



Pakistan Information Commission
Government of Pakistan

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Appeal No: 2308-10/22

Khawaja Saad

Vs

PTA

Order:

Ijaz Hassan Awan

Date:

December 20, 2023

Muhammad Zakriya Advocate appeared on behalf of appellant. Asim Manzoor, Director, PTA and Syeda Itrat Batool, Law Officer, PTA appeared on behalf of respondent/public body.

2. The public body in preliminary objection contended that the appeal is not maintainable as earlier Mr. Muhammad Ahmed an officer bearer of M/s Nayatel Pvt. Limited filed appeal No. 1893-04/21 against PTA which was allowed and now Khawaja Saad has filed this appeal seeking similar information which has already been provided to M/s Nayatel Pvt. Limited.
3. In support of her arguments learned counsel for respondent/public body furnished copy of decision of PIC in above cited appeal and copy of order of Islamabad High Court recorded in Writ Petition No. 3720/2022 titled as Pakistan Telecommunication Authority vs Pakistan Information Commission. It was submitted that since similar information has already been provided to M/s Nayatel Pvt. Limited and Writ Petition has also been filed against order of the Pakistan Information Commission dated 16-08-22 and order of the Commission dated 16-08-22 has been suspended by the Islamabad High Court vide order dated 04-10-22 therefore, this appeal is not

maintainable. The Commission has heard arguments from both sides on the said objections.

3. As far as, earlier appeal titled M/s Nayatel Pvt. Limited through Muhammad Ahmed vs Pakistan Telecommunication Authority is concerned it was filed by a different person, as the recent appeal is filed by Khawaja Saad in his independent capacity being citizen of Pakistan. Mere seeking similar information by a different person from the same organization is no ground to debar any citizen of Pakistan from filing appeal under the Right of Access to Information Act, 2017. Learner Counsel for respondent further submitted that res-judicata applies in this case as similar information is sought from PTA which was earlier sought in appeal No. 1893-04/21. In this behalf it is clarified that provision of Section 11 CPC about res judicata does not apply in cases filed under the Right of Access to Information Act, 2017. Moreover for the sake of arguments if it be presumed that res judicata is applicable even then party in earlier appeal and in present appeal are different and for applying provision of res judicata it is mandatory that in earlier case and subsequent case parties should be same, therefore both the pleas taken by the public body are turned down.
4. The public body in its written statement while contesting the appeal on fact has contended that the information sought by the appellant is exempted from disclosure under section 7 (e) and 16(1) (a) (ii) of the Right of Access to Information Act, 2017. In this behalf learned counsel for respondent has addressed arguments and submitted that the required information is exempted from disclosure and cannot be provided.
5. The learner counsel appearing on behalf of appellant controverted that argument.
6. The Commission has examined the information request, written reply and relevant law on the subject.

7. The appellant has required certified copy of approval of PTA including minutes of authority meeting and signature of all or majority members under which Telecommunication Infrastructure Provider License number TIP-006-2014 dated 11-02-2014 and approval of authority including minutes of authority whereby final decision was taken to grant commencement of above Telecommunication Infrastructure Provider License to SEO on 28-03-2019
8. As far as minutes of meetings are concerned, the public body in Para-4 of the written reply submitted that as matter of practice no minutes of meeting are issued or prepared for the grant of license or for the issuance of commencement certificate by the Authority. The approval for grant of license or commencement certificate is provided by the Authority on relevant files on their submission by the concerned division to the Authority after fulfilling codal formalities. Thus, no such minutes of meetings are available with PTA as required by the Appellant.
9. Since as per explanation of PTA reproduced above, no meeting was held for approval of the license and minutes of meeting were also not prepared therefore request of the appellant to this extent is declined, however as far as the approval of PTA for issue of license is concerned said documents/information falls under section 6 (c) of the Right of Access to Information Act, 2017 where certain document are declared to be public record subject to the provisions of Section 7 and grant of license is included in the said section as a public document. Section 7 of the Right of Access to Information Act, 2017 narrates that nothing contained in Section 6 shall apply to the following record of the public bodies, in the said following record of grant of license is not included. Therefore, it is not exempted from disclosure. As far as argument for learned counsel of the respondent about exemption from disclosure under Section 16 are concerned, the Commission after going through the relevant

provisions of the law comes to the conclusion that the requested information does not fall under the category of exemptions.

10. In view of the above said discussion the appeal is allowed. Chairman, PTA being head of the authority is directed to furnish the required information except minutes of meeting within 10 working days before the Commission. Copy of the order be sent to the Chairman, PTA for compliance.
11. No to come up for compliance of the order on 16-01-2024

Ijaz Hassan Awan
Information Commissioner

Shoaib Ahmed Siddiqui
Chief Information Commissioner