

**PUNJAB INFORMATION COMMISSION
LAHORE**

Mr. Zahid Abdullah (the Complainant)

Vs.

District Coordination Officer (DCO), Rahim Yar Khan (the Respondent)

A. The Complaint

1. The Complainant sent a complaint to the Commission, alleging that the Respondent had not responded to his application for access to information within the time period specified in the Punjab Transparency and Right to Information Act 2013 (the Act). The information sought by the Complainant, through his application dated 2/1/2014, is as follows:

“Certified copy of the log book of each vehicle under the use of the District Coordination Officer from January 1, 2013 to December 31, 2013.”

B. Proceedings

2. Through a letter dated 8/8/2014, the Commission called upon the Respondent to redress the complaint and submit his reply including rebuttal or explanation, if any. Through a letter No. DCO/DOC/RVK/505, dated 23/8/2014, the Respondent stated as follows:

“...the matter was examined in the light of provisions contained in Section 13 of the Punjab Transparency and Right to Information Act 2013 which clearly provides that:

“A public information officer may refuse an application for access to information where disclosure of the information shall or is likely to cause harm to safety of any person”.

District Coordination Officer has a key role in maintaining public order & tranquility i.e. under Punjab Maintenance of Public Order Ordinance 1960 and as convener of District Intelligence Committee etc. Disclosure of logbook of any officer having responsibilities of sensitive nature has potential to compromise security of that officer which may result in some untoward incident in the prevalent security situation.

In view of the above, the request of the applicant is not covered under the Act *ibid*, therefore it is regretted.”

3. In order to allow another opportunity to the parties to present their respective points of view, a hearing was held at 10:30am on 22/8/2014. Mr. Syed Rahat Rizvi represented the Complainant; and Mr. Imran Haider Tipu (EDO, Community Development, Rahim Yar Khan) appeared on behalf of the Respondent (i.e. Mr. Nabeel Javaid). Mr. Tipu confirmed that decision on the application/ complaint, dated 23/8/2014, was made by the Respondent, and that it was communicated by District Officer Coordination, who serves as staff officer to the DCO/Respondent. He also said that the Respondent had not designated any public information officer and, therefore, he himself dealt with and responded to the instant application/ complaint. He argued that the Respondent is convener of district intelligence committee, and is responsible for imposition of section 144 and exercising powers under MPO Ordinance 1960. He highlighted that the security situation in general and especially in Rahim Yar Khan is sensitive and that the officers like DCO and DPOs are already under threat. He said that, even if the security situation was alright, the requested document (i.e. logbook) should not be made public. He argued that the logbook reflects movement of the Respondent; and that it is not just a statement of accounts. He claimed exception under u/s 13(e) of the Act. He said that movement of past months could be used to anticipate future movements. He explained that the logbook includes information about where the vehicle started from, route taken, purpose of visit, destination, distance travelled and time taken. Quantity or costs of the fuel bought for the vehicle or consumed are not reflected on the logbook. He, however, said that the Respondent was willing to share the statement of account i.e. how much money was spent on the fuel for the vehicle during the relevant period.

4. It was argued on behalf of the Complainant that the request is about the use of public funds and resources, and that it is a citizens' right to access such information in the interest of transparency and public accountability. He also emphasized that the requested information is about the past months and, therefore, can't be excluded on security or safety grounds. He also said that the requested information is not just about one vehicle but all vehicles at the disposal of the office that Respondent heads and is responsible for.

C. Discussion and Commission's View on Relevant Issues

5. It is evident from the information shared with the Commission that the Respondent has not taken the required steps to implement the Act, especially u/s 7. The Respondent is not just a head of his own office but also of several other public bodies in the district, which he heads in multiple capacities including as Administrator of public bodies devolved under the Punjab Local Government Act 2013. However, until the date of hearing, the Respondent had not designated any public information officer [i.e. u/s 7 of the Act] in his office and in other public bodies that he heads in the district. This is a clear violation of explicit provisions of the Act, which may be impeding citizens' right to information. Such inefficiencies, if allowed and tolerated, could render the Act meaningless for the citizens of the country, despite the laudable intent of the legislators to promote transparency and public accountability.

6. As no public information officer had been designated, the Respondent himself dealt with the application received under the Act, partly because the option of transferring it to the relevant public information officer u/s 11 of the Act didn't exist at the time. Still, the application sent on 2/1/2014 should have been first acknowledged for its receipt, and later should have been decided within 14 working days u/s 10 of the Act but it wasn't. But the Respondent decided the application on 23/8/2014, only after the Commission had intervened and sought response from the Respondent. Hence, it took the Respondent over 7 months to decide an application, which was explicitly required by the Act to be decided within 14 working days. The Commission holds that such negligent attitudes on the part of concerned officers and public bodies are unacceptable and, if these attitudes didn't reform, the Commission may be compelled in future to impose penalties u/s 15 of the Act. It is emphasized that the success of the Act in achieving its purposes substantially depends upon strict adherence to the timelines prescribed in the Act.

