

Pakistan Information Commission

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Appeal No 336-02/20

Waseem Elahi

(Appellant)

Vs.

Secretary, Cabinet Division

(Respondent)

ORDER

Date: August 25, 2020

Zahid Abdullah: Information commissioner

A. The Appeal

1. The Appellant filed an appeal with the commission on 23-02-2020 in which he stated that he had requested information from Cabinet Division under the Right of Access to Information Act 2017. (hereafter referred to as Act)
2. The information sought by the Complainant, through application dated 23-01-2020, is as under:

“Mian Muhammad Mansha (a Pakistani business magnate) got Sitara-e-Imtiaz civil award by President of Pakistan Pervez Musharaf on 23rd March, 2004. Certified copies of whole documents pertaining to his nomination till receiving of award required.”

B. Proceedings

3. Through a notice dated 24-02-2020, 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 Additional Secretary-I, Cabinet Division.
4. The Respondent through a letter vide F.No.97/1/2019-Awards-I dated 28-07-20 stated that “the same request was received in Cabinet Division from applicant addressed to the Cabinet Secretary dated 31-01-2020, and was processed with proposal that Section 7 (g) (h) of Right of Access to Information Act 2017 state that “record relating to the personal privacy of any individual; and record of private documents furnished to a public body either on an express or implied condition that information contained in any such documents shall not be disclosed to a third party”.

C. Discussion and Commission’s View on Relevant Issues

5. The questions for the consideration of the commission are as under:

- a. What steps have been taken by the Respondent to implement the Right of Access to Information Act 2017, henceforth referred to as Act?
 - b. Can information submitted by public officials to a public body for a civil award be made public?
 - c. Can information, supplied by public officials which helped determine a public body to confer a public award on a citizen, infringe right to privacy of an individual if made public? and
 - d. Do arguments submitted by the Respondent meet the threshold of the burden of proof for denying access to the requested information?
6. Each federal public body was obligated to designate Public Information Officer, (PIO) within thirty days of the commencement of the Act. The commission notes with concern that the Respondent has not designated Public Information Officer, (PIO) as required under Section 9 of the Act to ensure that the Respondent public body carries out its legal obligations under the Act. The complete text of Section 9 of the Act is reproduced here:

“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”.

7. The Respondent is also required to publish on its web site, name, designation and contact details of designated Public Information Officer, (PIO) as required under Section 5 (1) (h) of the Act which is as under:

“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;”.

8. According to ‘honour-and-award-policy’ document available on the web site of the Respondent, “Recommendations for awards are invited from Ministries/Divisions and Provincial Governments in December so as to reach Cabinet Division by 1st March. Recommendations received are considered by three Awards Committees during May-July. A summary containing final recommendations is then submitted to President through Prime Minister for approval”.

9. The records requested by the Appellant pertain to recommendations submitted by public officials to confer a civil award on the citizen in question during the process. Furthermore, requested documents pertain to the records generated during the process by the three Award committees during May-July and summary by the Prime Minister sent to the President to finalise the conferment of the civil award.

10. The Respondent has submitted before the commission that entire requested documents are exempted from disclosure under Section 7 (g) and (h) of the Act.

11. This commission is of the view that right to privacy is a sacred right and any information which infringes personal privacy of an individual should be protected. As such any information like health condition, financial details, personal communication,

CNIC details, phone numbers and residential addresses of citizens should not be made public. Therefore, all such information provided by public officials who nominated the recipient for the award and the recipient himself is exempted from disclosure. Any other information furnished in the process which led to the final decisions is public information.

12. The argument put forward by the Respondent that private documents submitted by a third party are exempted from disclosure under Section 7 (h) of the Act is neither applicable in the instant appeal nor holds water. Civil awards are conferred on citizens for their high accomplishments and contribution to the betterment of our society in various fields. Such information testifying their contribution to the society is already available in the public domain. These awards are conferred on citizens based on the recommendations of public officials and not on the basis of any private documents. Therefore, information submitted by public officials who nominated the recipient for the civil award with the confidence that it testified that the recipient was worthy of the award cannot be exempted from disclosure. In fact, if there is any information which is not already public, it should be made available so that citizens can know more about accomplishments of the recipients of these awards and their contribution to the society.

13. In the instant appeal, as final decision has been taken by the public body, therefore, noting on the files and minutes of the meetings are public documents. Section 7 (a) exempts noting on file only subject to 'a final decision'. Once final decision is taken by a public body, noting on the file becomes a public document. Similarly, Section 7 (b) exempts minutes of meetings only subject to 'a final decision' by a public body. Once final decision is taken by a public body, minutes of meetings become public documents.

14. It should also be noted that final decisions are public documents under Section 6 () c of the Act which is as under:

“Final orders and decisions, including decisions relating to members of public;”.

15. This commission expects the Respondent being Cabinet Division to be a trailblazer for other federal public bodies in ensuring the implementation of the Act to facilitate citizens' constitutional right of access to information in matters of public importance.

16. Opacity in the functioning of public bodies has contributed to the trust-deficit between citizens and state institutions. Availability of the certified information about the civil awards in public domain will make the entire process about the conferment of these awards open and transparent. In fact, when certified records pertaining to the conferment of civil awards will be made available in the public domain for everyone to see, it will further enhance prestige of these awards. As a consequence, it will contribute to reducing trust-deficit between citizens and public institutions.

D. Order

17. Appeal is allowed. The Respondent is directed to share all records along with noting on the files, minutes of the meetings conferring *Sitara-e-Imtiaz civil award* to citizen mentioned in the information request with the Appellant within 10 working days of the receipt of this Order with intimation to this office.

18. The Respondent is directed to provide recommendations furnished by public officials who nominated the recipient in the process which led to the conferment *Sitara-*

e-Imtiaz civil award to citizen mentioned in the information request with the Appellant within 10 working days of the receipt of this Order with intimation to this office.

19. The Respondent is directed to ensure that any information of personal nature like health condition, financial details, personal communication, CNIC details, phone numbers and residential addresses of citizens is not made public while implementing directions of the commission in paras 17 and 18 of this Order.

20. The Respondent is directed to designate Public Information Officer as required under Section 9 of the Act, put contact details on its web site as required under Section 5 (1) (h) of the Act and submit notification to this effect to this commission within 10 working days of the receipt of this Order.

21. 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 Act and submit the compliance report to the commission by 12/09/2020.

22. Copies of this order be sent to Secretary, Cabinet Division (Respondent) and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

August 25, 2020

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