

## IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 824-01-2021

Pervaiz Iqbal  
Vs  
Islamabad Electric Supply Company

Date: 10.3.2021

Fawad Malik: Information Commissioner

### A. APPEAL

1. Mr. Pervaiz Iqbal, being a citizen of Pakistan, through application under the Right of Access to Information Act 2017, addressed to the Chief Executive Officer, Islamabad Electric Supply Company (IESCO), has requested the provision of complete/detail evaluation reports of Tender No. 02 opened on 15-7-2020 and Tender No. 60 opened on 7-10-2020, for the procurement of 300 energy meters, as per NTDC specification. It is further stated that initially IESCO floated the tender on the basis of Single Stage Single Envelop Basis and was scrapped for the reason. IESCO floated the same tender through Two Stage bidding procedure where the same manufacturers of energy meters submitted their bids as was mentioned in his previous opinion, apprehending white collar crime in the procurement of the meters. The detail of the requested information is as follows:-
  - i) Bid Evaluation Report of Tender No. 02 opened on 15-7-2020 against which result was uploaded on IESCO website on 15-9-2020, and
  - ii) Bid Evaluation Report of Tender No. 60 opened on 7-10-2020 against which result was uploaded on IESCO website on 11-12-2020.

### B. PROCEEDINGS

2. In reply to the notice of the Commission, the respondent vide letter dated 21.01.2021, submitted as under:-

*....., it is submitted that the tender no. 60 is in process and has not been finalized yet. The release of the information demanded by the applicant may disclose the privacy of the bidders. The application of Mr. Pervaz Iqbal is premature at this stage as IESCO has not awarded the subject contact to any bidder till to date.*
3. The reply of the respondent was shared with the appellant, who filed rejoinder to his request that reads as under:-

2- *IESCO did not replied for tender no. 02 in above their referred letter dated 21.01.2021.*

3- *Para 5 (i) of the subject ACT under the heading availability of record is reproduced below;*

*“ reports including performance reports, audid reports, evaluation reports, inquiry or investigation reports and other reports that have been finalized.”*

- 4- *The statement of IESCO regarding pre-mature application seems to be misleading. Once bid evaluation have been finalized and their brief result announced, it will be part of information whether contract was awarded or not. The Subject Act did not support the IESCO's version.*
- 5- *Regarding privacy of any bidder, it is placed on record that I have not requested the copy of bid of or their part of any bidder.*
4. Keeping in view the divergent stances the appeal was fixed for hearing before the Commission and both the appellant and the respondent were informed accordingly.
  5. Mr Nasir Hanif, Addl. Manager, IESCO produced the following documents before the Commission during the course of hearing:
    - a. Copy of Writ Petition No. 348-2021
    - b. Copy of order dated 3.2.2021 in WP 348-2021
    - c. Copy of Evaluation Report on Tender No. 02/2020-21
    - d. Copy of Evaluation Report on Tender No. 60/2020-21

#### C. COMMISSION'S VIEW

6. The appellant in his application before the Chief Executive Officer, Islamabad Electric Supply Company has requested the copies of evaluation reports of Tender No. 02 opened on 15-7-2020 and Tender No. 60 opened on 7-10-2020, for the procurement of 300 energy meters, as per NTDC specification. The public body in its reply has stated that the tender no. 60 is in process and is yet to be finalized whereas nothing has been answered qua tender no. 02. Be that as it may, the public body has not claimed any exemption clause provided in the Act for denying the information rather taken the plea that the request is pre-mature. During the course of hearing the representative of the public body has stated that the matter is *subjudice* before the court therefore the request is not appropriate.
7. The writ petition no. 348-2021 is filed by M/S JZ International, one of the bidders, before the Islamabad High Court, challenging the bids via tender no. 02 and tender no. 60. His Lordship Mr Justice Miangul Hassan Aurangzeb vide order dated 3.2.2021 has restrained the respondents from returning the petitioner's sealed financial bid. There is no restraining order regarding the evaluation reports on the bids in issue. Plea of IESCO regarding pre-mature application seems to be misleading. Once bid evaluation have been finalized and their brief result announced through the official website, it will be part of information/public record, whether contract was awarded or not.
8. The application for information has been filed under the Right of Access to Information Act 2017; therefore the matter will be decided in the light of the provisions of the Act. The final evaluation reports under section 5(i) are the category of information that ought to have been duly published including uploading over the internet by the public bodies within six months of the commencement of the Act.

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. Article 19-A of the Constitution and the RTI Act 2017 has empowered the citizens to have access to the record held by the public body. Disclosure of the requested record will improve the participation of the people in public affairs which will be helpful in reducing corruption and inefficiency in the department and promote the good governance.

D. ORDER

10. The appeal is allowed. The Chief Executive Officer, Islamabad Electric Supply Company is directed to provide the appellant the requested information forthwith but not later than ten days of the receipt of this order.

The Chief Executive Officer is further directed to make sure that the mandatory provision of section 5 is complied with at the earliest, under intimation to the Commission by 18.4.2021.

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on 15.3.2021

Certified that this order consists of three pages, each page has been read and signed.