

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1226-07/21

Dr. Syed Raza Ali Gardezi

(Appellant)

Vs.

Pakistan Mineral Development Corporation

(Respondent)

Order

Date: December 22, 2021

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant through an email dated July 28, 2021 filed an appeal, to the Commission, stating that he submitted an information request to Managing Director, Pakistan Mineral Development Corporation on April 29, 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:
“The three mine ranges for which above information is sought are:

- 1. Degari Collieries, Mastung*
- 2. Sor-Renage Coal Mines, Quetta*
- 3. Sharigh Coal Mines, Sibi*

The following information is requested for mines in each of three ranges:

- a. Number of coal mines in each of the three ranges.*
- b. Total numbers of miners working in all mines of each range.*
- c. The starting salary (first 2 years) of miners working in each range*
- d. Is this salary paid by cheque or cash.*
- e. A sample appointment letter (if any) from each mine of each of*
- f. The number of hours of work done by miners in each mine of each of the 3 ranges.*
- g. If the miners are registered with EOBI or not. If yes, please provide a list of EOBI registration numbers of registered miners of each mine of each of the three ranges.*
- h. If the miners are registered with Social Security or not. If yes, please provide a list of Social Security registration numbers of registered miners of each mine of each of the three ranges.”*

B. Proceedings

3. Through a notice dated August 02, 2021 sent to the Managing Director, Pakistan Mineral Development Corporation the commission called upon the Respondent to submit reasons for not providing the requested information.
4. Through another notice dated September 28, 2021 the Respondent was directed to submit written arguments within 15 working days, otherwise 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. Through a letter vide No. PMDC/EST-1 dated October 29, 2021, the respondent submitted its response which is as under:

"I am directed to refer to your letter in Appeal No. 1226-07/21 dated 28.09.2021 in the matter Dr. Syed Raza Ali Gardezi Vs Pakistan Mineral Development Corporation. It is stated that alongwith the Hearing Notice we have received nothing rather earlier to this we received a letter No. 1226-07/21 dated 02.8.2021 of the said appellant. It is mentioned that the information asked for is the same, as also asked by Mr. Nadeem Sadiq and many others as referred by us in our letter of even No. dated 19.7.2021 (copy attached). However as directed we submit our arguments as under:

1) Pakistan Mineral Development Corporation (abbreviate "PMDC") is a corporate body registered as a private Limited Company with Security & Exchange Commission of Pakistan. The PMDC is an Industrial and Commercial undertaking carrying on production and sale/business of coal and salt, and running Coal Mines /Salt Mines Projects in all over the country on profit & loss basis. The information asked for by the applicants relates to the business activities of PMDC and its disclosure may cause damage to the financial interests as well as lawful commercial activities of PMDC.

2) The PMDC has exemption under sub section d)-(ii) and (iii) of Section 16 of the TRAI Act 2017, reproduced as under:

"16. Subject to the provisions of this Act-

d) Information is exempt if and so long as its disclosure is likely to cause:

*ii. Damage to the financial interests of the public body by giving an unreasonable advantage to any person in relation to a contract which that person is seeking to enter into with the public body for acquisition or disposal of property or supply of goods or services
Or*

iii. Damage to lawful commercial activities of the public body.

In view of above it is requested that PMDC may graciously be exempted from providing information asked for by the appellant and the appeal in question may be ordered to be filed.

This issues with approval of the Managing Director, PMDC."

5. The Appeal was fixed for hearing on November 16, 2021 and both parties were informed through notices sent on November 01, 2021.
6. Mr. Aftab Ahmed, Manager Legal, Pakistan Mineral Development Corporation attended the hearing held on November 16, 2021.
7. Response submitted by the public body was shared with the appellant on November 04, 2021.

