

## Pakistan Information Commission

### Government of Pakistan

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### In The Pakistan Information Commission, Islamabad

#### Appeal No 793-12/20

**Syed Kausar Abbas**

(Appellant)

Vs.

**National Highways Authority**

(Respondent)

#### ORDER

**Date:** August 25, 2021

**Zahid Abdullah:** Information Commissioner

#### **A. The Appeal**

1. The Appellant filed an appeal, dated 17-12-2020, to the Commission, stating that he submitted an information request to Director (Regulation) / Public Information Officer, National Highways Authority on November 23, 2020 under the Right of Access to Information Act 2017 but did not receive any response from the public body.

2. The information sought by the Appellant is as follows:

“You are requested to provide information about steps taken by the public body about proactively publishing each category of information mentioned in Section 5 of the Act on its web site as requested in the following table.

<b>Proactive Disclosure Provisions of Section 5 of the Act</b>	<b>Information to be Proactively Disclosed</b>	<b>Questions</b>	<b>Information (please provide requested information in this column)</b>
Section 5 (1) (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	Which of this information has been made available on the web site and which is missing? Has the public body published on its web site the directory of officers and the employees	

		along with names, designations, Basic Pay Scales, Salaries, benefits, perks and privileges of the officers and employees?	
Section 5 (1) (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	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (c)	Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (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	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (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	Has the public body published on its web site criteria and terms and conditions for all kinds of licenses, permits, consents, approval, grants, allotments or other benefits? Has the public body published on its web site list with names and addresses of those	

		received concession, permit, license or authorization?	
Section 5 (1) (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 decision	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (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	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (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	Has the public body put on its web site Application Form for seeking information under the Act and 'Schedule of Costs'? (Both the form for filing information request and 'Schedule of Costs' are available on the web site of the commission). Has the public body put the name, designation, official E-mail and contact number of the Public Information Officer on the web site?	
Section 5 (1) (i)	Reports including performance reports, audit reports, evaluation	Has the public body published	

	reports, inquiry or investigative reports and other reports that have been finalized	on its web site all such finalised reports? Which of these reports have been made available and which are missing?	
Section 5 (1) (j)	Such other matters which the principal officer of the public body deems fit to be published in the public interest	Is the public body in the custody of classified records that are more than 20 years old? Have steps been taken to declassify such records under Section 16 (1) (k) of the Act and publish under this provision of the Act?	
Section 5 (1) (l)	Camera footages at public places, wherever available, which have a bearing on a crime	Which of this information has been made available on the web site and which is missing?	

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## B. Proceedings

3. Through a notice dated December 21, 2020, sent to Director (Regulation) / Public Information Officer, National Highways Authority the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. Through a notice dated January 18, 2021, the respondent was directed to submit written arguments within 15 days otherwise the appeal will be decided Ex Parte in the light of the record available on file and the Right of Access to Information Act 2017.
5. The Appeal was fixed for hearing on February 18, 2021 and both parties were informed through notices sent on February 09, 2021
6. Mr. Hamed Asif Khan, Council, National Highways Authority, appeared before the commission and requested for time to submit response. The hearing was adjourned for February 25, 2021.
7. The Respondent submitted response during the hearing held on February 25, 2021.
8. The response / information was shared with the appellant on February 25, 2021.

9. The appellant on May 24, 2021 submitted rejoinder to the commission stating that project wise budget is available but not detailed budget available, schedule of costs is not available, reports including performance reports, audit reports, evaluation reports, enquiry or investigative reports and other reports that have been finalised are not available and camera footages at public places wherever available, which have a bearing on a crime not available.
10. The appeal was fixed for hearing on June 24, 2021. Mr. Hamza Sajjad, Clerk, National Highways Authority attended the hearing. The commission expressed concern over the absence of senior officer during the hearing. The appeal was again fixed for hearing on August 05, 2021.
11. No one appeared before the commission in the hearing held on August 05, 2021.

### **C. Discussion and Commission's View on Relevant Issues**

12. The Right of Access to Information Act 2017 has empowered citizens to seek information from civil servants and they are legally bound to acknowledge their information requests and respond to them within specific time-frame.
13. This commission holds that the Respondent, NHA has not published specific information on its web site as required under Section 5 of the Act.
14. The Right of Access to Information Act 2017 was enacted on October 16, 2017. The Act provided ample time of six months to each Principal Officer of a federal public bodies to ensure the publication of categories of information mentioned in Section 5 on its web site.
15. In the instant Appeal, the citizen has sought specific information about steps taken by the Respondent to ensure publication of information/records on its web site. This commission is of the view that trust of citizens in public institutions is irrevocably linked with timely and accurate flow of information between citizens and public institutions. However, this would only be possible when Principal Officers of federal public bodies would ensure implementation of the Right of Access to Information Act 2017 in letter and spirit.
16. Entrusted with the solemn responsibility of protecting and promoting citizens' constitutional right of access to information in matters of public importance, this commission will leave no stone unturned for the implementation of the Right of Access to Information Act 2017. Citizens of Pakistan through their elected representatives have included in the Act 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**

17. Appeal is allowed. Public Information Officer, National Highways Authority is directed to share with the Appellant the requested information about the current status of the availability of the following information on its web site within 7 working days of the receipt of this Order. Furthermore, Chairman, National Highways Authority is directed to submit compliance report to the commission describing current availability status of the following information on the web site as well as time-frame for publication of each missing information/record on web site within 7 working days of the receipt of this Order:
  - a. directory of the officers of the public body, containing information about total sanctioned posts, filled/vacant posts, responsibilities of officers and information about its functions and services provided by the public body;
  - b. Act and the Rules of the public body, its regulations, bye-laws, orders and notifications;
  - c. manuals and policies of the public body;
  - d. relevant facts and background information relating to important policies and decisions undertaken by a public body;

- e. statement of policies adopted by the public body;
- f. criteria, standards or guidelines under which officers of the public body exercise their discretionary powers;
  - i. terms and conditions for acquiring any license, permit, consent, approval, grant, allotment or other benefits;
  - ii. terms and conditions for all kinds of agreements and contracts;
  - iii. particulars about the recipients of any concession, permit, license or authorization granted by the public body;
  - iv. information about decision making processes of the public body and information about how citizens can provide their input to the public body;
  - v. 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;
  - vi. The methods for seeking information from the public body;
  - vii. Schedule of costs, developed by Pakistan Information Commission, (available on the commission's web site) for seeking information from federal public bodies;
  - viii. name, title, E-mail and telephone number of the Public Information Officer notified under the Right of Access to Information Act 2017;
  - ix. performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized.

18. Copies of this order be sent to Chairman, National Highways Authority, Public Information Officer, National Highways Authority 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, 2021

This order consists of 6 (six) pages, each page has been read and signed