

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad
Appeal No 1669-01/22

Sajid Iqbal

(Appellant)

Vs.

Ministry of Information Technology & Telecommunication

(Respondent)

ORDER

Date: August 16, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated January 18, 2022 to the Commission, stating that he submitted an information request to the Secretary, Ministry of Information Technology & Telecommunication on December 30, 2021 under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
 1. “Complete minutes of 44th PSEB’s Board of Directors meeting held on 17th September 2020.
 2. Complete minutes of 45th PSEB’s Board Directors meeting.”

B. Proceedings

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on June 27, 2022 and its text is as under:
 - “ This is with reference to hearing summon received by the Ministry of Information Technology and Telecom (MOITT) dated May 24, 2022 regarding the subject appeal (Appeal No: 1669-01/22) which was received without any attachment or petition as to what the applicant had prayed for in the subject appeal.
 - “The hearing summon states that failure to attend the hearing shall result in Ex Parte decision. The same is inconsistent and lacks any conformity with the established legal practices in that without sharing of any information on the matter, a final notice is being issued, threatening Ex Parte decision which is also in violation of the fundamental rights enshrined in the Constitution of Pakistan.
That in light of the lack of information provided by the applicant, the MOTT is unable to provide any substantive reply against the application filed by the applicant
 - 3 It is requested that the complete record of the application filed by the applicant may be shared with MOITT to enable it to file a reply based on facts of the case and in accordance with law.
 - 4 This issues with the approval of the competent authority.”.

4. Hearing on the instant Appeal was fixed for July 21, 2022 vide letter dated June 24, 2022. The appellants attended the hearing.
5. The Respondent submitted its response on August 04, 2022 and its text is as under:
“The undersigned is directed to refer to Appeal No. 1669-01/22 filed by Mr. Sajid Iqbal requesting minutes of meeting of 44 and 45 meeting of PSEB's Board of Directors as stated in letter received from PIC dated 18-7-2022
 - i. *“It is hereby intimated that the requested information falls under the category of information exempted from disclosure as per Section 16(1)(i)(v) of the Right of Access to Information Act, 2017 which reads as, "Information may be exempt of its disclosure if it is likely to: v) Prejudice the proceedings in a court or a tribunal;"*
 - ii. *The requested information is related to a pending case before a court of law, and sharing of the same is liable to prejudice the proceedings in the court.*
 - iii. *In view of the above, the requested information being exempted may not be expected from this office please.”.*

C. Issues

6. The instant appeal has brought to the fore the following issues:
 - (a) Can the requested information be exempted from disclosure on the grounds of *lis alibi pendens* as submitted by the Respondent that the matter is sub judice in the court?
 - (b) Can the requested *minutes of meeting of 44 and 45 meeting of PSEB's Board* be disclosed under the provisions of the *Right of Access to Information Act, 2017*, henceforth referred to as the *Act, 2017*?

D Discussion and commission's views on relevant issues:

7. This commission maintains that access to *minutes of meeting of 44 and 45 meeting of PSEB's Board* as requested by the Appellant cannot be denied on the grounds of *lis alibi pendens*.
8. This commission has maintained through its different Orders that pendency of the writ petition between the parties does not bar the provision of information under the Act unless specifically barred by the court itself, or, under the provisions of the Act. Therefore, the contention of the Respondent that “Section 16 (i) (v) of the RAI Act, 2017, inter alia, states that the information may be exempted if its disclosure is likely to prejudice the proceedings in a court or a tribunal” does not hold water.
9. Our ability to exercise our fundamental right of access to information enables us to attain our other fundamental rights such as gainful employment, right to life, right to clean drinking water, right to breathe in clean air and right to healthcare services etc. In fact, the constitutional right of access to information helps citizens in the exercise of right of access to justice as well by having access to records/information to effectively present their cases in the court of law.
10. It is important to highlight that the minutes of official meetings are exempted from disclosure under Section 7 (b) only if final decision has not been taken on the issue being deliberated upon in official meetings. Once final decision has been taken, minutes of meetings become public documents, unless hit by any of the exemption clause of the *Right of Access to Information Act, 2017* which is not the case in the instant Appeal.
11. This commission maintains that the *Act, 2017* does not provide blanket exemption to any document, including minutes of meetings.

12. This commission holds that merely because certain portions of minutes of an official meeting may contain information about a certain matter/issue which has not been finalised yet, it does not mean that minutes of an official meeting can be exempted from disclosure in its entirety.
13. The Act, 2017 envisages a situation wherein a document, which should be otherwise be made public but its parts may contain exempted information. In such an eventuality, part(s) containing information to be exempted can be severed, or, blanked out from the document as mentioned in Section 16 (1) (i) of the Act, 2017. However, in such a scenario, the public body is required to cite specific reason(s) for invoking the particular exemption clause of the Act, 2017.
14. The disclosure of ‘minutes of meetings’ during the deliberative process is protected to ensure that outside influence does not create hindrances in the deliberative process. However, once a public body has taken a final decision, minutes of the meetings cannot be treated as excluded records.

E. Order

15. The Appeal is allowed. The Respondent is directed to provide the Appellant information requested 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.
16. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: August 16, 2022

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