



Appeal No 222-12/19

Asadullah

(Appellant)

Vs.

Ministry of National Health Services Regulations and Coordination (Respondent)

ORDER

Date: March 13, 2020

Zahid Abdullah: Information commissioner

A. The Appeal

1. The Appellant filed an appeal with the commission on 12/12/2019 in which he stated that he had requested information from Ministry of Food Security and Research under the Right of Access to Information Act 2017. (hereafter referred to as Act)
2. The information sought by the Complainant, through application dated 05/11/2019, is as under:
 - “1. Allocation of development fund to your department for financial year 2018-19
 2. Utilization of development fund by your department in the year 2018-19”

B. Proceedings

3. Through a notice dated 20/12/2019, the Commission called upon the Respondent to submit reasons for not providing the requested information within 07 working days of the receipt of the notice. This notice was sent to duly designated Public Information Officer, Mr. Muhammad Waseem Azhar, Deputy Secretary, (FBC).
4. The Respondent did not respond to the notice and the hearing date was fixed for 12/03/2020 through the hearing notice sent on 26/02/2020 and both parties were informed accordingly.
5. The Respondent did not appear before the commission at the time of hearing.

C. Discussion and Commission’s View on Relevant Issues

6. The questions for the consideration of the commission are as under:
 - (a) what steps have been taken by the Respondent to ensure the implementation of the Act?
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?

(c) Is there a case of wilful denial of the requested information on the part of the Public Information Officer, liable to imposition of file?

7. The requested information belongs to the category of information which public bodies are legally bound to proactively disclose under Section 5¹ of the Right of Access to Information Act 2017.
8. In response to letters written by this commission to federal public bodies to designate Public Information Officers, (PIOs) by post, the Respondent designated Mr. Muhammad Waseem Azhar, Deputy Secretary, (FBC) as PIO under Section 9² of the Act through letter dated 18/11/19 vide letter No. F.No.1-3/2019-Admn-I to fulfil its obligations under the Act.
9. The request for information sent by the Appellant to Secretary, the Ministry of Food Security and Research and PIO and subsequent notices to the Secretary and designated

¹ **Publication and availability of the record**—(1) The principal officer of each public body shall, within six months of the commencement of the this Act, ensure that the following categories of the information and record are duly published including uploading over the internet or in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources;

- a) Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;
- b) Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect
- c) Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees
- d) Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- e) The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body
- f) A description of its decision-making processes as defined in the Federal government's secretariat instructions, 2004 and any instructions for the time being in force for the public to provide any input into or be consulted about decisions;
- g) Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget;
- h) The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;
- i) Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized
- j) Such other matters which the principal officer of the public body deems fit to be published in the public interest
- k) Such other information as may be prescribed; and
- l) Camera footages at public places, wherever available, which have a bearing a crime:

Provided that if the information or record pertains to a period earlier than the year 2008. The same shall be published within reasonable time.

1. ² **Designated Official**-- Each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent;
Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official:
Provided further that in case of non- government organization, it may designate a senior officer as per its organizational structure.

PIO should have been responded by the designated PIO in accordance with the provisions of the Act. In this regard, Section 10 (1)³ of the Act holds that a PIO “shall be responsible for ensuring that requests are dealt with promoting full compliance by the public body of its obligation under this Act”.

10. The PIO violated the procedure laid down in the Act for handling information requests and neither acknowledged the receipt of the information request as required under Section 13 (1)⁴ nor communicated with the Appellant with regard to the acceptance or refusal of the information request on the basis of grounds described in Section 13 (2)⁵ of the Act.
11. The PIO also violated Section 14⁶ of the Act in following the timeline for responding to the information requests as the PIO did not respond to the information request at all.
12. The PIO wilfully delayed and denied access to the requested information, as apart from not responding to the request for information of the Appellant, the PIO also failed to comply with the duly sent notices of the commission.
13. In *Mukhtar Ahmed Ali VS NADRA*, Appeal No 183/11/19, this commission maintained that “the wilful delay or denial of the requested information causes undue cost to citizens and the commission. Citizens have to approach this commission for the exercise of their fundamental Constitutional right of Access to Information which involves cost both in terms of money and time. Citizens of Pakistan through their

³ Function of Designated Official (1) Subject to the provisions of this act and the rules made there under, the designated official shall be responsible for ensuring that requests are dealt with promoting full compliance by the public body of its obligation under this Act

1. ⁴ Procedure for acceptance and refusal of requests -- (1)_The designate official shall provide a written acknowledgement in response to a request.

⁵ The designated official shall process the request and by notice in writing inform the applicant that---

- a) A request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of the prescribed fee. On payment of the fee the designated official shall provide the requested record, or
- b) The request has been rejected-
 - i. On the basis that it does not comply with the provisions of this act and the rules made there under but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
 - ii. On the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
 - iii. On the basis that it is incorrect, because it relates to information which is substantially the same information that has already has been provided to the same applicant during last six months; or

In whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which the notice shall specify the exact exception, relied upon and specifying details regarding the right of the applicant to appeal against this decision.

⁶ **Time-limit of responding---** (1) Subject to the provisions of this Act, a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request

(2) The periods stipulated in sub-section (1) may be extended by maximum of further ten working days, where is necessary when the request requires a search through a large number of records or records located in different offices or consultation is required with third parties or other public bodies.

(3) Information needed to protect life and liberty of any individual shall be provided within three working days.

elected representatives have included the provision of imposing fine on public official who wilfully delay or deny access to the requested information so that they do not have to pay the undue cost in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official”.

D. Order

14. The appeal is allowed. The Respondent is directed to provide the requested information to the Appellant at the earliest, but in any case, not later than 10 working days of the receipt of this order.
15. Secretary, Ministry of National Health Services and Coordination is directed to take measures to deduct 05 days’ salary of the designated Public Information officer, Deputy Secretary, (FBC) imposed as a fine under Section 20 (f) of the Right of Access to Information Act 2017 by this commission for wilful denial of requested information and submit compliance report to this commission by 15/04/2020.

Furthermore, the Respondent is directed to take immediate steps to proactively share through the web site all categories of information mentioned in Section 5 of the Right of Access to Information Act 2017 and submit the compliance report to the commission by 01/04/2020.
16. Copies of this order be sent to the Secretary, Ministry of Food Security and Research, Public Information Officer, Ministry of Food Security and Research and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

February 25, 2020

This order consists of 4 (four) pages, each page has been read and signed