

**FEDERAL CONSTITUTIONAL COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**Present:**

Justice Syed Hasan Azhar Rizvi  
Justice Aamer Farooq

**F.C.P.L.A.694/2026**

*(Against judgment dated 28.01.2026,  
passed by the Islamabad High Court,  
Islamabad in W.P. No.3638/2024)*

*M/s. Pakistan Microfinance  
Investment Company Limited,  
through its Authorized  
Representative*

*...Petitioner(s)*

**Versus**

*Pakistan Information Commission,  
through its Chairperson & another*

*...Respondent(s)*

For the Petitioner(s) : Barrister Jahanzeb Awan, ASC

For the Respondent(s) : Mr. Hasan Rashid Qamar, ASC  
*(for respondent No.2)*

Date of Hearing : 08.07.2026

**ORDER**

**AAMER FAROOQ, J.** Respondent No.2 is a former employee of Pakistan Microfinance Investment Company Limited (the petitioner). He joined the services in the referred Organization in December, 2016 and resigned in August, 2023. On May 24<sup>th</sup>, 2024, he initially approached the petitioner for access to record regarding payment and repayment of Chief Executive Officer of the petitioner. Since he did not find luck with his request, he filed an appeal on email on 29.05.2024 before Pakistan Information Commission (the Commission). The petitioner, in response to the appeal, controverted the same raising certain objections regarding maintainability and documents being sought forming part of permissible documents under the Right of Access to Information Act, 2017 (the Act). Respondent No.1 allowed the said appeal on 10.09.2024 and the petitioner was directed to provide information within ten days.

The challenge was made to the said decision by way of a petition under Article 199 of the Constitution before Islamabad High Court (W.P. No.3638-2024). The said writ petition was dismissed by the Judge-in-Chambers through the impugned judgment dated 28.01.2026, hence, the instant petition for leave to appeal.

2. Learned counsel for the petitioner *inter alia* contended that the Commission is not validly constituted within the terms of section 18(3) of the Act. In this regard, he took the Court through the provisions of section 18 *ibid* to substantiate his argument that the Commission comprises of three members; (a) one member from amongst the persons qualified to be a Judge of a High Court, (b) who has been in the service of Pakistan in BS-22 or equivalent; and thirdly, from civil society having a degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of social sciences. It was argued that the order of the Commission was passed by two Members hence is not valid inasmuch as since the composition of the Commission is that there are to be three Members and there is no provision that quorum comprises of less than three Members. It was also submitted that there does not seem to be any saving clause protecting the decision made by the Members/Commissioners less than three. In response to the query of the Court, learned counsel took the Court through the provisions of the Right of Access to Information Rules, 2020 (the Rules) and stated that in Rule 9 *ibid*, the procedure for holding of the meeting is provided which lays that quorum has to be two Members and submitted that attack to the vires of the Rules has also been made inasmuch as they are ultra vires the Act. Learned counsel for the petitioner further argued that petitioner does not fall in the definition of 'Public Body' which is

*sine qua non* for invoking jurisdiction of respondent No.1. He submitted that 'Public Body' is defined in section 2(ix) of the Act and stated that none of the categories provided in section 2(ix)(a)(h) of the Act is attracted in the facts and circumstances. He further submitted that the Commission dealt with the said objection of the petitioner in an arbitrary manner and did not give cogent reasons for holding appeal of respondent No.2 as maintainable. In response to the query of the Court, learned counsel submitted that petitioner is a Company registered under the Companies Laws and is regulated by Securities and Exchange Commission of Pakistan and raising funding from different organizations but that does not make it a 'Public Body' for the purposes of section 2(ix) *ibid*. Learned counsel also contended that an application can be made by any person seeking record of the public body and took the Court through sections 6 & 7 of the 1997 Act to argue that documents sought regarding the appointment of the Chief Executive Officer do not fall within section 6 *ibid* rather are private documents which fall within section 7 *ibid*.

3. Learned counsel for respondent No.2 controverted the submission of petitioner and contended that affairs of the petitioner fall within the domain of undertaking public functions as provided in section 2(ix)(g), hence the petitioner is a 'Public Body' and information sought forms part of policy and guidelines, therefore, appeal was maintainable. The attention of learned counsel for respondent No.2 was drawn towards order passed by respondent No.1 as well as learned High Court and in response, he submitted that if this Court is of the view that issues have not properly been dealt with, the matter be remitted for decision afresh.

