

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1846-04-2022

Saddia Mazhar

Versus

National Assembly of Pakistan

Fawad Malik: Information Commissioner

A. APPEAL

1. Ms. Saddia Mazhar filed an application, through g-mail invoking her right under the Right of Access to Information Act, 2017. Through the application dated 8th November addressed to the Deputy Secretary, National Assembly of Pakistan the applicant in the public interest has sought the following information/record:

1. *“Copies of the questions privilege raised / submitted by the Members of the National Assembly from May 2018 to date.*
2. *Also provide the copy of each response submitted by the department in this regard.*
3. *Details of the questions forwarded to the standing committees for discussion, along with the details of the findings and recommendations of the committees.”*

2. The Deputy Secretary (Litigation) /Designated Official, National Assembly Secretariat vide letter No. E.8(12)/2021-L.Cdated 19 November, 2021 through e-mail, responded the application as follows:

“Reference to your request/email dated 08.11.2021 for access to specific information/record. It is hereby informed that your request has been considered in this Secretariat and regretted in

terms of Sections 7(c) and section 16(g)(i) of the Right of Access to Information Act, 2017.”

3. Feeling aggrieved and dissatisfied of the response from the National Assembly Secretariat, Ms. Saddia Mazhar preferred the appeal dated 31st March, 2022 under the Right of Access Information Act, 2017 before the Pakistan Commission on Access to Information, Islamabad.

B. PROCEEDINGS

4. Mr. Usman Ali Deputy Secretary (Litigation) / Designated Official represented the National Assembly before the Commission at the time of hearing. Besides the Sections 7(c) and 16(g)(i) of the Right of Access to Information Act, 2017 he has also referred to Rule 207 of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan 2007 for the denial of access to the requested information and record.

C. COMMISSION’S VIEW

5. The appellant has asked for the questions privilege raised / submitted by the Members of the National Assembly from May 2018 to date, each response submitted by the department in this regard and details of the questions forwarded to the standing committees for discussion along with the details of the findings and recommendations of the committees. The respondent has regretted in terms of Sections 7(c) and 16(g)(i) of Act of 2017 and also argued the prerogative of the privilege Committee constituted under the Rule 207 of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan 2007.
6. The Sections 7(c) and 16(g)(i) of the Act and Rule 207 of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan 2007 are reproduced hereunder for appraisal:

Section 7(c) of the Right of Access to Information Act, 2017

Nothing contained in section 6 shall apply to the following record of all public bodies, namely:-

(c) any intermediary opinion or recommendation subject to a final decision by the public body;

Section 16(g)&(i) of the Right of Access to Information Act, 2017.

(g) information may be exempted if-

(i) the information was obtained from a third party and on its communication it would constitute an actionable breach of confidence; or

(ii) the information was obtained in confidence from a third party and it contains a trade secret or if communicated it may prejudice the commercial or financial interests of that third party;

.....
(i) information may be exempt if its disclosure is likely to-

(i) cause prejudice to the effective formulation or development of government policy;

(ii) frustrate the success of a policy, by premature disclosure of that policy;

(iii) undermine the deliberative process in a public body by inhibiting the free and frank provision of advice or exchange of views;

(iv) undermines the effectiveness of a testing or auditing procedure used by a public body;

(v) prejudice the proceedings in a court or a tribunal; and

(vi) privileged information shared between counsel and the client;

Rule 207 of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan 2007.

Composition: *A Committee of Rules of Procedure and Privileges consisting of not more than twenty two members shall be elected by the Assembly, and the Minister of Law, Justice and Parliamentary Affairs shall be its ex-officio member.*

Functions, - The Committee

(a) shall consider matters of procedure and conduct of business in the Assembly and recommend, such amendments to these rules as may be deemed necessary;

(b) shall examine every question of privilege referred to it by the Assembly or the Speaker and determine with reference the facts of each case whether a

breach of privilege is involved and, if so, the nature of the breach of the breach and the circumstances leading to it; and make such recommendations as it may be deem fit; and

(c) may suggest the procedure to be followed by the Assembly to give effect to its recommendations.

7. Section 16(i) of the Act exempts the disclosure of information if it is likely to cause prejudice to the effective formulation of the government policy or its premature disclosure would frustrate the success of the policy. Suffice to say that the debate in the National Assembly and its related documents are the public record accessible to the citizens as defined in the Right of Access to Information Act, 2017. It is not out of place to mention here that the citizens of Pakistan have their right to know the performance of their representatives in the Assembly whom they have elected through their votes. The debate is a formal discussion on a particular matter in a public meeting or legislative assembly, in which opposing arguments are put forward and which usually ends with a vote. Its disclosure would neither cause prejudice to the effective formulation of the government policy or its premature disclosure would frustrate the success of the policy rather the citizens will be enabled to evaluate the performance of their representatives.

The section 2(ix)(c) of the Act has encompassed the National Assembly including its secretariat, committees and members in the list of the public body which are supposed to proactively disclose the information and record as mandated in section 5 of the Act. Section 5(d) of the Act require proactive disclosure of the relevant facts and background information relating to the important policies and decisions which have been adopted, along with the statement of policies adopted by the public body and the criteria standards or guidelines upon which discretionary powers are exercised by it.

8. In the case in hand no information is obtained in confidence from a third party and on its communication, there exist no apprehension to constitute an actionable breach of confidence or it may prejudice the commercial or financial interests of that third party or its trade secret therefore section 16(g) of the Act referred by the respondent is irrelevant having no nexus with this appeal.
9. Rule 207 of the Rules of Procedure and Conduct of Business in the National Assembly of Pakistan 2007 provide the composition and functions of the committee constituted to consider matters of procedure and conduct of business in the Assembly, examine every question of privilege referred to it by the Assembly or the Speaker and make such recommendations as it may be deem fit and may suggest the procedure to be followed by the Assembly to give effect to its recommendations. This committee has nothing to do with the matters related to the provision of access to the public record held by the public body. The Rule 207 referred by the respondent is irrelevant having no nexus with this appeal.
10. However the intermediary opinion or recommendation that has yet not been finalized do not make part of the public record and cannot be shared until final opinion or recommendation as such is excluded under section 7(c) of the Act.
11. The Commission is of the considered view that the questions raised by the Members of the National Assembly, response submitted by the department in this regard and the details of the questions forwarded to the standing committees for discussion, along with the details of the findings and recommendations of the committees are the public record as defined under the Right of Access to Information Act, 2017 and the citizens have the fundamental and statutory right to have the access to the said record and information.

12. Moreover it is the matter of public importance.

D. ORDER

13. The appeal is allowed. The Deputy Secretary (Litigation) / Designated Official, National Assembly Secretariat is directed to provide the appellant the requested information and record except the matters that are not finalized, forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 01.06.2022

Certified that this order consists of 05 pages, each page has been read and signed