

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1256-08-2021

Major ® Afzal Ahmad

Versus

Bureau of Emigration & Overseas Employment

Date of Hearing: 20.10.2021

Fawad Malik: Information Commissioner

Present: Mr. Mohammad Israr, Assistant Director, Bureau of Emigration & Overseas Employment.

FACTS OF APPEAL.

1. Major® Afzal Ahmad, Proprietor, M/S Oxbridge Manpower Bureau, Rawalpindi, License No. OP & HRD/3580/RWP through his application dated 8.6.2021 addressed to the Director General, Bureau of Emigration & Overseas Employment; Islamabad has requested the provision of permission documents along with annexures pertaining to the permission granted to M/S A.Z. Company International, License No. 2765/Lahore for the recruitment of 350 workers for Poland.
2. The appellant has filed appeal before the Pakistan Information Commission seeking the documents under the fundamental right provided under Article 19A of the Constitution of Islamic Republic of Pakistan, 1973.

PROCEEDINGS.

3. The notice of the Commission was responded by the Director (Admn), Bureau of Emigration & Overseas Employment vide letter dated 20th August, 2021. The reply is reproduced as under:

“It is stated that a request was received in this office on 09-06-2021 from OEP of M/S OXBRIDGE MANPOWER BUREAU (OEPL NO. 3580/LHR) requesting for provision of attested documents regarding Poland in respect of M/S. A.Z. CO. INTERNATIONAL (OEPL NO. 2765/LHR). This office vide letter dated 14-06-2021 asked from the OEP to (OEPL clarify the purpose of getting Demand Documents relating to the permission granted to M/S. A.Z. CO. INTERNATIONAL NO. 2765/LHR) which has not yet been provided by the OEP. The case has been examined as per provision of Right to Information Act, 2017 and the requisite record is not a public record as per definition of section 6 of Right of Access to Information Act, 2017 and section 7(h) of the Act prohibits to share any record which is not public and relates to an individual. This office is also guided by the provision of Emigration Rule 25(2)(ii) which forbids an OEP to enter into competition with another OEP in seeking order for demand of workers.”

4. The appellant being not satisfied with the reply has reiterated for the provision of the information.

COMMISSION’S VIEW.

5. The appellant has asked for the provision of the of permission documents along with annexures in respect of permission granted to M/S AZ Company International, for the recruitment of 350 workers for Poland.
6. The organization has denied the provision of the information for two reasons, firstly, that the appellant has not clarified the purpose of getting Demand Documents relating to the permission granted to M/S. A.Z. Company International, for the recruitment of 350 workers for Poland and secondly that the demand document of an Overseas Employment Promoter

(OEP) is not a public record as the same is agreed and signed privately between the OEP and the foreign employer under Rule 19 of the Emigration Rules, 1979 wherein the power of attorney is specifically granted in the name of the OEP for recruitment and supply of the manpower as per terms and conditions of demand documents. Further that the demand documents being private business documents between the OEP and the foreign employer cannot be provided to a third party.

7. In the arguments the representative of the organization in aid of the reply apprised the Commission that earlier the appellant has filed a writ petition no. 2170/2021 before the Islamabad High Court, Islamabad. He also has referred the Rules 19 and 25(2)(ii) & (iv) of the Emigration Rules, 1979. The texts of the said rules are reproduced here under for appraisal:

19. "Security of private sector demands by the Protector of Emigrants.

(1) Any demand for persons or class of persons for employment abroad from an employer in foreign private sector shall be submitted by the Overseas Employment Promotor to the Protector of Emigrants who shall scrutinize the demand and, on being satisfied that the Overseas Employment Promotor is in possession of power of attorney from the employer [and a letter of manpower demand, duly attested by the Pakistan Embassy or the Ministry of Foreign Affairs of the employer's country [or the Embassy of the employer's country in Pakistan] and the wages and other term and conditions of service offered are reasonable, grant permission to process such demand]."

25(2). " While dealing with the sources of employment abroad the following rules shall be strictly observed by the Overseas Employment Promotor, namely:-

.....
(ii) An Overseas Employment Promotor shall avoid competition with other Overseas Employment Promotors in seeking orders for demand of workers.

.....
(iv) If an Overseas Employment Promotor accepts any terms lower than the terms which were allowed to his predecessor due to ignorance, he shall, as soon as he comes to know the fact, disengage himself from the work assigned to him by the employer."

8. So far as the permission documents along with annexures in respect of permission granted to M/S AZ Company International, for the recruitment of 350 workers for Poland are concerned, in the light of Section 7(h) and 16(g) of the Act the information of the third party cannot be shared with the appellant as it would constitute an actionable breach of trust and confidence and is likely to prejudice the commercial and financial interests of the third party.
9. The demand document of an Overseas Employment Promoter is not a public record as the same is agreed and signed privately between the OEP and the foreign employer under Rule 19 of the Emigration Rules, 1979 wherein the power of attorney is specifically granted in the name of the OEP for recruitment and supply of the manpower as per terms and conditions of demand documents. Further that the demand documents being private business documents between the OEP and the foreign employer cannot be provided to a third party.
10. The rules does not allow competition with the other Overseas Employment Promoters in seeking orders for demand of workers and further if an Overseas Employment Promoter accepts any terms lower than the terms which were allowed to his predecessor due to ignorance, he shall, as soon as he comes to know the fact, disengage himself from the work assigned to him by the employer. The Commission is therefore of the considered view that the permission documents along with annexures in respect of permission granted to M/S AZ Company International, for the recruitment of 350 workers for Poland, are exempted from disclosure under the Act.
11. The writ petition filed by the appellant before the Islamabad High Court, Islamabad or for his legal remedy before any other forum does not affect the right of the access to information.

12.The clarification demanded by the organization regarding the purpose of requesting the documents is not appreciable as the same is forbidden under section 11(5) of the Act.

ORDER.

13.The appeal is not allowed.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 27.10.2021

Certified that this order consists of five (5) pages, each page has been read and signed.