

Pakistan Information Commission
1st Floor, National Arcade, 4-A Plaza
F-8 Markaz, Islamabad
Website: www.rti.gov.pk
Phone: 051-9261014
Email: appeals@rti.gov.pk
@PkInfoComm



In the Pakistan Information Commission, Islamabad

Appeal No 366-06/20

Naeem Sadiq

(Appellant)

Vs.

Ministry of Interior

Through its Public Information Officer

(Respondent)

Order

Date: October 05, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated Jan 06, 2020, to the Commission, stating that he submitted an information request to the Secretary, Ministry of Interior dated December 10, 2019 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 1. *“Please provide the following details of all Non-Prohibited Bore Arms Licenses issued between 1.1.2008 and 31.12.2018.*
 - i. *Name of the individuals to whom non-prohibited bore arms licenses were issued and the number of licenses issued to each individual.*
 - ii. *Total non-prohibited bore arms licenses issued between 01.01.2008 and 31.12.2018.*
 2. *Please provide the following details of all Prohibited Bore Arms Licenses issued between 01.01.2008 and 31.12.2018*
 - i. *Name of the individuals to whom prohibited bore arms licenses were issued and the number of licenses issued to each individual.*
 - ii. *Total prohibited bore arms licenses issued between 01.01.2008 and 31.12.2008.*
 3. *Why is this information not displayed on pro-active disclosure basis on your website as required by the RTI law.*

B. Proceedings

3. Through a notice dated June 16, 2020 sent to Deputy Secretary (Admin), designated Public Information Officer, the Ministry of Interior, the Commission called upon the Respondent to submit reasons for not providing the requested information.

4. The Respondent did not respond to the notice and the hearing date was fixed for September 24, 2020 through the hearing notice sent on October 19, 2020 and both parties were informed accordingly.
5. No one appeared on behalf of the Respondent on the date of hearing on September 24, 2020.

C. Discussion and Commission's View on Relevant Issues

6. The questions for the consideration of the commission are as under:
 - (a) Should a citizen have access to requested information in accordance with the provisions of the Right of Access to Information Act 2017, hereafter referred as Act?
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
7. The requested information should not only be made available to the Appellant as a constitutional right of access to information in matters of public importance under Article 19-A of the Constitution of Islamic Republic of Pakistan but also as a statutory right under different provisions of the Right of Access to Information Act 2017. The Preamble of the Act states:

“Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.
8. The public body is legally obligated to proactively disclose through its web site the requested information under Section 5 (1) (e) of the Act which is as under:

“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”
9. It is clear from ‘along with particulars about the recipients of any concession, permit, license or authorization granted by the public body’ that names of individuals who are granted licenses to carry weapons are to be proactively disclosed by the public body.
10. It should also be noted that license to carry weapons is different from general license like driving. The driving license is right of all citizens who otherwise meet all the requirements whereas license to carry weapons is exceptional license granted to certain individuals as a privilege. Therefore, names of the individuals who are granted such exceptional licenses as a privilege should be made public.
11. In the instant appeal, the Public Information Officer, (PIO), duly designated under Section 9 of the Act failed to perform following obligations under the Act.
 - I. Failure to provide “written acknowledgement in response to” a request for information filed by citizen as required by Section 10 (1) of the Act.

II. Failure to follow procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act which is as under:

“(2) 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
 - iv. 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”
 - v. Failure in following the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.

- 12. It is incumbent upon the public bodies to disclose information promptly within time-frame mentioned in the Act. This is only possible when records are properly maintained. The Act requires indexation and computerisation of all records held by public bodies so that they are able to comply with their obligation under this Act.
- 13. The commission takes strong exception to the fact that the Respondent has not carried out its obligation of proactively publishing categories of information enlisted in Section 5 of the Act. As a consequence, citizens have to face difficulties in exercising their constitutional right of access to information in all matters of public importance.
- 14. Even documents like ‘issuance of prohibited non-prohibited arms policy 2012’ which have been made public on the web site of the Respondent are not accessible for all citizens. Instead of putting scanned images of the documents on the web site which are not readable for the blind citizens of the country with the help of screen reading software, the Respondent should have placed documents in PDF or MS word formats so that these could be accessible to the blind as well.
- 15. The information proactively published through web site of the Respondent will only be accessible to all citizens if its web site complies with international benchmarks set for

web accessibility in Web Content Accessibility Guidelines (WCAG) developed by the World Wide Web Consortium (W3C).

16. The PIO not only delayed and denied access to the requested information, the PIO also failed to comply with the duly sent notices of the commission.
17. Had the Respondent gone through the Act after receiving request for information of the citizen and notices of this commission, clearly referencing the Act, it would have saved time and resources of this Commission. It also demonstrates that the Respondent has not taken any steps for the implementation of the Act. It demonstrates that the powers vested in officers are not being exercised “reasonably, fairly, justly, and for the advancement of the purposes of the enactment” as required under Section 24A (1) of the General Clauses Act 1897.
18. This commission is of the view 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.
19. Citizens of Pakistan through their 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.
20. The commission has no option but to fulfil its legal obligation and offset this trend of raising cost in terms of time and money for citizens, the commission and the superior judiciary.
21. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

22. The appeal is allowed. The Respondent is directed to provide the following requested information to the Appellant:

Names of the individuals to whom non-prohibited bore arms licenses were issued and the number of licenses issued to each individual between 1.1.2008 and 31.12.2018.

Total non-prohibited bore arms licenses issued between 01.01.2008 and 31.12.2018.

Names of the individuals to whom prohibited bore arms licenses were issued and the number of licenses issued to each individual between 01.01.2008 and 31.12.2018

Total prohibited bore arms licenses issued between 01.01.2008 and 31.12.2008.
23. The information mentioned in para 22 be provided, with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
24. The Respondent is directed to put the notification of designated Public Information Officer, (PIO), on its web site as required under Section 5 (1) (b) of the Act, put name, designation and contact details of the PIO on its web site as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.

25. 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. The Respondent should ensure that its web site is accessible to all citizens and that its web site complies with international benchmarks set for web accessibility in Web Content Accessibility Guidelines (WCAG) developed by the World Wide Web Consortium (W3C).

The compliance report pertaining to proactive disclosure of information and the accessibility of the web site of the Respondent be submitted to the commission by 01/11/2020.

26. Copies of this order be sent to Secretary, Ministry of Interior, Public Information Officer, the Ministry of Interior and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
October 05, 2020

This order consists of 5 (five) pages, each page has been read and signed