

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 974-04-2021

Ilyas Khan

Versus

Pakistan Stone Development Company

Date of Hearing: 22.09.2021

Fawad Malik: Information Commissioner

Present: Miss Sadia Karamat Khan, Law Officer on behalf of Pakistan Stone Development Company while the appellant in person.

APPEAL

1. The brief facts of the appeal are that Mr. Ilyas Khan applied for the allotment of Industrial plot at Mohmand Marble city, a joint venture between FATA DA & PASDEC and for that purpose made a payment of Rs 5,000/- on receipt no. PASDEC/MMC/F/FDA/102 dated 8.8.2012 stamped by Pakistan Stone Development Company. Later on after receiving acknowledgement letter dated 5.7.2013 from the FATA development authority (FATA DA) requiring the appellant to deposit Rs 2,50,000/- in favor of Pakistan Stone Development Company, Islamabad till 12.07.2013 as first installment against the total of Rs 10,00000/-, he deposited the first instalment through receipt no. PASDEC/MMC/F/ 085/PO/49 dated 12.07.2013.

2. The appellant through application dated 12.03.2021 addressed to the Chief Executive Officer, Pakistan Stone Development Company, Islamabad has asked for the provision of the relevant official record pertaining to plot no. 49 to avail his remedies against Khyber Pakhtunkhwa Economic Zones Development & Management Company (KPEZMDC).
3. The appeal dated 1.4.2021 is filed before the Pakistan Information Commission for non-provision of the information and record.

PROCEEDINGS

4. The notice of the Commission was replied vide letter dated 23.04.2021 by the Manager Projects, Pakistan Stone Development Company, Islamabad. The same is reproduced as under:

“I am directed to convey that as per record of PASDEC, the said financial instrument (Demand Draft No. 10851222) amounting to Rs. 250,000/- does not pertain to you.

It is pertinent to mention here that during the period FATA Development Authority (DA) was managing the entire record/database management of the stakeholders of MMC project including the details related to applications / allotment /payments /cancelation etc.

Therefore any such information may be solicited from FATA DA (now Khyber Pakhtunkhwa Economic Zones Development & Management Company).”

5. The Khyber Pakhtunkhwa Economic Zones Development & Management Company vide letter dated 26.04.2021 addressed to the appellant informed as under:

“During final reconciliation with FATA DA dated 01/10/2020 regarding Plot Allotees, the FATA DA had shared two lists with KPEZDMC.

i) 1st list having names of 91 nos plot allottees.

ii) 2nd list having 14 names, who made partial payment of Rs. 250,000/- but due to non-payment of remaining instalment within stipulated time, their plots were cancelled.

As your name Ilyas Khan is not available in the lists shared by FATA DA/available record with KPEZDMC, therefore, you are not eligible for allotment of plot at Zone.

For further inquiry and information please contact authority/department for your satisfaction.”

6. The appellant being not satisfied with the replies through the rejoinder has reiterated for the provision of information and record as prayed in his application.

COMMISSION’S VIEW

7. The appellant has desired the provision of official record of industrial plot no. 49 situated in Mohmand Marble city, FATA. He has claimed the payment of Rs 5,000/ on receipt no. PASDEC/MMC/F/FDA/102 dated 8.8.2012 and later on he deposited the first instalment through receipt no. PASDEC/MMC/F/085/PO/49 dated 12.07.2013 through financial instrument (Demand Draft No. 10851222) against the said plot only after receiving acknowledgement letter dated 5.7.2013 from the FATA development authority (FATA DA) requiring the appellant to deposit Rs 2,50,000/- in favor of Pakistan Stone Development Company, Islamabad. The copies of the two receipts, the acknowledgement letter from the office of Manager Industries, FATA and the financial instrument worth Rs. 2,50,000 by Ilyas Khan in favor of Pakistan Stone Development Company, Islamabad are attached with the appeal.
8. The respondent organization has controverted the version of the appellant. It is maintained that as per record of PASDEC, the said financial instrument (Demand Draft No. 10851222) amounting to Rs. 2,50,000/- does not pertain to the appellant. Further that name of Ilyas Khan is not available in the lists shared by FATA DA with KPEZDMC, therefore, he is not eligible for allotment of the plot at Zone, however the appellant may contact the department for any further inquiry for his satisfaction.
9. Keeping in view the divergent pleadings and arguments from both sides, the Commission consider it appropriate to send the matter to the Secretary, Industries and Production for inquiry and probe into the matter in the light of the record and the law on the subject.

10. The Commission on the other hand is also mindful that the appellant has requested the official record of the plot in issue, irrespective of whether it is in his name or not, to avail his legal remedies. Although the appellant has filed the application after a long slumber and stagnation but considering his privilege in the light of the copies of the two receipts, the acknowledgement letter from the office of Manager Industries, FATA and the financial instrument worth Rs. 250,000 by Ilyas Khan in favor of Pakistan Stone Development Company, Islamabad attached with the appeal, and keeping in view the right of fair trial under article 10A of the Constitution of Islamic Republic of Pakistan the Commission hold him entitled for the provision of the requested record. No one can be denied the access of the relevant information and record for availing the legal remedies and for meeting the ends of justice and fair play.

ORDER

11. The appeal is allowed. The Chief Executive Officer, Khyber Pakhtunkhwa Economic Zones Development & Management Company is directed to provide the appellant the official record pertaining to industrial plot no. 49 situated in Mohmand Marble city, FATA, forthwith but not later than ten days of the receipt of this order.

The Secretary, Industries and Production is directed for inquiry and probe into the matter after affording hearing to all the stake holders of the said plot in the light of the record and the law on the subject, expeditiously within three months, after the provision of the record to the appellant.

The Secretary is further directed to implement the sections 5 of the Act in letter and spirit, under intimation to the Commission within thirty days of the receiving of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 28.09.2021

Certified that this order consists of four (4) pages, each page has been read and signed.