

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1729-02/22

Subhan

(Appellant)

Vs.

Oil and Gas Development Company Limited

(Respondent)

ORDER

Date: September 21, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal from Mr. Subhan dated January 31, 2022, stating that he submitted an information request dated Jan 17, 2022 under the Right of Access to Information Act 2017 to the Managing Director, Oil and Gas Development Company Limited. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. The information sought by the Appellant is as under:
 1. *"I was initially appointed as well Chowkidar on 01.10.2008 through 3rd party at well No.QP-8, thereafter my cadre was changed from 3rd party to daily wages on 16.08.2018(E# 305976) (NMG-01) 7 then my services were converted to contract employment w.e.f 01.01.2018 & finally I was retired on 31.12.2020 at attaining age of superannuation without getting the benefits of regularization.*
 2. *That from 2008 to 2014, 2019, 2020 I was not paid according to minimum labor wages as announced federal/provincial government, the detail is given as under:-*

WAGES DETAIL TO BE PAID TO ME (UNCONFIRMED DETAIL)

S.No	Year	Minimum Labour wages per month announced by Federal Govt.	Wages paid to me less than or plus per month	Difference per month to be paid by company
(1)	2008	6000/-	5000/-	1000/-
(2)	2009	6000/-		
(3)	2010	7000/-		
(4)	2011	7000/-		
(5)	2012	8000/-		
(6)	2013	10000/-		
(7)	2014	12000/-	10000/-	2000/-
(8)	2015	13000/-	10000/-	3000/-
(9)	2016	14000/-	13333/-	600/- plus
(10)	2017	15000/-	15000/-	
(11)	2018	15000/-	15000/-	
(12)	2019	17500/-	15000/-	2500/-

(13)	2020	17500/-	15000/-	2500/-
(14)				

3. *Now I need information to whom (which department of OGDCL) I should make an application for recovery of my due arrears amount supra.*
4. *Whether I was paid wages according to minimum Labour wages or not from 32008 to 2020 please explain year wise separately.*
5. *In this regard i.e. enhancement of minimum labor wages Honourable supreme Court of Pakistan has given clear direction in reported cases 2012 PLC 232 (SC), 2001 PLC 123 (SC) but company does not want to obey said orders in favour of low paid employees.*
6. *Certified copies of all said offer as well as appointment orders of well Chowkidar may be provided.*
7. *What is the initial salary of a well Chowkidar and what mechanism of increase of their salaries is?*
8. *Provide copy of list of well Chowkidar through third party contractors /land owners on limp sump basis throughout Pakistan.*
9. *Certified copies of record of soaps namely "Diary Number Register" resting with admin department at Qaderpur Gas field Ghotki from where I used to take soaps; please provide certified record of each / every month (12 months) from 2008 to 2020.*
10. *Certified copies of admin control registers of admin department with regard to my service; record of each every month (12 months) from 2008 to 2020.*
11. *Certified copies of invoice/ bills of contractors with regard to my service; record of each every month (12 months) from 2008 to 2020.*
12. *Certified copies of agreements reached between contractors and company wherein my services are shown from 2008 to 2020.*
13. *Certified copies of record of 5% companies' profits (WWPF) given to me from 2008 to 2020 and I should also be informed year wise details what amount was given to me as 5% profit.*
14. *Details of bonuses with copies of record/slips given to me from 2008 to 2020.*
15. *Copies of Salary slips with regard tom service from 2008 to 2020.*
16. *What the cadres; posts, services, groups, NMG etc of officials / officers in OGDCL.*
17. *Seniority wise list of well chowkidars (Batch-4) who have been given offer/appointment orders or intended to be given in near future throughout Pakistan.*
18. *Provide seniority list of NMG-I of OGDCL employees throughout Pakistan.*
19. *Provide seniority list of Batch-1 to batch-4 employees of OGDCL throughout Pakistan.*
20. *Provide certified list of Annual Land lease/rental negotiating rates per acre per annum to be fixed for the are 2022 for all regions/districts etc throughout Pakistan along with certified copies of said letters.*
21. *Well chowkidars are permanent posts are not.*
22. *Which are the regulatory federal/provincial departments over ODDCL like SECP, OGRA, etc?"*

B. Proceedings

3. Through a notice dated February 14, 2022, sent to Managing Director, Oil and Gas Development Company Limited 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 appeal was fixed for hearing on May 31, 2022 and both parties were informed through notices sent on May 10, 2022
5. The Respondent on May 30, 2022 submitted its response which is as under:
“

