



In the Pakistan Information Commission, Islamabad

Appeal No 1292-08/21

Muhammad Bashir Khan

(Appellant)

Vs.

Ministry of Defence

(Respondent)

ORDER

Date: December 21, 2021

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on August 26, 2021, to the Commission, stating that he had submitted information requests to Secretary, Ministry of Defence on August 05, 2021 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:
 - “a) certified copy of property, plots, houses in the name /ownership of Maj Retired Javed Iqbal son of Abdul Latif, presently residing in House No. 37, Lane No.3, Gulistan Colony, Rawalpindi, second address House No. 227, Phase No. 1, Defence Housing Authority, Lahore, CNIC No. 35201022163341 Cell No. Med 03004216636 his Army Number, Pension Number, amount of monthly pension being drawn by him.*
 - b) Certified copy of the proof of property owned by Maj Javed Iqbal in Gulistan Colony, Rawalpindi or in Rawalpindi Cantt Area and plot/house situated in Defence Housing Authority, Lahore.*
 - c) Certificate copy of Gazette Notification No. M VII-242/81 dated 22.11.1959 and Notification No. M-VII/242/126 dated 28.10.1960 issued under section 4 of the Land Acquisition Act whereby land situated in Khasra No. 400 and 402 has been acquired by the Govt/Cantt Board or any other military authority for extension of Ayub National Park Rawalpindi*
 - d) Certified copy of any notification or document or proof whereby land measuring 10 marlas situated in Khasra No. 400 and 402 Mauza Topi, Gulistan Colony, Rawalpindi Cantt has been acquired by the Cantonment Board, Chaklala Cantt Rawalpindi for extension of Ayub Park.”*

B. Proceedings

3. Through a notice dated August 30, 2021, sent to Public Information Officer / Dy. Secretary (Coord), Ministry of Defence the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.
4. Through a notice dated September 28, 2021 sent to Public Information Officer / Dy. Secretary (Coord), Ministry of Defence the Respondent was directed to submit written reply and arguments to Pakistan Information Commission 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 November 16, 2021 and both parties were informed through notices sent on November 01, 2021.
6. The Appeal was again fixed for hearing on December 14, 2021 and both parties were informed through notices sent on November 18, 2021.
7. No one appeared to represent the Respondent in the hearings held on November 16, 2021 and December 14, 2021.

C. Discussion and Commission’s View on Relevant Issues

8. The commission has to decide that whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred to as the “Act”.
9. In the instant appeal the public body is failed to acknowledge and respond to the information request of the appeal. Moreover, the public body also failed to the respond to the notices of commission and also did not attend the hearings held on November 16, 2021 and December 14, 2021.
10. The public body on September 28, 2021 was also directed to submit written arguments to Pakistan Information Commission within 15 working days. The commission stated “If the written arguments are not submitted within 15 days, 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”, but this Commission did not receive any response from the Respondent.
11. The information requested in Para A and B of the information request do not fall under the ambit of the record and is exempted from disclosure with the citizen under the Section 7 (g) of the Act, which is as under:

“(g) record relating to the personal privacy of any individual; and”
12. However, the information requested by the Appellant in Para C and D of the Information request is public record under Section 5 (b) of the Act, which is as under

“5(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;”

13. This commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.
14. This commission has observed that the public bodies are reluctant to share the basic information to the citizen which should be available on their website under the Section 5 of the Act, the citizens have to approach the commission for information due to the the wilful delay or denial by the public which causes undue cost to citizens and the commission.
15. This Commission maintains that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be ‘accessible’ for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of ‘accessible’ in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:

“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

D. Order

16. Appeal is partially allowed. Public Information Officer / Dy. Secretary (Coord), Ministry of Defence is directed to provide following information to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.

“(c) Certificate copy of Gazette Notification No. M VII-242/81 dated 22.11.1959 and Notification No. M-VII/242/126 dated 28.10.1960 issued under section 4 of the Land Acquisition Act whereby land situated in Khasra No. 400 and 402 has been acquired by the Govt/Cantt Board or any other military authority for extension of Ayub National Park Rawalpindi.

(d) Certified copy of any notification or document or proof whereby land measuring 10 marlas situated in Khasra No. 400 and 402 Mauza Topi, Gulistan Colony, Rawalpindi Cantt has been acquired by the Cantonment Board, Chaklala Cantt Rawalpindi for extension of Ayub Park.”

17. The Respondent is also 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 in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017’. This template is available under ‘Information Desk’ category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.

18. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using 'Web accessibility checklist'. This checklist is available under 'Information Desk' category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
19. Copies of this order be sent to Secretary, Ministry of Defence, Public Information Officer / Dy. Secretary (Coord), Ministry of Defence and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: December 21, 2021

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