



**In the Pakistan Information Commission, Islamabad**

**Appeal No 1425-11/21**

**Sajid Iqbal**

(Appellant)

Vs.

**Pakistan Software Export Board**

(Respondent)

**ORDER**

**Date:** January 18, 2022

**Mohammad Azam:** Chief Information Commissioner

**A. The Appeal**

1. The Appellant through an email dated October 30, 2021 filed an appeal to the Commission, stating that he submitted an information request to the Managing Director, Pakistan Software Export Board on October 14, 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:
  - a. *“Complete minutes of 44<sup>th</sup> PSEB’s Board of Directors meeting held on 17<sup>th</sup> September 2020.*
  - b. *Complete minutes of 45<sup>th</sup> PSEB’s Board of Directors meeting.*
  - c. *Findings of inquiry conducted against the undersigned and placed in the 44<sup>th</sup> PSEB’s Board of Directors meeting held on 17<sup>th</sup> September 2020.”*

**B. Proceedings**

3. Through a notice dated November 03, 2021, sent to Managing Director, Pakistan Software Export Board the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.
4. The Respondent through a letter vide No A(01)/PSEB/2021-448 dated November 12, 2021 submitted its response, which is as under:

*““Reference Appeal No. 1426-11/2021 receive vide your letter dated 3<sup>rd</sup> November, 2021 received on 8<sup>th</sup> November 20201.*

*Basically, the appellant is not entitled to invoke the jurisdiction of this Honorable Commission as the Pakistan Software Export Board (Guaranteed Limited, is a not-*

*for-profit public company limited Ordinance, 1984, which was subsequently repealed under the Companies Act, 2016, it is neither a statutory company nor its rules are statutory. It is owned and controlled by the Government of Pakistan, and its controlling ministry is Ministry of Information Technology and Telecommunication. Therefore, Pakistan Software Export Board (PSEB) is a public body, as defined in section 2(ix) of the Right of Access to Information Act, 2017 (the act). The information asked for in is not public information in terms of section 7(b) of the Act. A public body may decide whether or not to release minutes of a board meeting, an is not managed to do the same under all circumstances.*

*The forgoing ground makes it abundantly clear that the information requested for by the Appellant through the instant appeal is not public information in terms of Section 7 of the Act. The minutes of the 44<sup>th</sup> and 45<sup>th</sup> meetings of the Board of Directors of PSEB have neither been made public and nor does PSEB intend to do so, therefore, the same cannot be provided to the Appellant as placed in the 44<sup>th</sup> meeting of the Board of Directors of PSEB have not been provided since provision of the same would amount to sharing details regarding meeting of the Board, which is not public information in terms of Section 7 of the Act.”*

5. Response submitted by the public body was shared with the Appellant on November 18, 2021.

6. The Appellant on November 25, 2021 submitted rejoinder to the response of the public body, which is as under:

*“Reference is made to my Appeal No. 1425-11/21 and your letter on the subject dated November 18, 2021. Since Pakistan Software Export Board (PSEB) is an attached department of the Ministry of Information Technology and an autonomous body of the Federal Government as notified by the Cabinet Davison vide Notification No. 4-11/2019-Min-1 DATED April 14<sup>th</sup>, 2020, hence fails in the definition of the “Public Body” therefore is bound to provide the requested information as guaranteed/ensured by the Right of Access to Information Act 2017.*

*It seems that PSEB is misinterpreting the Right of Access to information Act 2017 and/or not willing to provide the desire information to me. Therefore, I am not satisfied with the response/justification shared by PSEB. I would like to request that PSEB may kindly be directed to ensure strict compliance with Right of Access to Information Act 2017 in letter and spirit and provide the desired information without any further delay. It is also requested that appropriate action may kindly be taken against PSEB under Section 20 of the Act.”*

7. The Appeal was fixed for hearing on December 14, 2021 and both parties were informed through notices sent on December 01, 2021.

8. Mr. Raja Abid Hassan Advocate, Council, PSEB and Mr. Sajid Iqbal, Appellant attended the hearings held on December 14, 2021, December 21, 2021 and December 28, 2021.

9. The respondent during the hearing held on December 29, 2021 submitted response to the Commission, which is as under:

*“Reference Appeal No. 1425-11/21 (Sajid Iqbal Vs Pakistan Software Export Board) and the hearings held by the honorable Member Bench.*

*Minutes of the 44<sup>th</sup> meeting of PSEB's Board of Directors relevant to the Applicant along with the inquiry report placed in the same meeting are enclosed. It is pertinent to mention here that Applicant seeking the minutes of the 44<sup>th</sup> meeting of the PSEB's Board of Directors does not comply with the provisions of the Right to Information Act 2017 as the disclosure of the requested information is likely to prejudice the ongoing proceedings between PSEB and the Applicant under Section 16(i) (v) read with section 7 of the said Act. Furthermore, the minutes of the 45<sup>th</sup> meeting of PSEB's Board of Directors are not relevant to the Applicant and include case of another dismissed former employee that is likely to prejudice the ongoing proceedings between PSEB and the concerned former employee."*

10. The Appellant on December 29, 2021 submitted his response to the documents shared by the public body which is as under:

*"Reference Appeal No. 1425-11/21 (Sajid Iqbal Vs Pakistan Software Export Board).*

*It is respectfully submitted that despite clear instruction/direction by the Commission to provide computer minutes to the appellant the document provides by the respondent are incomplete and doubt to be tempered. Only selects part of 44<sup>th</sup> BOD meeting minutes are provides. Even the provided part is cokes and retypes seems to be attends.*

*I had requested for the complete and attested copies of 44<sup>th</sup> and 45<sup>th</sup> BOD meeting minutes and report of the inquiry conducts in the presence of appellant. The provided version is not acceptable. Respondent may please be directed to provide complete and original version (copy) as requested.*

*Commission is also requested to make other BOD meeting minutes from these members also for the purpose of verification and cross check."*

### **C. Discussion and Commission's View on Relevant Issues**

11. The commission has to decide:
- i. Whether the Respondent is a "public body" under the Right of Access to Information Act, 2017, hereafter referred to as the "Act"?
  - ii. Whether the information requested by the Appellant is public record or not?
  - iii. Whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in Act?
12. The public body in its response letter dated November 12, 2021 has stated that *"It is owned and controlled by the Government of Pakistan, and its controlling ministry is Ministry of Information Technology and Telecommunication."* Hence, the Respondent is a public body even if it is a not-for-profit company, because the salaries paid to the employees of the public body are paid from the National exchequer / Public money. Similarly, the expenses made by the public body to perform its duties are paid from the Tax Money of the public body.
13. This Commission in pursuance of an Appeal No. 455-08/20 titled Saima Tasneem Vs Pakistan Procurement Regulatory Authority (PEPRA) Board Members has held that the Minutes of the Meeting of any meeting held by the public body is public record under the Act, and each member of the board is bound to provide copies of the minutes of the meeting to the citizen, if requested, under the Act.

14. According to Section 14 of the Act, “a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request,” however, in the instant appeal the public body has failed to acknowledge and respond to the information request of the appellant.
15. 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.
16. 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 wilful delay or denial by the public which causes undue cost to citizens and the commission.
17. 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”.*
18. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

#### **D. Order**

19. Appeal is allowed. Managing Director, Pakistan Software Export Board is directed to provide complete 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.
20. The Respondent is also 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](http://www.rti.gov.pk). The compliance report be submitted to this commission within 30 days of the receipt of this Order.
21. 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.

16. Copies of this order be sent to Managing Director, Pakistan Software Export Board, Secretary, Ministry of Information Technology and Telecommunication and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on: January 18, 2022

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