meeting of the Search Committee for Nomination for Suitable Candidates for the post of Coordinator General COMSTECH, December 30, 2019(Severing the exempted parts), the Selection Criteria for Coordinator General of COMSTECH, and the Notification No. 1(3)/2018-COMSTECH/ASA(IL-II) dated 2<sup>nd</sup> October, 2019 through which five member Search Committee was approved by the President Islamic Republic of Pakistan being the Chairman OIC Standing Committee etc. are the category of record that is enlisted in the definition of public record. The Commission is of the considered view that all the permissible and shareable information and record under the law, desired by the appellant is shared with the appellant by the respondent and the queries are answered in detail.
18. The subsequent application filed by the appellant with the heading "HEARING OF APPEAL AGAINST IRREGULARITIES IN APPOINTMENT OF COORDINATOR GENERAL COMSTECH" cannot be entertained by the Commission. This Commission is established to ensure that the people of the country have improved access to the record and information held by the public authorities to promote the participation of the people in public affairs and to ensure upholding of transparency and good governance in the working of the government. Probe and inquiry against the public body or surfacing the irregularities or malpractices in the working of the government does not fall under the domain of this forum therefore if any irregularity is committed in the appointment of the Coordinator General COMSTECH, this Commission does not hold any powers to penetrate into, nor is it built-in in the functions of the Commission. Be that as it may but the expectations of the appellant to the extent of interference of the Commission in the irregularities are beyond the room of the Commission. This Commission is constituted under the Right of Access to Information Act 2017, to facilitate the citizens to have access to the public record that however may be instrumental and useful to surface and dig out any irregularity or malpractice in the government working system.
19. It would not be out of place to mention here that the right of access to information means the right of access to information accessible under the Act, which is held by or under the control of the public body. It includes the information, documents or record in digital or printed form, as the case may be and the "information"



means information based on record. The information which is not held by the public body in the shape of document whether in printed or digital form that cannot be certified does not fall within the category of public record. The general queries and questions which cannot be answered in the digital or printed form does not make a request in eye of the Act.

20. The appeal was finally heard on 21.10.2020. After the conclusion of arguments the appellant agreed that if the respondent further provides him the (i) list of the participants of the meeting and (ii) detached paragraphs 7 & 8 of the minutes of meeting, than he will be satisfied. Keeping in view the respondent was directed to do the needful where after the appeal will be deemed to be closed. Both the documents were provided by the respondent on 23 10 2020 which were shared with the appellant.

D. ORDER

21. The Commission is of the considered view that the appeal has borne fruit, the Ministry of Foreign Affairs has appropriately shared the information and record available with the public body. Disposed off.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on:  
January 19, 2021

This order consists of 9 (nine) pages, each page has been read and signed.