7. The Respondent, after over 7 months delay, refused the applicant's access to the requested information [i.e. certified copy of the logbook] u/s 13(e) of the Act, whereby information can be refused if its disclosure could cause harm to life or safety of a person. This argument merits consideration, as the Respondent undeniably performs certain sensitive functions and it has been argued that his past movements might be used to predict his future travels. But the point is whether, in this instance, the potential or perceived risk to life or safety of a person touches the threshold where it could be justifiably used as a ground to restrict transparency and a fundamental right to information under Article 19A of the Constitution. The Commission is of the view that the mere mention, assumption or apprehension of possible harm to life or safety of a person is not enough to claim an exception u/s 13(e) of the Act. There is a risk in many things that we do [e.g. driving on the road] but that doesn't stop us from doing what is important or what needs to be done. Therefore, to claim an exception, it must be reasonably established, based on evidence of past records or scientific assessments to the satisfaction of the Commission, that disclosure of certain information entails a clear, direct and present risk of harm to life and/or safety of a person. In this instance, the Respondent didn't furnish any material, evidence or professional assessment, which could reasonably establish the direct link between the use of logbooks and crimes involving risks to life and safety of persons using the related vehicles. Hence, the argument is simply based on apprehension and conjecture, and doesn't touch the threshold where it could be used to reasonably and lawfully refuse the access to requested information u/s 13(e) of the Act.

8. Further, the Respondent is working in a settled district, where his residence and office are publicly known addresses. He also travels in known official vehicles, most likely with security and protocol, and attends public functions in connection with his responsibilities. Therefore, it is safe to assume that much of past movements of the Respondent are publicly known any way and, in the absence of any evidence or scientific assessment to the contrary, the logbook may not disclose much that would not be otherwise known to a keen

observer. Hence, it is a bit odd that a civil officer dealing with and working for the people, often in full public view, claims exception for a document, which merely records his movements conducted in public view and often between known addresses (e.g. office, residence etc.). Hence, the Commission is not convinced that the disclosure of logbook alone is likely to make a material difference in the commission of an otherwise preventable offence, which may result in any harm to life and safety of a person. However, if the Respondent has solid reasons to convincingly argue that a certain part of information recorded in the requested document may risk safety of a person, he could exclude such a part u/s 13(3) and by passing a speaking order u/s 13(4) of the Act.

9. On the other hand, citizens' access to logbooks is consistent with the letter and spirit of Article 19A of the Constitution and the Act, which aim for maximum transparency and access to information. Right to information empowers citizens to, among others, find out what is happening in relation to the use of official vehicles, and facilitates them to perform public oversight and accountability. By sharing documents, a public body offers itself for public scrutiny, which is a first step towards being transparent, building public trust, removing any misperceptions, and inculcating a sense among masses that the government and its resources truly belong to them. Therefore, the Commission also holds that, as per section 13(2) of the Act, the benefits of providing access to requested information in terms of averting misuse of public resources, strengthening public accountability and building public trust far outweigh the potential risks, if any. In fact, the cited security concerns are, to some extent, because of the perception that government functionaries are neither transparent in their functions, nor publicly accountable. The disclosure of documents like logbooks can help in changing such perceptions, which should also then help in winning over public trust and improving the law and order situation.

10. As for the Complainant's argument during the hearing that his application is for logbooks of all the vehicles in the use of DCO office, the Commission holds that the same meaning can't be derived from the wording of the original applications submitted to the Respondent and later shared with the Commission. Hence, the information sought is only about the vehicles under the direct use of the Respondent himself.

D. Order

11. The complaint is allowed. The Respondent is directed to provide the requested information to the Complainant as soon as possible but not later than 23/10/2014, and submit a compliance report to the Commission.

12. The Respondent is further directed to take immediate steps to fulfill his responsibilities under, *inter alia*, sections 4, 7, 8 & 10 of the Act, especially in terms of designating public information officers in all the offices or public bodies that he heads or is responsible for.

13. The Respondent must ensure that any pending or future applications under the Act are efficiently acknowledged for their receipt and are decided upon, as required u/s 10 or 11 of the Act.

14. Copy of this order may be sent to the Complainant for information.

(Mukhtar Ahmad Ali)
Information Commissioner
Lahore

Announced on:
3rd October 2014