

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-6447 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Agha Faisal

M. Tariq Mansoor.....Petitioner in person

Versus

Province of Sindh and another.....Respondents

Date of hearing: 22.05.2018

Mr. Tariq Mansoor, Advocate (petitioner in person).
Mr. Ghulam Shabbir Shah, AAG along with Mr.
Muhammad Babar Qadeer, Additional Secretary, Law.

Muhammad Ali Mazhar, J: The petitioner in person has filed this Constitution Petition with the prayer that the respondents be directed to establish Sindh Information Commission in the province of Sindh in terms of Sindh Transparency and Right to Information Act, 2016. Article 19-A of the Constitution of Islamic Republic of Pakistan, 1973 envisages that every citizen shall have right to access to information in all matters of public importance subject to regulations and reasonable restrictions imposed by the law. In order to ensure this fundamental rights, the provincial assembly on 13.03.2017 and assented to by the Governor of Sindh on 08.04.2017 promulgated the Sindh Transparency and Right to Information Act, 2016, published in the Official Gazette on 12.04.2017. The purpose of this Act is to provide the transparency in the working of every public authority by setting out a practical regime for every citizen to secure access to information in a rapid and low cost manner under the control of public authorities. It is further focused in the preamble that all citizens shall

have right to information to participate meaningfully in the democratic process and further to improve their involvement and contribution in public affairs. The Government deemed it expedient to provide transparency and freedom of information to ensure that all citizens shall have better access to public information to make the Government more accountable to citizens, to enforce the fundamental right to information in all matters of public importance and to ensure transparency in all Government matters.

2. Under Section 12(1) of this Act, it was responsibility of the Government of Sindh to establish an Information Commission to be known as the Sindh Information Commission within a period of one hundred (100) days from the commencement of this Act, which should be an independent statutory body, enjoy operational and administrative autonomy from any other person or entity, including Government and any of its agencies. The principal seat of the information Commission is to be located at the provincial capital and the information Commissioner offices at each District Headquarters. This Commission is to be headed by the Chief Information Commissioner, who may be a retired Senior Government Servant not below the rank of BPS-20. Besides, the Chief Information Commissioner, the Commission shall also comprise of two more Members to be known as Commissioners. The procedure for making an application in order to get access to the information is provided under Section 8 of this Act, in which any applicant may make any application for obtaining information of the public body. In the application, it is required to produce adequate description of the information and the details necessary to provide the requisite information.

3. The most important is Section 14 of this Act, in which in order to implement this law, it is responsibility of the Government of Sindh to allocate adequate funds to the Commission to enable it to establish a secretariat, hire the requisite staff to conduct its business properly and promote access to information amongst the public servants and civil society.

4. We have noted that the law was notified in the Official Gazette in the year 2017 and after lapse of 100 days the commission was to be constituted but no justification was put forward as to why despite lapse of considerable period of time neither the commission has been established nor any permanent secretariat for the commission. The Additional Secretary Law could not offer any plausible reason except that the Court may call the Secretary or Additional Secretary Information Department. The learned Additional Advocate General (Sindh) is also not in position to oppose this petition but on the contrary he supports the petition for implementation of the law in its letter and spirit.

5. To enjoy the protection of law and to be treated in accordance with the law is an inalienable right of every citizen. The public functionaries are obliged to redress the grievances of citizens as envisaged by Article 4 of the Constitution of Islamic Republic of Pakistan which provides protection of law to every citizen. Whenever any inalienable right is violated, it amounts to violation of fundamental rights. Every statutory body or public functionary is supposed to function in good faith, honestly and within the precincts of their power so that persons concerned should be treated in accordance with the law.

6. The object of good governance cannot be achieved by exercising discriminatory powers unreasonably or arbitrarily and without application of mind, but such objective can only be achieved by following rules of justness, fairness and openness in consonance with command of constitution enshrined in different Articles of the Constitution including Article 4 and 25 which is supreme law of this country.

7. As a result of above discussion, this Petition is disposed of along with all pending applications with directions to the Chief Secretary Sindh (Respondent No.1) to immediately move a summary to the Chief Minister/Cabinet within (07) seven days from the date of this order for taking appropriate measures for establishing an information commission as well as permanent secretariat in accordance with law and adequate funds shall also be allocated to make the law functional with proper infrastructure.

Copy of this order may be sent to the Chief Secretary Sindh, learned AAG, Secretary Law and Chief Minister Secretariat for information and compliance.

JUDGE

JUDGE