

Pakistan Information Commission

Government of Pakistan

Order

Appeal No: 2659-04/23

Muhammad Qasim

Vs

Pakistan Expo Centre

Order:

Ijaz Hassan Awan

Date:

September 18, 2023

Appellant not present. Ms. Alvina Aitezaz Advocate appeared on behalf of Pakistan Expo Center / respondent and filed fresh power of attorney.

2. On 19-06-2023 the Commission after taking into consideration contents of information request, written reply filed by the public body and relevant law on the subject in respect of exemption from disclosure of Minutes of Meetings and after hearing the arguments of appellant and learned counsel appearing on behalf of respondent allowed the appeal and turned down request of the respondent/public body to exempt certain portion of the minutes of 47th Board of Directors Meeting with further directions to provide certified copy of said Minutes of Meeting to the appellant within 10 days.
3. The respondent / public body instead of making compliance of the order of the Commission filed a review petition on 19-07-2023 wherein it has been submitted that on the day of hearing, leaned counsel for the respondent remained unable of furnish complete copy of Minutes of Meetings, consequently, the true factual and legal nature of the case was not brought forth the Commission therefore, it is requested that order dated 19-06-23 be reviewed and exemption sought under Section 16(b)(ii) of the Right of Access to Information Act, 2017 be allowed. It is further added that complete copy of the Minutes of Meeting and FIR registered against certain individuals are attached.
4. Learned counsel for the petitioner besides addressing arguments has furnished written arguments and submitted that before passing the order of the Commission on 19-06-23, it was informed that inquiry

and other legal proceedings pending against former employees have yet not been concluded, therefore, the publication/submission of the 47th Minutes of Meeting at this stage is more harmful than beneficial hence, exempted under the law. Because the respondent company submitted before the Commission a redacted version of 47th Board of Director's Minutes of Meeting with certain portion of the same is stuck out along with the assurance that a complete version of the 47th Minutes of Meeting would be shared with the Commission once the aforementioned pending legal proceedings have been decided. That the Commission on 19-06-23 on the basis of the redacted version of 47th Minutes of Meeting before it, held that the arguments made by the respondent company's counsel were not sound ground for justification of exemption and allowed the appeal with the directions to the respondent company to furnish complete certified copy of the 47th Board of Director's Minutes of Meeting.

5. It is further added that the only version present before the Commission to decide about the applicability of the exemption allowed in Section 16 of the Right of Access to Information Act, 2017 RTI Act was redacted with at least ten from a total of twenty agendas classified/censored i.e. without ever having examined the portions the Respondent Company is seeking exemption for.
6. It was further submitted that the Act does not provide for the petitioner to further appeal against the order of the Commission or file a review of the same once it has been passed however, Section 21 of The General Clauses Act 1897 is relevant vide which the Commission can exercise the power of review and can amend its order.
7. During arguments photocopy of FIR No. 209/21 registered under Section 409-PPC was furnished in support of the plea of exemption claimed under Section 16 (b) (ii) of the Right of Access to Information Act, 2017.
8. The Commission has considered the arguments addressed by the learned counsel of the public body and gone through the record as well as order dated 19-6-2023.
9. Admittedly there is no provision in the Right of Access to Information Act, 2017 delegating any power to the Information Commission for the review of its order and CPC is not applicable except for summoning and enforcing the attendance of the witnesses and compelling them to give oral or written evidence on oath and requiring public bodies to produce record as defined in Section 6 pertaining to appeal however, according to Section 21 of The

General Clauses Act, 1897 “where any (Central Act) or Regulation, a power to (issue notifications), orders, rules, or by-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and conditions (if any) to add, to amend, vary or rescind any (notification), orders, rules or by-laws so (issued).” The said provision of The General Clauses Act confers and inbuilt jurisdiction to any authority which earlier passed the order, to undo the erroneous or illegal order passed by it. This view is supported by the Supreme Court of Pakistan in case law laid down in 2019 SCMR 643.

10. There is a judicial consensus on the issue in hand that the authority which can pass an order is entitled to vary, amend, add to or to resent the same. The Commission agrees with the contention of the learned counsel of the public body, that the Commission can review its order if justified under the law however, the scope of review is very limited, and under Section 114 CPC any person considering himself aggrieved by a decree or order from which an appeal is allowed but no appeal has been preferred, or by order from which no appeal is allowed by the court, may apply for review of the decree or order. Under Order O.XLVII Rule 1 CPC (a) any person considering himself aggrieved, by a decree or order from which an appeal is allowed but from which no appeal has been preferred. (b) by a decree or order from which no appeal is allowed or (c) by a decision on a reference from a Court of small cases and who from the discovery of new and important matter or evidence which after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order was made, or on account of some mistake or error apparent on the face of the record, or for any sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for review of judgment to the Court which passed the decree or made the order.
11. It is further noted that although in the review petition the petitioner has mentioned that at the time of passing order dated 16-06-23 complete 47th Board of Directors Minutes of Meeting were not present before the Commission and at that time redacted Minutes of Meeting were available therefore, now complete copy of the Minutes of Meeting is being presented but neither learned counsel of the petitioner during arguments produced copy of the complete Minutes of Meeting nor annexed with the arguments. Although a copy of FIR No. 209/21 in support of argument was furnished but its perusal shows that it was registered on 13-01-23 against Mr. Zia Ul Mustafa an ex-employee of Pakistan Expo Centre. Certainly it

was registered after completing of inquiry. As far as investigation of the said case is concerned it has not been submitted that what is the stage of the said investigation as the period of about 9 months has been passed after the registration of the said FIR. Copy of the 47th Board of Directors Minutes of Meeting annexed with the petition shows that all the decisions taken by the board have been removed from the Minutes of Meeting without showing any reasonable ground therefore, the petitioner has failed to substantiate his plea of the exemption from disclosure of Minutes of Meeting on the basis of ground mentioned in Section 16 (b)(ii) of the Right of Access to Information Act, 2017.

12. Furthermore, the ground mentioned in the review petition by the petitioner was available with him at the time when arguments were addressed on 16-06-23. The Commission also did not find any mistake or error apparent on the face of the record or any other sufficient reason to review its order dated 16-06-23 therefore, for the reasons discussed above the review petition is hereby dismissed.
13. The CEO, Pakistan Expo Centre is directed to furnish certified copy of minutes of the meeting of the 47th of Board of Directors meeting dated 04-11-22 within 10 days failing which he shall have to face legal consequences.

Ijaz Hassan Awan
Information Commissioner

Shoaib Ahmed Siddiqui
Chief Information Commissioner