

Pakistan Information Commission
Government of Pakistan

1st Floor, National Arcade, 4-A Plaza
F-8 Markaz, Islamabad
Phone: 051-9261014
Website: www.rti.gov.pk
Email: appeals@rti.gov.pk
@PkInfoComm



Pakistan Information Commission, Islamabad

Appeal No: 2819-05/2023

Pervez Iqbal

Vs

National Transmission and Dispatch Company

ORDER

Ijaz Hassan Awan: Information Commissioner

Date:

September 06, 2023 Appellant along with his legal counsel present in person. Mr. Naveed Afzal Qureshi, Additional Deputy Manager (Commercial) along with Mr. Tahir Mehmood, Additional Director General (HR) present on behalf of respondent / public body.

2. The Appellant being a citizen of Pakistan filed information request with Managing Director, NTDC WAPDA House, Lahore seeking the following information:

i. In this regard, it is submitted that NTDC floated Tender No. TMLKK-10-2020 for procurement of material. After finalization of technical as well as financial evaluation, NTDC issued brief result of evaluation. It is requested to provide the complete evaluation report carried out by against the subject tender procurement under provisions of Para-5 (i) of Right of Access to Information Act, 2017.

• **Para 5(i)**

“Reports including performance reports, audit reports, evaluation reports, inquiry or investigation reports and other reports that have been finalized.”

3. The said information was not shared with the him under the law, which resulted in filing of present appeal before the Commission. On receiving the appeal, notice was issued to Managing Director, NTDC. In response to the notice of the Commission, Mr. Naveed Afzal Qureshi, Additional Deputy Manager, (Commercial) along with Mr. Tahir Mehmood

Additional Director General (HR) appeared before the Commission and submitted written response. The Commission was not satisfied with the said reply and passed an order to file detailed reply which has been furnished today. In the written reply dated 04-09-2023 it has been contended that bid evaluation reforms shared on NTDC's and PPRA's website and copy of the same has been annexed with the reply. It is further added that complete bid evaluation report prepared by NTDC Evaluation Committee contains confidential details related to technical and commercial aspects of the bidders, and the bidders submitted bids with understanding that it is excluded under Clause (h) of Section 7 of Right of Access to Information Act, 2017 therefore, if the required information be shared with the appellant it may lead to breach of confidence. It is further added that the Commission decided three other cases of the similar nature i.e Mr. Khawaja Nadeem Ahmed vs NTDC vide Appeal Nos. 1877-04/2023, 1888-04/2023 and 1890-04/2023 in favor of NTDC, therefore the request has been made to dismiss the appeal. Copy of the written reply has been handed over to the appellant and he be given an opportunity to him. The appellant opposed the public body about any exemption from disclosure of the required information under Right of Access to Information Act, 2017, it is further added that appeal No. 1753-02/2022 titled as Pervez Iqbal vs NTDC was decided by the Commission in favor of the Pervez Iqbal (**"Appellant"**) and NTDC filed Writ Petition against the order of the Commission dated 13-09-2022 and during hearing of the W.P No. 4425/2022 titled NTDC vs PIC and another. The information required by the Pervez Iqbal (**"Appellant"**) was furnished by the NTDC before Islamabad High Court and the Writ Petition not being traced by NTDC was disposed of. Photocopy of order of Islamabad High Court 08-03-023 and order of Commission dated 20-06-2023 recorded in Appeal No. 1753-02/2022 were produced in support of arguments by the appellant. The Commission has examined the contents of information request / appeal written reply furnished by NTDC and the relevant law on the subject. Arguments addressed from both sides have also been considered.

4. It is noted that the information required by Pervez Iqbal in Appeal No. 1753-02/2022 was in respect of Tender No. CPP-04M(R2)-2017 for procurements of 29000 Nos of 80kN and 220,670 Nos of 165KN insulators etc. In the present appeal the similar information has been sought in respect of Tender No. TMLKK-10-2020. Both the information in the above said appeals are of similar nature.

5. The NTDC has annexed copies of Appeal Nos. 1888-04/22 and 1890-04/22. Perusal of the order of the Commission dated 27-06-22 passed in the above said appeal showed that said appeal was not decided by

Commission on merits, rather the same were closed on the assumption that appellant was satisfied with the response of the public body. Whereas, the Appeal No. 1753-02/2023 titled Pervez Iqbal Vs NTDC was decided on merits by the Commission and order of the Commission was challenged by filing Writ Petition before Islamabad High Court and the Writ Petition was not traced by NTDC and it made compliance of the order of Commission dated 13-09-2022 meaning thereby, that the NTDC was satisfied with the decision on the Appeal No. 1753-02/2023 which was allowed.

6. In view of above said scenario "*Law of Estoppel*" does not allow the NTDC to again agitate the plea which was not entertained by the Commission and High Court, therefore the plea now taken by the NTDC about confidentiality in the required information and exemption sought from disclosure and has turned down. Crucks of the appeal about decision leads to the conclusion that the information required by the appellant is a public record and being citizen of Pakistan, the appellant has fundamental right to have said information that has been discussed above, the appeal is allowed. The compliance report be submitted to this Commission within 15 days. The appellant may also approach this Commission in case of non-compliance of the order.

7. Copy of order be sent to Managing Director, NTDC for implementation of the order of Commission, and order be also sent to appellant for his intimation.

8. Adjourned for submission of compliance report on October 04, 2023.

Ijaz Hassan Awan
Information Commissioner

Huzaifa Rehman
Information Commissioner

Announced on: September 06, 2023

Certified that this order consists of 3 (three) pages, each page has been dictated, read, corrected and signed.