

**IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD**

APPEAL NO. 1501-11-2021

Mariam Malik

Versus

Prime Minister Office

APPEAL NO. 1547-12-2021

Mariam Malik

Versus

Prime Minister Office

Date of Hearing: 3.2.2022

Fawad Malik: Information Commissioner

Present: Mr. Naveed Khalid, Deputy Secretary (Admin) alongwith Mr. Haider Munawar Cheema, Section Officer (Admin) on behalf of the Prime Minister's Office (Public). Ms. Mariam Malik, appellant present in person.

**A. APPEALS**

1. Ms. Mariam Malik, filed the titled two appeals Nos. 1501-11/2021 and 1547-12/2021 before the Pakistan Commission on access to information, Islamabad. It is alleged therein that the request for information has not been responded by the Prime Minister Office within time frame stipulated under the Right of Access to Information Act, 2017. The information sought in both the appeals are common and interconnected therefore are hereby decided through the consolidated order, to avoid any conflict in decision.
2. The subject matter of appeal No. 1501-11/2021 are two applications dated October 26, 2021 addressed to the Principal Secretary to the Prime Minister,

Prime Minister Office. She has desired the information and record pertaining to 'Naya Mazdoor', progress and the decision thereon with reference to Islamabad High Court order dated 25<sup>th</sup> October 2021. The text of the detailed particulars of the requested information are reproduced hereunder:

*"Please find attached, a copy of the order sheet, issued by Islamabad High Court on 25 October 2021 in response to Writ Petition (No. 3046 / 2021) filed on 27th August 2021, wherein, I am the Petitioner. Kindly inform me, in detail, about the steps your office has taken to process the "Employment Generation and Empowerment Framework and Naya Mazdoor" proposal, (File Ref: 1(1)/SI/2020/28) since the file was initiated for deliberation on 14 April 2020."*

*"Please find attached, a copy of the order sheet, issued by Islamabad High Court on 25 October 2021 in response to Writ Petition (No. 3046 / 2021) filed on 27th August 2021, wherein, I am the Petitioner. Kindly conclude the deliberations on the "Employment Generation and Empowerment Framework and Naya Mazdoor", File Ref: 1(1)/SI/2020/28) proposed by myself, for the reason that 560 days have elapsed since the file was initiated by your office on 14<sup>th</sup> April 2020."*

3. The subject matter of appeal No. 1547-12/2021 is an application dated November 26, 2021 addressed to the Principal Secretary to the Prime Minister, Prime Minister Office. She has desired the information and record pertaining to File No. 1(1)/ SI/2020/28 (Naya Mazdoor), with reference to Islamabad High Court order dated 25<sup>th</sup> October 2021. The text of the detailed particulars of the requested information are reproduced hereunder:

- i. What is the current status of File Number 1(1)/ SI/2020/28?*
- ii. Please provide copies of all correspondence, notes, summaries, proceedings and all documents of File No. 1(1)/ SI/2020/28.*
- iii. Please provide complete tracking all the movements over the 590 days of File number 1(1)/SL/2020/28 from April 14, 2020 to November 26, 2021*
- iv. What are the reasons for this extreme procedural delay of over 590 days?*
- v. Who are the officers responsible for this delay of over 590 days of File number 101/51/2020/287*
- vi. What is the specified time period for conclusion of such cases?*
- vii. What is the mechanism for inspection on accumulation of files and procedural delays in the Prime Minister's Office?*
- viii. What are the consequences of keeping any actionable files in suspense unnecessarily?*
- ix. What is the inspection mechanism in place to avoid File number 1(1)/SI/2020/28 being passed unnecessarily, from one section to another, in an attempt to shift responsibility?*
- x. What is the disciplinary action against officers guilty of misconduct, maladministration and causing delays on concluding the proposal of public interest that aims to curb labour exploitation money laundering, corruption, bribery, human trafficking, and annual loss of billions of USD to Pakistan's economy?*

- xi. *What are the consequences for officers violating official rules and procedures of Prime Minister's Office laid out in the "Secretariat Instructions"?*

## **B. PROCEEDINGS**

4. The notices of the Commission in both the appeals were responded by Mr. Haider Munawar Cheema, Section Officer (Admin) as under:

*"It is to inform that Ms. Mariam Malik, the applicant has already filed a petition in the Islamabad High Court, Islamabad verses Principal Secretary to PM. The operative part of the orders of honourable Court in the case (WP No 3046/2021) is as under:*

*"The petitioner is an expatriate and she has submitted a proposal to the government of Pakistan regarding protection of workers. In response to notices issued to the respondents, the Secretary, Ministry of Overseas Pakistanis and Human Resource Development has submitted written comments. The comments have been careful perused and this court is satisfied that the proposal submitted by the petitioner has not only been considered but a process has been initiated for developing a digital platform. It appears from the written comments that Government of Pakistan has not only appreciated the proposals of the petitioner but has resolved to give effect thereto. This Court does not interfere in executive matters nor a case is made out for issuance of a writ under Article 199 of the Constitution. The petition is, therefore, accordingly dispose-of."*

*Pakistan Information Commission, is therefore, requested to inform the applicant to approach Ministry of Overseas Pakistanis and Human Resource Development as the process of developing a digital platform has been initiated in that Ministry.*

5. The appellant terming the response unsatisfactory, filed rejoinder dated 30 December 2021 to the appeal. Points of dissatisfaction in the rejoinder are reproduced hereunder:

- 1. The information requested was with regards to File No. 1(1)/ SI/2020/28, which belongs to the Prime Minister's Office and has been in process since 625 days. Articles are attached for reference.*
- 2. In the file, the last correspondence from the Ministry of Overseas and Human Resource Department was a letter of reply to Additional Secretary II at the Prime Minister's Office, dated October 29, 2020, where they concluded their position and 14 months have elapsed since then.*
- 3. Additionally, as per my findings, the last movement on the file in discussion was on April 7th, 2021 from Joint Secretary Muhammad Tariq (Economic Affairs) to Senior Associate Moeen Abbas (Special Initiatives) at the Prime Minister's Office.*
- 4. The Prime Minister's Office has received over 18 letters of correspondence about the file in question which is FILE NO 1(1)/SI/2020/28. And according to the rules of the*

*Secretariat Instructions # 55 1. (i) & (ii), Titled CORRESPONDENCE WITH MEMBERS OF THE PUBLIC, and my right of access to information, the PMO is bound to immediately acknowledge & respond to my correspondence.”*

6. Mr. Naveed Khalid, Deputy Secretary (Admin) during the course of hearing before the Commission vide letter dated 02.02.2022 submitted the reply/arguments on behalf of the asking respondent. The same is reproduced hereunder:

1. *“It is to inform that the applicant Ms. Mariam Malik requested information regarding file No. 1(1)/SI/2020/28 under Right to Information Act 2017. In her application she requested for 11 items pertaining to above referred file (record of Naya Mazdoor Project)*
2. *Prime Minister's Office (Public) Islamabad prepared the reply on the above said subject appeals and forwarded the same to Pakistan Information Commission on dated 08-12-2021 (Annex-II) and 05-01-2022 (Annex-III) respectively. However, an appeal No 1501-11/21 filed by Ms. Mariam Malik (Annex-IV) is fixed for hearing on 03 02-2022 while another similar appeal No. 1547-12/21 filed by Ms. Mariam Malik (Annex V) is pending with Pakistan Information Commission*
3. *From the perusal of the subject appeals it is very much clear that the applicant requested Prime Minister's Office to provide her all correspondence, notes, summaries, proceedings and all documents of file No. 1(1)/SI/2020/28, which pertains to proposed Naya Mazdoor Project.*
4. *It is stated that applicant, Ms. Mariam Malik is a habitual litigant, as she had filed writ petition before Islamabad High Court and a complaint before the Wafaqi Mohtasib and both are decided in favour of the Prime Minister's Office (Public). It is, therefore, apprehended that she may use the requested information in future in the legal proceedings*
5. *In view of above, the information requested by the applicant Ms. Mariam Malik falls in the sub Section (h) of Section 16 of the Right of Access to Information Act 2017 therefore, the competent authority has decided to place the complete record of Naya Mazdoor Project before the Honourable Commission for consideration and perusal but the same may not be provided to the applicant on the basis of above said exemption.”*

