

**Pakistan Information Commission
Government of Pakistan**

1st Floor, National Arcade, 4-A
Plaza F-8 Markaz, Islamabad
Website: www.rti.gov.pk
Phone: 051-9261014
Email: appeals@rti.gov.pk
@PkInfoComm



In The Pakistan Information Commission, Islamabad

Appeal No 12730-08/21

Kashif Ali Sundrani

(Appellant)

Vs.

Oil and Gas Development Company

(Respondent)

ORDER

Date: December 14, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated August 12 2021, to the Commission, stating that he submitted an information request to Managing Director, OGDCL on August 28, 2021 under the Right of Access to Information Act 2017 but did not received any response from the public body.
2. The information sought by the Appellant is as follows:
 1. "Please confirm whether out sourced employees through third party contracts particularly well chowkidars, engaged by company, are being paid in accordance with Labour wages rated determined by federal government from 2015 to 2021.
 2. What are Labour wages which are being paid to well chowkidars thought third party contractors per head per month from 2015 to 2021
You are hereby requested to issue public documents / information in my favor within time fixe by law; also ready to pay all documentary charges if any".

B. Proceedings

3. Through a letter dated September 27, 2021, the Appellant submitted is rejoinder to the information provided by the Respondent which is as under:

"It is submitted that what information is given by company means of three letters, is totally dissatisfactory; the information requested at serial No. 1 & 2 of memo of appeal is crystal clear which is yet to be clarified. My main question hidden therein is that firstly OGDCL paying RS.1900/- to each regular contract well chowkidars (Batch-4) whether it is according to minimum Labour wages fixed by Sindh govt/federal govt & secondly paying Rs.45000/- to contractor/owners for supply of three well chowkidars / service units for protection of wells (OGDCLE Premises) means LESS THAN RS 15000/- per head after deduction of contractual charges whether it is according to minimum Labour wages fixed by Sindh govt/federal govt; means what they pay to its workers/ well chowkidars is in accordance with minimum Labour wages announced by Sindh/federal governments (Yes or No)

It is requested to direct company authorities to provide me required proper information in the interest of justice”.

C. Discussion and Commission’s View on Relevant Issues

4. This commission holds that employment/service contracts entered into by public bodies with third parties are public documents under Section 6 (c) of the Right of Access to Information Act 2017.
5. This commission is of the view that the requested information about the steps taken by the Respondent to protect legal rights of the contracted employees’ minimum wages is of public importance and hence be made available to the Appellant.
6. This commission is of the view that it is responsibility of the public bodies to keep records of all the transactions to ensure that public funds, spent directly, or, through contractors, to perform official functions, are utilized in accordance with the laws of the land.
7. In the instant Appeal, Sindh High Court Constitutional Petition No. D-852 of 2019 Dated 10 March 2021 is also relevant. While dealing with the question as to whether the employees of a labour contractor can be considered as the employees of the establishment, where they work through labour contractors, the Honourable Sindh High Court refers to the Honourable Supreme Court judgment (2013 SCMR 1253) by saying,

“ In the case where an employer retains or assumes control over the means and method by which the work of a Contractor is to be done, it may be said that the relationship of employer and employee exists between him and the employees of the contractor. Further, an employee who is involved in the running of the affairs of the company; under the direct supervision and control of the company; working within the premises of the company, involved directly or indirectly in the manufacturing process, shall be deemed to be employees of the company. The Honourable Sindh High Court judgment further declares, “Keeping in view the rule of parity and equity, all the janitorial staff even if considered to be the employees of the contractor, which is not the correct position, they have been performing duties of permanent nature ought to have been on regular strength of respondent-cantonment boards.”.
8. This Commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.
9. 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”.

10. Entrusted with the solemn responsibility of protecting and promoting citizens' constitutional right of access to information in matters of public importance, this commission will leave no stone unturned for the implementation of the Right of Access to Information Act 2017. Citizens of Pakistan through their elected representatives have included in the Act the provision of imposing fine on public official who wilfully delay or deny access to the requested information so that they do not have to pay the undue cost in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official.

D. Order

11. Appeal is allowed. The Respondent, Managing Director, OGDCL is directed to provide the Appellant requested information in para 2 of this Order, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
12. 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.
13. The Respondent is directed to designate Public Information Officer as required under Section 9 of the Act, put contact details on its web site as required under Section 5 (1) (h) of the Act and submit notification to this effect to this commission within 10 working days of the receipt of this Order.
14. 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.
15. Copies of this order be sent to Managing Director, OGDCL and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: December 14, 2021

This order consists of 3 (three) pages, each page has been read and signed