4. Heard.

5. The objections to the maintainability of the appeal, filed by respondent No.2, by the petitioner, are threefold; firstly, the petitioner attacks the order of the Commission on the basis that it was not validly constituted. Section 18(3) of the Act provides the composition of the Commission, which reads as follows: -

*“18(3) The Information Commission shall comprise three Commissioners to be appointed by the Prime Minister, with the following composition; namely: --*

- (a) One member shall be from amongst the persons qualified to be a Judge of a High Court;*
- (b) One member who has been in the service of Pakistan in BS-22 or equivalent; and*
- (c) One member shall be from civil society having degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of social sciences.”*

Under the referred provision, there are to be three Members, one from amongst the persons qualified to be a Judge of a High Court; secondly, who has been in the service of Pakistan in BS-22 or equivalent and thirdly, one member from civil society having a degree based on sixteen years of education from a recognized institution and experience of not less than fifteen years in the field of social sciences. From amongst the Commissioners, a person is appointed as Chief Information Commissioner. The argument of learned counsel for the petitioner is correct that no quorum is provided in the Act and not the modalities of holding of meeting, however, it is pertinent to note that during course of arguments, learned counsel for respondent No.2 categorically submitted that at the time, when the decision was handed down by respondent No.1, the Commission was validly functioning inasmuch as the Chief Information Commissioner as well as two Members were holding the positions and there was no vacancy, however, in the rules, procedure

for holding of the meeting has been laid down. Rule 9, which deals with the referred aspect, is reproduced below for the sake of brevity: -

**“9. Meeting of the Commission. —(1) A meeting of the Information Commission shall be convened and chaired by the Chief Information Commissioner.**

**(2) In case the position of Chief Information Commissioner is vacant or if he is not available due to any reason, the Commissioner who is senior in terms of his date of joining the commission shall serve as Chief Information Commissioner and may convene and chair a meeting of the Commission.**

**(3) Two Commissioners shall constitute quorum for a meeting of the Commission. In case of disagreement of the two Commissioners on an appeal, the decision of the Chief Commissioner shall prevail.”**

The reading of sub-rule (3) of Rule 9 of the Rules, shows that quorum provided for holding of the meeting is two Members and in case of disagreement, the decision of the Chief Information Commissioner shall prevail. It seems that the referred Rules have been framed under Rule 26 of the Rules for the purposes of giving effect to the provisions of the Act. We do not find that the Rules framed are, in any manner, in excess of the Act inasmuch as nowhere in the Act, it is stipulated that all three Commissioners/Members of respondent No.1, shall be in attendance to carry out the functions of the Commission, hence we do not see any legal or jurisdictional infirmity viz-a-viz composition of the Commission while handing down the impugned order.

6. In so far as the issue of petitioner being a ‘Public Body’ is concerned, we are not in agreement with the reasons, which prevailed with learned High Court. With regret, it is noted that respondent No.1 dealt with this issue in a cursory manner without providing reasons for holding that the petitioner is a ‘Public Body’. Learned High Court also, based on the assumption of respondent No.2, came to the conclusion

that since 49% of the shareholding/contribution is by Poverty Elevation Board, hence is a 'Public Body'. Even, stance taken by respondent No.2 before us, is that it is engaged in public functions, hence the petitioner is a 'Public Body', is without substance. We feel that petitioner registered under the Companies Act, 2017 and being regulated by Securities and Exchange Commission of Pakistan, does not fall squarely within the domain of section 2(ix) of the Act. The record of petitioner sought by respondent No.2 was with respect to various documents regarding payment and repayment of Chief Executive Officer of the petitioner; these arguments do not, in any way, fall within the ambit of section 6 of the Act and cannot form basis for approaching respondent No.1. Learned High Court did not take into account the referred aspect of the matter at all and dealt with the objections of the petitioner in a cursory manner and even, the conclusion reached, was erroneous. In light of the above discussion of law and facts, the decision handed down by respondent No.1 as well as of the learned High Court is not tenable and merits set aside.

7. For the above reasons, instant petition is converted into appeal and is allowed; consequently, impugned judgment dated 28.01.2026 as well as order passed by respondent No.1 dated 10.09.2024 are set aside.

Judge

Judge

Islamabad  
08.07.2026  
Zawar/\*  
APPROVED FOR REPORTING