

## IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 776-12-2020

Anique Salman Malik  
Vs  
Pakistan Environment Protection Agency

Date: 10.3.2021

Fawad Malik: Information Commissioner

### A. APPEAL

1. Mr. Anique Salman Malik, Advocate filed appeal under section 17 of the Right of Access to Information Act, 2017 before the Pakistan Information Commission against the Pakistan Environment Protection Agency (PEPA) through its Director General, the Principal Officer. The appellant is aggrieved of the Respondents failure to comply with the statutory duty under the Act and breach of the Fundamental Right as enshrined in Art 19A of the Constitution of Pakistan 1973.
2. The appellant through the application dated 13.11.2020 addressed to the Director General, by courier and email has requested the information and record pertaining to the project known as Housing Foundation Towers, proposed to be constructed at sector G-13, Mauve Area, Islamabad by the Federal Government Employees Housing Authority (FGEHA). An Environment Impact Assessment Report (EIA) has been submitted to PEPA in this regard. The information sought is detailed as under:-
  - (i) *The date on which the EIA was received by PEPA from FGEHA with regard to the Project;*
  - (ii) *Copies of any communication between EIA and FGEHA whereby PEPA has sought for any further information/ clarification from FGEHA, or raised objections to the Project;*
  - (iii) *Copies of the replies if any from FGEHA to PEPA in relation to the documents mentioned in point (ii) above;*
  - (iv) *Copy of the collated and tabulated comments received by PEPA from the public or any government agency as mandated by Regulation 10(5) of the Pakistan Environment Protection Agency (Review i=of IEE and EIA) Regulations, 2000;*
  - (v) *Copy of the minutes of public hearing held on 10.11.2020 in relation to review of EIA of the Project;*
  - (vi) *Copy of the decision if any taken by PEPA with regard to approval (conditional or otherwise) or disapproval of the Project;*

- (vii) *In case no decision regarding approval or disapproval of the Project has been taken by PEPA till date, confirmation of the aforesaid may kindly be provided; and*
- (viii) *Copy of any order/decision or any information pertaining to any action initiated by PEPA against the Project or FGEHA for initiating construction of the Project prior to approval of its EIA by PEPA online complaint for which was submitted by the undersigned on the website of PEPA prior to public hearing scheduled on 10.11.2020.*

## B. PROCEEDINGS

3. The Director General, Pakistan Environmental Protection Agency vide letter dated 28.12.2020, was directed to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.
4. The Assistant Director (A/F & L/E) vide letter dated 8.1.2021 replied as under:-  
*“It is stated that two (02) officers of Pakistan Environment Protection Agency, (Pak-EPA) viz, Director (EIA/Monitoring) and Deputy Director (Legal/Enforcement) are currently suffering from Covid-19. Both the concerned directorates of Pak-EPA have been sealed as a precautionary measure and for further non-dissemination of this brutal disease. It is therefore, requested that the relevant information will be provided with in a two (02) weeks.”*
5. The appeal was fixed for hearing on 25.2.2021 and both the appellant as well as the respondent public body were informed accordingly vide notices dated 10.2.2021. Mr. Aamir Abbas Khan, DD(L/E) appeared before the Commission to represent the public body and requested some time to do the needful hence the appeal was adjourned to 10.3.2021, keeping in view the undertaking by the officer on behalf of the respondent. No one appeared on behalf of the public body on the following date nor is the requested information submitted in the Commission.

## C. COMMISSION’S VIEW

6. The appellant has desired the information vis-à-vis the project known as Housing Foundation Towers by the Federal Government Employees Housing Authority. The appellant states that an Environment Impact Assessment Report has been submitted to PEPA in this regard. The appellant in his application has requested the date of receiving the EIA by PEPA from FGEHA, copies of the correspondence between the two public bodies and other information incidental thereto. The respondent public body in its written reply and during the course of hearing has not claimed any exemption clause for denying the information rather has sought time for the provision of the requisite information.

7. The period of ten working days provided in the Act can be extended by maximum of further ten working days where the request requires a search through a large number of records or records located in different offices or regions. Here in the case in hand the appellant has asked for the information concerned with the project known as Housing Foundation Towers whereof an Environmental Impact Assessment Report has been submitted to PEPA. The Commission is of considered view that sufficient time has been extended and that the desired information should have been provided within the binding period provided in the Act.
8. Right of access to the record and information in the matters of public importance is constitutional and statutory right of the citizens provided under the Constitution of Pakistan and the Right of Access to Information Act, 2017, respectively which cannot be denied or delayed at the whims of the government hierarchy. To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. It would be anomalous to suggest that a victim of illegal action has to go without redress. On the other hand the public functionaries are like public trust and are supposed to regulate the affairs in fair and transparent manner therefore the appellant has the superior right to have the information for his secured interest
9. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.
10. The failure of the respondent to comply with the statutory duty, after making request in written reply, constitutes a breach of trust of the body and denial of fundamental rights as enshrined in Articles 4 & 19A of the Constitution of Pakistan. The non-provision of the information by the public body in such like circumstances amounts to willful and deliberate obstruction in the activity of the Commission and preventing the disclosure of the information, warranting the imposition of fine under section 20(f) of the Act. Since designated officer has not been notified by the Principal Officer of the Public body as required under section 9, the Principal Officer will be considered as the designated officer responsible for the lapse. Taking a lenient view, a period of seven days is provided to the Director General, Pakistan Environmental Protection Agency, for the provision of the requested information to the appellant. If the order is not complied within seven days of the receipt of this order, a fine equivalent to the salary of ten (10) days will be imposed on the Director General, PEPA.

#### D. ORDER

11. The appeal is allowed. The Director General, Pakistan Environmental Protection Agency is directed to provide the appellant the requested information within seven (7) days of the receipt of this order, under intimation to the registrar of the Commission,

failing which a fine equivalent to the salary of ten (10) days under section 20(f) of the Act will be imposed on the Director General.

The Director General is further directed to comply with the mandatory provisions of sections 5 & 9 of the Act, under intimation to the Commission by 30.4.2021.

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced 15.3.2021