1. As to request raised by the Appellant in para 1, contents thereof are admitted to the extent that the Appellant was hired on work charge/casual basis as Well Chowkidar on 16.03.2013 and subsequently his services were converted into contract appointment w.e.f 01.01.2018 Appellant was retired from the service of the company on 31.12.2020.
2. As to request raised by the Appellant in para 2, the detail of wages paid to the individual from 2008 onwards is as under:

S.No	Year	Wages/salary paid to the incumbent		Remarks
		Per Day	Per Month	
(1)	2008	Well Chowkidar were not the employee of the Company, rather were engaged by the Land owner for security of wells.		Governed under policy notification No. SCO101-11/Well Chowkidar/1411 dated September 19, 2008 (F/A)
(2)	2009	--		--
(3)	2010	--		--
(4)	2011	--		--
(5)	2012	--		--
(6)	2013	339/-	10,170/-	Converted as Work-charge/Casual. Rates revised from time to time vide policy notifications placed at F/C, F/D, F/F, F/E, F/G.
(7)	2014	400/-	12,000/-	-
(8)	2015	440/-	13,200/-	-
(9)	2016	467/-	14,010/-	-
(10)	2017	500/-	15,000/-	-
(11)	2018	-	16,306/-	Converted into contract employment w.e.f 01.01.2018. Rates revised vide policy notification placed at F/H.
(12)	2019	-	19,203/-	F/I
(13)	2020	-	19,203/-	

3. As to request raised by the Appellant in para 3, contents thereof do not fall under the purview of public record as defined in Section 6 of the Right of Access to Information act, 2017 (“Information Act”) thus Respondent is not under legal obligation to provide the same.
4. As to request raised by the Appellant in para 4, information sought is already provided in para of these comments above.
5. As to request raised by the Appellant in para 5, contents thereof are mere assertions and do not fall under the purview of public record as defined in Section 6 of Information act thus Respondent is not under legal obligation to provide the same. No information has been sought thus requires no comment.

6. *As to request raised by the Appellant in para 6, contents thereof do not fall under the purview of public record as defined in Section 6 of the Information Act thus Respondent is not under legal obligation to provide the same. Furthermore, the information sought by the Appellant is excluded and exempted under Section 7(g) and 16(c) of Information Act respectively. Information requested by the Appellant is confidential and delivery of such information will constitute breach of privacy by the Respondent. Terms and conditions offered to any individual fall within confidential documents and service rules of Respondent envisages the utmost maintenance of secrecy and confidentiality.*
7. *As to request raised by the Appellant in para 7, it may be noted that lump sum payment of Rs. 60,000/- per month made for security of producing well irrespective of number of well chowkidars engaged by the eland owners. Any arrangement by the Land owner to fulfill commitment made with Respondent to secure/protect producing wells remain well within the domain of those land owners and no liability either administrative or legal rests with Respondent in this regard*
8. *As to request raised by the Appellant in para 8, the information sought by the Appellant is excluded and exempted under section 7(g) and 16(c) of Information Act respectively. Information requested by the Appellant is confidential and delivery of such information will constitute breach of policy by the Respondent. Information sought requires Third party disclosure, which is not available in the instant case.*
9. *As to request raised by the Appellant in para 9 and 10, information requested is vague thus Respondent is constrained to answer the same.*
10. *As to request raised by the Appellant in para 11 and 12, the information sought by the Appellant is exempted under section 16(c) of Information Act respectively; information sought requires third party disclosure, which is not available in the instant case. However a policy guideline for hiring of well Chowkidar through contractors is attached herewith and marked as Annexure-B.*
11. *As to request raised by the Appellant in para 13, 14, 15, information sought by the Appellant is already available to him hence needs to answer.*
12. *As to request raised by the Appellant in para 16, 17, 18 and 19, contents thereof do not fall under the purview of public record as defined in section 6 of Information Act thus Respondent is not under legal obligation to provide the same. Furthermore, the information sought by the Appellant is excluded and exempted under Section 7(g) and 16(c) of information Act, respectively. Information requested by the Appellant is confidential and delivery of such information will constitute breach of privacy by the Respondent. Terms and conditions offered to any individual fall within confidential documents and service rules of Respondents envisage the utmost maintenance of secrecy and confidentiality.*

13. As to request raised by the Appellant in para 20, the information requested is attached herewith and marked as Annexure-C.

14. As to request raised by the Appellant in para 21, 22 and 23, contents thereof fall outside the scope of public record thus Respondent is not obliged to answer the same.”

