

Pakistan Information Commission

Government of Pakistan

Order

Appeal No: 2591-03/2023

Khushdil Khan Malik

Vs

Election Commission of Pakistan

Date:

May 02, 2023

Appellant present in person. None appeared on behalf of respondent / public body in spite of issuance of notice to Secretary ECP. The respondent / public body vide letter dated 20-03-2022 addressed to the appellant rejected the request for supply of the required documents which are as under:

- i. Candidature of Mr. Ahmed Nawaz Sukhera for the office of caretaker Chief Minister of Punjab.*
- ii. Minutes of Meeting of Parliamentary Committee of Punjab Assembly and recommendations, thereof.*
- iii. Minutes of Meeting of Election Commission of Pakistan regarding appointment of caretaker Chief Minister, Punjab.*

2. Moreover, in the said letter the Election Commission of Pakistan has informed that the certified copies of documents mentioned at serial No. i & ii cannot be provided. It is contended that the said documents are classified documents and are exempted from disclosure as provided in section 7(b) (g) and (h) of Right of Access to Information Act, 2017. On last date of hearing, again notice was issued to Secretary, ECP with the direction to ensure appearance of representative of the respondent / public body but in spite of that none bothered to appear before the Commission. The Commission is satisfied that there are sufficient reasons to proceed against public body / ECP, ex-Parte. Hence it is proceeded against ex-Parte.

3. The Commission has heard the arguments of appellant, perused the contents of the appeal and the relevant law. Appellant approached the public body on 17-02-2023 with his request which was delivered by hand and said request was received by public body

vide *Diary No. 2376* dated 17-02-2023. The present appeal was filed by the appellant before the Commission on 06-04-2023 which is within time. As for as contention of the ECP mentioned in its letter dated 20-03-2022 addressed to the appellant for non-providing of documents mentioned at Sr. No. i & ii is concerned, it is contended that since ECP is not originator or custodian of the said documents, so certified copies cannot be provided. Said contention has been examined by the Commission. Document mentioned at serial No. i of the appeal is about candidature of Mr. Ahmed Nawaz Sukhera for office of caretaker of Chief Minister of Punjab, whereas document at Sr. No. ii of the appeal is about Minutes of Meeting of Parliamentary Committee of Punjab Assembly and recommendation thereof. Although, ECP is not originator / author of both the said documents but said documents are public documents as provided under Article 85 of Qanun-e-Shahadat Order 1984. Moreover, Article 87 of the above said Order provides that every public officer having custody of public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees thereof, together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed that such officer with his name and his official title, and shall be sealed,

4. The above said provision of the law does not state that certified copy of a public document can only be issued or certified by originator or author of the document. Undoubtedly, ECP is a public office / public body and maintains public record as defined in Article 85 of Qanun-e-Shahadat Act, 1984. According to Right of Access to Information Act, 2017 “Any citizen of Pakistan has fundamental right to have information from any public body of the record except those which are exempted from disclosure and said-fundamental right cannot be denied by any public body. So contention of the ECP mentioned in its letter dated 20-03-2022 addressed to the appellant is not tenable. Moreover, ECP was under obligation to appear before the Commission and seek exemption of the said documents if any provided under Right of Access to Information Act, 2017. The Election Commission of Pakistan did not bother to appear before the

Commission in spite of issuance of two notices and has been proceeded against ex-parte.

5. As for as Minutes of Meeting of ECP regarding appointment of caretaker Chief Minister of Punjab are concerned although exemption has been sought from disclosure of said document by the ECP Under Section 7(b) (g) and (h) of Right of Access to Information Act, 2017, but the said exemption is not allowed. Under section 7(b) Minutes of Meeting are exempted subject to the final decision by the public body. Since the decision about appointment of Caretaker Chief Minister of Punjab, has since been finalized, so said Minutes of Meeting do not enjoy exemption from disclosure. As for as section 7(g) and (h) of the Right of Access to Information Act, 2017 is concerned under said provision “record relating to the personal privacy of any individual; and record of the private document furnished to a public body are exempted from disclosure and said documents do not fall in this category.

6. As explained in detail above, all the three documents required by the appellant are public documents and have no exemption under the law as appellant being citizen of Pakistan has fundamental right to have certified copies thereof. Therefore, for what has been stated above, the appeal is allowed. The public body / ECP is directed to furnish certified copies of all the three documents mentioned at Sr. i, ii & iii of appeal within 10 days failing which the Commission shall proceed against the said public body under the relevant law. Copy of the said order be sent to the Secretary, Election Commission of Pakistan for implementation of order.

Certified that this order consists of 03 pages. Each page has been duly dictated, read and signed by the Commission.

Shoaib Ahmed Siddiqui
Chief Information Commissioner

Ijaz Hassan Awan
Information Commissioner