8. The appellant through an email dated November 10, 2021 submitted its rejoinder to the response of the public body, which is as under:
“Reference your Information Sharing Letter dated November 04, 2021, I have the following comments on the attached PMDC letter 29th Oct 2021..
1. As for PMDC’s contention that it “is a corporate body registered as a private Limited Company” maybe so, but it comes under the definition of a “Public Body” being formed by Govt of Pakistan’s funds (tax-payers’ money) and operates under the Ministry of Petroleum, which again is funded by the tax-payers’ money, and half of its Directors are govt officials, all paid by the tax-payers.
The PMDC website (<http://www.pmdc.gov.pk/>) states;
“PMDC is an autonomous corporation under the administrative control of Ministry of Petroleum and Natural Resources, Government of Pakistan. It was established in 1974 with an authorized capital of Rs.1,000 million (again tax-payers’ money) to expand and help mineral development activities in the country.”
Even if 1% funding of PMDC is financed by tax-payers money, it becomes liable to be questioned under the RTI law,
2. The information requested deals with the working conditions of the miners and the applicability of the laws of land on their employment terms and the safe-guarding of their constitutional and human rights. By no stretch of imagination can it inferred that the requested information impinges on the financial interests and commercial activities of the public body.
Thus, PMDC must be held accountable for failing to provide the information under the Right of Access to Information Act 2017.”
9. The appeal was fixed for hearing on December 07, 2021 and both parties were informed through notices sent on November 16, 2021.
10. No one appeared before the Commission to represent the Respondent in the hearing held on December 07, 2021.

C. Commission’s View on Relevant Issues

11. The commission has to decide that
- (a) Whether the Respondent, Pakistan Mineral Development Corporation, (PMDC) is a public body under the Right of Access to Information Act 2017, hereafter referred to as the “Act”.?
 - (b) Whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request?
 - (c) Will the disclosure of requested information cause damage to financial interests of PMDC?
12. This commission in an order on Appeal No 1108-05/21 Naeem Sadiq Vs Pakistan Mineral Development Corporation has held that the Respondent, PMDC is a public body under the Right of Access to Information Act, 2017
13. In an order on identical information request this commission held that disclosure of requested information about the total number of coal mines in each of the three ranges, total number of miners working in all mines of each range, their starting salary (first 2 years) of miners working in each range, whether salary is paid by cheque or cash, copy of the sample appointment letter (if any) from each mine; information about number of hours of work done by miners in each mine of each of the 3 ranges, whether miners are

registered with EOBI or not, in case of registration, their registration numbers of registered miners of each mine of each of the three ranges, whether miners are registered with Social Security or not, If yes, information about their Social Security registration numbers of registered miners of each mine of each of the three ranges Is a matter of public importance.

14. This commission holds that the disclosure of requested information is neither likely to cause damage to financial interests of PMDC nor this disclosure is likely to cause any damage to any lawful commercial activities of the Respondent PMDC.
15. This commission has observed that the public bodies are reluctant to share the basic information to the citizen which should be available on their website under the Section 5 of the Act, the citizens have to approach the commission for information due to the the wilful delay or denial by the public which causes undue cost to citizens and the commission.
16. This Commission maintains that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be 'accessible' for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of 'accessible' in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:
"The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities".
17. According to Section 9 of the Act, each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent; but the Respondent has not so far nominated any official to deal with the information request of the citizen.
18. If directions of this commission in this Order are not implemented within the time-framework mentioned in the Order, this commission will invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

19. Appeal is allowed. Managing Director, Pakistan Mineral Development Corporation is directed to provide the requested information in para 2 of this Order to the Appellant at the earliest but not later than 10 working days of the receipt of this Order, with intimation to this office.
20. The Respondent is directed to proactively publish all categories of information through its web site as required under Section 5 of the Act 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 at the earliest but not later than 10 working days of the receipt of this Order.
21. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using 'Web accessibility checklist'. This checklist 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 at the earliest but not later than 10 working days of the receipt of this Order.

22. The Respondent is also directed to designate Public Information Officer as required under Section 9 of the Act and upload its notification along with the name, designation and contact details on its website as required under Section 5 (1) (b) and (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
23. Copies of this order be sent to Managing Director, Pakistan Mineral Development Corporation and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: December 22, 2021

This order consists of 5 (five) pages, each page has been read and signed