

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 958-03/21

Pervaiz Iqbal

(Appellant)

Vs.

Sukkur Electric Power Company

(Respondent)

Order

Date: August 30, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated March 20, 2021, to the Commission, stating that he submitted an information request to the Chief Executive Officer, Sukkur Electric Power Company (SEPCO) February 18, 2021 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.
2. The information sought by the Appellant is as under:

“It is intimated that SEPCO had floated tender no. NCB-S-15/2020 for procurement for accuracy class 0.2s and 0.5s energy meters upon which SEPCO has announced Bid evaluation report on SEPCO website (copy attached) on 08-02-2021.

It is requested to provide the complete evaluation report carried out by against the subject tender procurement under provisions of Para 5 (i) of subject Act 2017 being a citizen of Pakistan to proceed further in the matter which is reproduced below:

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

B. Proceedings

3. Through a notice dated March 31, 2021 sent to the Chief Executive Officer, SEPCO called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent through another notice dated 14-04-2021 was directed that the above mentioned appeal is pending decision before this Commission. The text of the notice is as under:

“In pursuance of the Standard Operating Procedures issued by the Government of Pakistan for the Covid-19 and to ensure public safety, the personal appearance before the Commission at the time of hearing, is condoned for the time being. Therefore, you are

directed to submit your written reply and arguments to Pakistan Information Commission within fifteen days of the receipt of this notice.

Copies of the supporting documents may be annexed with the written arguments. If the written arguments are not submitted within 15 days, the appeal will be decided Ex Parte in the light of the record available on file and the Right of Access to Information Act 2017”

5. The respondent through a letter vide: No.CEO/SEPCO/SUK/Addl: DG (L&L)/992 dated 28-04-2021 stated that they have not received the said appeal and cause of action therein.
Therefore, copy of the said appeal may be provided so that this office able to submit written reply before your honour as desired.
6. This commission through a notice dated May 21,2021 shared copies of the information request and appeal with respondent and directed to submit response/information within 7 working days.
7. The respondent did not respond to the notice of the commission. The appeal was fixed for hearing on August 26, 2021 and both parties were informed through notices sent on June 09, 2021. Hearing Summon dated July 27, 2021 sent to Additional DG (Legal and Labour), SEPCO, states, *“failure to attend the hearing will result in ex Parte decision and the responsible will be dealt with in accordance with the relevant provisions of the Act”*.
8. No one appeared before the Commission to represent public body in the hearing held on August 26, 2021.

C. Issues

9. The instant appeal has brought to the fore following issue:
 - a. Has the Respondent fulfilled its duties as defined in the Right of Access to Information Act, 2017 hereafter referred to as Act?
 - b. Commission’s View on Relevant Issues
10. The information requested by the appellant belongs to the Section 5(1) (i) of the Act which is as under:

“Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized”.
11. This commission has noted that the Respondent has not taken steps for the implementation of the Act.
12. In the instant appeal, Managing Director, Sukkur Electric Power Company, deemed to be Public Information Officer, (PIO), as required under Section 9 of the Act when a PIO is not designated by the head of a public body, failed to perform following obligations under the Act.
 - I. Failure to provide “written acknowledgement in response to” a request for information filed by citizen as required by Section 10 (1) of the Act.
 - II. Failure to follow procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act which is as under:

“(2) The designated official shall process the request and by notice in writing inform the applicant that---

- a) A request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of the prescribed fee. On payment of the fee the designated official shall provide the requested record, or
 - b) The request has been rejected-
 - i. On the basis that it does not comply with the provisions of this act and the rules made there under but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
 - ii. On the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
 - iii. On the basis that it is incorrect, because it relates to information which is substantially the same information that has already has been provided to the same applicant during last six months; or
 - iv. In whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which the notice shall specify the exact exception, relied upon and specifying details regarding the right of the applicant to appeal against this decision.”
13. Managing Director, Sukkur Electric Power Company also failed in adhering to the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.
 14. The Managing Director, Sukkur Electric Power Company, has neither designated Public Information Officer, as required under the Right of Access to Information Act 2017 nor ensured implementation of Section 5 of the Act.
 15. This commission also observed in the Appeal No. 716-11/21, in the case of Waqar Ahmed Vs-Sukkur Electric-Power-Company that the Managing Director, Sukkur Electric Power Company has failed to respond to the duly sent notices of this commission. If directions of the commission in this Order, along with the one earlier issued are not implemented, it will establish beyond reasonable doubt that the Respondent is wilfully delaying and denying access to information. Such a persistent behaviour will attract invocation of Section 20 (f) of the Right of Access to Information Act 2017.

E. Order

16. The Appeal is allowed. The Managing Director, Sukkur Electric Power Company is directed to provide the requested information mentioned in para 2 of this Order to the Appellant at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
17. The Managing Director, Sukkur Electric Power Company is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification on its web site as required under Section 5 (1) (b) of the Act, put name, designation and contact details of the PIO on its web sites as required under Section 5 (1) (h)of the Act and submit compliance reports to the commission within 3 working days of the receipt of this Order.
18. The Managing Director, Sukkur Electric Power Company is directed to take immediate steps to proactively share through the web site 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 in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017’. This template is available under ‘Information Desk’ category at the web site of the

commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.

19. Copies of this order be sent to Managing Director, Sukkur Electric Power Company and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
August 30, 2021

This order consists of 4 (four) pages, each page has been read and signed