6. The response submitted by the public body was shared with the appellant on June 08, 2022.
7. The respondent on June 18, 2022 submitted its rejoinder to the response of the public body, which is as under:
“
8. Rejoinder submitted by the appellant was shared with the public body on June 28, 2022 with the directions to submit response to the queries of the appellant within 10 working days.
9. The appeal was fixed for hearing on August 23, 2022 and both parties were informed through notices sent on August 02, 2022.
10. The respondent submitted its response to the queries raised by the appellant in the rejoinder dated June 18, 2022, which is as under:
“*It is submitted that the Appellant has requested information, which is:*
 - a. already available with him; or*
 - b. is vague information; and*
 - c. privileged under the Right of Access to Information Act, 2017 (“Information Act”) is privileged.*

Whereas, the Information which under the law needs to be disclosed has already been provided to the Appellant.

1. *The perusal and examination of each Information requested by the Appellant will substantiate the assertion of the Respondent made in paragraph 2 above. For example, the Appellant in its Rejoinder has showed dissatisfaction in the following manner:*
 - a. As far Para No. 3, the Appellant contended denial to access to Information. However, if the Hon’ble Commission examine the Para 3 of Appeal, it will transpire that Appellant is seeking information about ‘who he should make an application for recover of dues’, is not a public document. Thus, the Respondent was constrained to furnish the same.*
 - b. As to Para 6 to 9, perusal of the same would reveal that the Information sought under such Paras are not either public documents and/or are excluded and exempted under Section 7(g) and 16(c) of the Information Act. Please note that in Para 9, the Appellant is asking for record of “soap diary”, which is very vague and/or not public document. How is OGDCL supposed to maintain diary of soap lists. Furthermore, in Para 6, the Appellant is asking to provide “certified copies of all said offer as well as appointment orders of well chowkidars may be provided”. Please note that the information sought is very vague and is not well defined as to which chowkidars the Appellant is referring to. Moreover, the Information with regards other chowkidars is confidential and hence exempted.*

- c. *As to Para 16 to 23, it is submitted that the Information sought are only assertions or Information regarding to the third party which, under the law, are exempted.*
2. *It may be noted that being a Public Sector Company involved in sensitive activity, it will amount to putting disproportionate burden on Respondent if directed to provide generic information or information that is already available with the Appellant or which is restricted under the law. The Respondent has already provided Information to the Appellant, which is liable to be furnished under the law.*
3. *To that effect, it may be noted that the Appellant has not objected to the Reply Rejoinder. Therefore, the instant Appeal may be disposed off. Furthermore, should the Hon'ble Commission desires, the Respondent would like to make oral submission during a hearing to substantiate the contentions made above."*

C. Discussion and Commission's View on Relevant Issues

11. The commission has to decide:
 - i. Whether the remaining requested information falls within the ambit of public document under the Right of Access to Information Act, 2017, hereafter referred to as the "Act"?
12. The record on the file shows that the public body has provided the information requested in Para 1, 2 and 7 of his information request. While in response to Para-20 the information provided by the public body is incomplete, the Respondent has provided information regarding only regions.
13. The information requested in Para-3, 4,5,6,9 and 17 is general queries and does not make an information requested as defined in Section 2 (v) of the Act.
14. Moreover, information requested in para 8, 10, 11, 12, 13, 14, 15, 16, 18, 19 and 21 have not been provided to the appellant. The Respondent in its response claimed that this information is exempted from disclosure under the Act.
15. This Commission maintains that the remaining information/documents requested by the Appellant in the instant appeal is public record under the Section 5(a) (e) and Section 6(b) of the Act,
Section 5(a) is as under:

"a) Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;"
16. Purpose of the Act is to ensure the Transparency in the business of the Government, as the Preamble of the Act states."

"Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights".
17. The fact that the citizens are forced to exercise the Right of Access to Information Act 2017 and have to wait for many months even for the information that should be available on the

websites of the public bodies shows that the public bodies are not ensuring the implementation of the Right of Access to Information Act, 2017.

18. 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.
19. 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.
20. 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".

D. Order

21. Appeal is allowed. Managing Director, Oil and Gas Development Company is directed to provide information requested in para 8, 10, 11, 12, 13, 14, 15, 16, 18, 19 and 21 of the appellant's information request 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.
15. 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. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
16. Managing Director, Oil and Gas Development Company is also directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put contact details of PIO on its web site as required under Section 5 (1) (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, Oil and Gas Development Company and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: September 21, 2022

This order consists of 7 (seven) pages, each page has been read and signed.