

**IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD**

APPEAL NO. E47-01-2021

Lt. Col ® Saeed Ahmed Awan

Vs

Cantonment Board Abbottabad

Date: 29.4.2021

Fawad Malik: Information Commissioner

**A. APPEAL.**

1. The brief facts of the appeal are that Lt. Col ® Saeed Ahmed Awan filed an information request before the Cantonment Executive Officer, Cantonment Board Abbottabad, under the Right of Access to Information Act, 2017 for the provision of the following information:

1. *Action taken against property tax evader and amount recovered.*
2. *Action taken for construction of buildings without approval and for what period.*
3. *Action taken against delinquent staff involved in aiding the tax evader.*

2. The CEO vide Letter No. 30/44/1034 dated 26.8.2020 responded to the application as under:

*Reference your application dated 25/8/2020.*

*It is inform you that this office has investigated your grievance mentioned in your application and found that only one property falls in the jurisdiction of the Cantonment Board Abbottabad, which stands in the name of Mst. Saima w/o Sajjad Rafique and that also is of five (05) Marlas, which is exempted from the payment of property tax. The other property are out of the Cantonment Board Abbottabad limits, therefore Cantt Board Abbottabad has nothing to do with it.*

*Therefore you are required to approach the Distt Council Abbottabad for further processing in this matter.*

3. The appellant preferred his appeal before the Pakistan Information Commission against the decision dated 26.8.2020 by the CEO, Cantonment Board Abbottabad for the sole ground that he is not satisfied with the response of the public body.

**B. PROCEEDINGS.**

4. The Commission after taking the cognizance of the appeal issued notice dated 13.01.2021 to the respondent for filing of the reply. The reply was not submitted therefore the notice was followed by the hearing notice and the appeal was set down for arguments on 24.2.2021, under intimation to the parties.

5. On 24.2.2021, Mr. Nadeem Ali Yousafzai, Legal Advisor, Cantonment Board Abbottabad appeared before the commission and stated that the request has already been responded vide letter dated 26.8.2020 to the appellant however sought time to file reply in the appeal. The appeal was adjourned to 03.03.2021.
6. The respondent filed the detailed reply through letter dated 02.3.2021 which reads as under;

Preliminary Objections:-

1. *“That the appeal is not properly filed before the Commission and not addressed to the Commission hence the commission cannot assume jurisdiction in the appeal.*
2. *That the appeal is badly time barred and is not filed within prescribed period.*
3. *That the petitioner is stopped by his conduct to file the appeal as one Shamsher Ali Khattak who is the Land lord of petitioner Col. (R) Saeed Ahmed has filed an ejectment petition in the Court of civil Judge Aid & rent Controller Abbottabad Cantt but petitioner never raised subject objections in his reply that the property situated in Cantonment Board and the Civil Court has not got the jurisdiction.*
4. *That the petition is liable to be rejected summarily as it is time barred under section 12 of the ibid act as through reply No.30/44/1034 dated 26.8.2020. Petitioner has been informed that after investigation. Respondent / CBA found only one property in the jurisdiction of the Cantonment Board Abbottabad which stands in the name of Mst. Saima w/o sajjad Rafique and that is also of five marlas, which is exempted from the payment of property tax the other properties are out of the Cantt Limits.*

Factual Objection

- a. *“In reply to the para No.1 of the petition the information was properly provided through Ltr No.30/44/1034 dated 26.08.2020, hence all his grievance are redressed.*
  - b. *There is no specification that who is the tax evader, otherwise a number of tax recoveries petition under Section 259 of the Cantts Act are pending before the Cantt Magistrate. If any description can be given in respect of the property. Cantt Board will provide required record as per rules and regulations.*
  - c. *If the house constructed without sanction of map is identified, the CBA takes action according to the lad down rules..*
  - d. *That no material has been provided to prove the stance against the undersigned, on which departmental action could be taken. As mere assertion cannot lead for the Department action, hence the para is beyond the jurisdiction of undersigned.*
7. The appellant feeling dissatisfied with the response and reply submitted by the Cantonment Board Abbottabad, has filed objections before the Commission. The relevant part is reproduced as under:
    1. *“That respondents/CBA have not yet provided requisite information malafidely as solicited vide PF/24085/Pet dated 11.11.2020 to avoid exposure of their Corrupt mafia. More so respondents/CBA despite repeated letters by FBR has not*

*provide even information to them. Copy of FBR letter dated 8.12.2020 is attached.*

- a. That appellant is ready and determined to prove tax evading vis a vis closing of eyes by respondents/CBA for vested interests which amounts to criminal liability if an impartial High Level Inquiry is held by Ministry of Defence/HQ MA XC RWP.*
- b. That an updated and solid information/material have been provided to respondents but their vested interest despite being against the state interests is an obstruction.*
- c. That all the houses constructed illegally and their rental income, where CBA has never levied tax as per their by laws, have been pointed out physically to Mr. Akhtar Hayat on ground, who was detailed by CEO for sites inspection with specific instructions on 26.08.2020. Pertinent to point out that Mr. Akhtar Hayat has initiated report in true letter & spirit but it has not been processed further by Revenue supdt of CBA deliberately and malafidely to guard the illegitimate interests of tax evader for the reasons well knows to Revenue Supdt CBA. However appellant is still ready to point out on ground the same provided MOD/HQMHC are ready to hold an impartial high level inquiry/commission and can prove the tax evading under kind patronage of CBA Revenue Supdt and his corrupt team.*

*That copies of following petitions/correspondence carried out by appellant with respondents are attached which divulge malafide of respondents.*

- a. PF/24085/Petition dated 25.08.2020*
- b. PF/24085/Petition dated 26.08.2020*
- c. PF/24085/Petition dated 2.09.2020.*
- d. PF/24085/Petition dated 17.09.2020*
- e. PF/24085/Petition dated 11.11.2020*
- f. PF/24085/Petition dated 26.11.2020*
- g. PF/24085/Petition dated 4.01.2021*

### **C. COMMISSION'S VIEW**

8. The appellant in his request has desired the information pertaining to the tax evaders of property owners, from the office of the Cantonment Executive Officer, Cantonment Board, Abbottabad. The request is responded promptly and aptly on the letter pad of the public body. The respondent has also filed reply to the appeal in a more elaborated form which was shared by the Commission with the appellant. The appellant in the grounds of appeal as well as later on in the rejoinder has not pointed out any specific reason or information for invoking the interference of this Commission.
9. The appeal cannot be processed further for the following reasons:
  - a. Firstly, that the appellant in his appeal has not raised any specific ground against the impugned decision of the public body. Mere dissatisfaction with the decision without any cogent reason is not good reason for the interference of the Commission.

- b. Secondly, the contents of appeal and the rejoinder smacks allegation of malpractice in the office the respondent public body. This Commission is constituted and meant for the provision of information and record held by the public bodies in accordance with the provisions of the Right of Access to Information Act, 2017. Complaints against the malpractices can be filed before the ombudsman, if so advised.
- c. Thirdly, the appeal was filed before the Commission on 4.1.2021 against the decision dated 26.8.2020 by the CEO of the public body. Limitation provided in section 17 of the Act of 2017, for filing of appeal against the decision of the public body is within thirty days. The appeal is therefore barred by time.

**D. ORDER**

- 10. The decision by the Cantonment Executive Officer, Abbotabad Cantonment vide letter No. 30/44/1034 dated 26.8.2020 is upheld.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 21.4,2021

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