### **C. COMMISSION’S VIEW.**

7. The appellant admittedly an expatriate, a vocal labour rights activist, submitted a proposal to the Government of Pakistan regarding protection, welfare, reforms and labour laws implementation aimed at employment generation and employment framework of workers and introducing the methods to curb the exploitation of labour and to end visa and recruitment frauds. The framework is titled as ‘Naya Mazdoor’. The appellant in her requests has desired in detail

all correspondence, notes, summaries, proceedings and all documents of file about the steps taken to process and to conclude the deliberations on the “Employment Generation and Empowerment Framework and Naya Mazdoor”, File Ref: 1(1)/S1/2020/28), proposed by herself.

8. The answering public body has declined the sharing of the desired information for the reason that the appellant is a habitual litigant as she invoked the jurisdiction of Islamabad High Court by way of filing a writ petition and also filed a complaint before the Wafaqi Mohtasib, Islamabad and that both are decided in favour of the asking respondent. It is argued that apprehension exist that the appellant may use the requested information in future in the legal proceedings therefore claimed exemption from disclosure of the requested information and record under section 16(h) of the Right of Access to Information Act, 2017.
9. Out of the divergent pleadings of the appeal and the reply submitted by the respondent the sole issue to be resolved by the Commission is to determine whether the requested information is exempted from disclosure as claimed by the respondent public body or the appellant has preferential, privileged and superior legal and fundamental right under the Act and as envisaged in Constitution of Islamic Republic of Pakistan to have access to the said information.
10. It would not be out of place to mention here that the Hon’ble Chief Justice, Islamabad High Court sought report and written comments from the Secretary, Ministry of Overseas Pakistanis and Human Resource Development in the writ petition no. 3046/2021 titled “*Mariam Malik versus Principal Secretary to PM*” filed by the appellant. In the light of the comments it was ruled by the Hon’ble Chief Justice vide order dated 20.10.2021 that the proposal submitted by the appellant has not only been considered but a process has been initiated for developing a digital platform to give effect thereto.
11. Since the appellant is the one who introduced the proposal/idea of ‘*Naya Mazdoor*’, reserves the right to know and to have access about the steps taken to process and to conclude the deliberations on the project. Her legitimate right cannot be denied or delayed at the whims of beurocratic hurdles and mind-set. The reference of section 16(h) of the Act by the respondent for denial does not carry weight for the reason that the desired information and record is not privileged from production in legal proceedings. Rather the relevant facts and background information related to important policies and decisions which have been adopted, along with the statement of policies adopted by the public body and the criteria standards or guidelines upon which discretionary powers are

exercised by it is sort of information and record that ought to have been published and posted proactively as mandated in section 5(d) of the Act.

12. The argument of the respondent that there exists apprehension that the appellant may use the requested information in future in the legal proceedings is discarded by the Commission. Nobody can be barred from seeking the fundamental, legal, service, civil or any other legitimate right from any court of competent jurisdiction. The Commission is of the considered view that the requested information is not exempted from disclosure as claimed by the respondent public body and that the appellant has preferential, privileged and superior legal and fundamental right under the Act and the Constitution of Islamic Republic of Pakistan to have access to the requested information.
13. Even otherwise the requested stuff is matter of public importance more particularly in the interest of the labourers and skilled population of the country.
14. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance and making the process of employment transparent free of favouritism and nepotism.

#### **D. ORDER**

15. The appeals No. 1501-11-2021 and 1547-12-2021 are allowed. The Deputy Secretary (Admin) / Designated Officer is directed to provide the appellant all correspondence, notes, summaries, proceedings and all documents of file about the steps taken to process and to conclude the deliberations on the “Employment Generation and Empowerment Framework and Naya Mazdoor”, File Ref: 1(1)/S1/2020/28).

He is further directed to address all the queries raised by the appellant in her application dated November 26, 2021 addressed to the Principal Secretary to the Prime Minister.

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He is required to comply the order', forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 7.2.2022

Certified that this order consists of seven pages, each page has been read and signed.