

Pakistan Information Commission
Government of Pakistan

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In The Pakistan Information Commission, Islamabad

Appeal No 1418-10/21

Azaz Syed

(Appellant)

Vs.

Ministry of Foreign Affairs

(Respondent)

ORDER

Date: October 13, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated August 12 2021, to the Commission, stating that he submitted an information request to Public Information Officer, Ministry of Foreign Affairs on August 28, 2021 under the Right of Access to Information Act 2017 but did not received any response from the public body.
2. The information sought by the Appellant is as follows:
 1. *“Does MoFA have a policy to remove access barriers at the work place so that the officers with different disabilities could perform their official duties on equal basis with others?*
 2. *Does MoFA have the policy to provide assistant to officers with different disabilities to take care of their mobility needs while performing their duties such as visiting different offices and attending meetings, within and outside the country?*
 3. *Has MoFA prepared policy document spelling out access barriers faced by the officers with different disabilities and support to be provided to these officers?”*

B. Proceedings

3. In response to the notice of the commission, through a letter dated November 30, 2021, the Respondent submitted its response which is as under:
 - a. “Does MOFA have a policy to remove access barriers at the work place so that the officers with different disabilities could perform their official duties on equal basis with others?
 - b. Reply: In order to facilitate officers with disabilities, laptops/tabs have been provided by the Ministry of Foreign Affairs (MoFA) with compatible software. Moreover, ramps/lifts are available and washrooms have been made spacious to cater to the needs of the disabled persons, including installation of supporting rods.

- B. Does MOFA have the policy to provide assistant to officers with different disabilities to take care of their mobility needs while performing their duties such as visiting different officers and attending meetings, within and outside the country?

Reply: MOFA is in touch with the Ministry of Human Rights, Islamabad and Finance Division to seek information about any rules/special arrangements provided to government servants with special needs/disabilities. Based on the feedback received from the aforementioned two entities, this Ministry would then devise its own internal/external guidelines, if required, for its officers with different abilities.

- c. Has MOFA prepared policy documents spelling out access barriers faced by the officers with different disabilities and support to be provided to these officers?

Reply: As above”.

Through its Interim Order, issued on January 05, 2022, the commission observed that “generalised response indicates that, while the Respondent, MoFa has taken certain measures to ensure accessibility at the workplace and that it provides laptops/tabs with compatible software, it does not have a specific policy regarding specific needs of its officers with disabilities to enable them to exercise their right of access to information at the work place. While the generalized statement indicates that MOFA ‘is in touch with the Ministry of Human Rights, Islamabad and Finance Division to seek information about any rules/special arrangements provided to government servants with special needs/disabilities’, it is not clear when it got ‘in touch’ as the records of correspondence have not been submitted before the commission. The response does not indicate steps taken by the Respondent to implement ICT Rights of Persons with Disabilities Act 2020 and UN Convention on Rights of Persons with Disabilities to which Pakistan is a state party”.

4. The commission also raised certain questions through its Interim Order and PIO was directed to appear in person and submit written response to these questions in the hearing to be held on January 25, 2022 at 1130 Hrs along with all its communication with Ministries of Human Rights and Finance regarding providing assistant to officers with disabilities.
5. In the hearing held on January 25, 2022, Spokesperson MoFA, Mr. Asim Iftekhar Ahmad and learned Counsel Mr. Raza Hashim attended the hearing and submitted the following response:

“1. That the following preliminary legal issues have arisen from the request of the appellant read with the interim order passed by the learned Information Commission.

a. The request of the appellant, preferred under Section 11 of the Right of Access to Information Act, 2017, inquired about the following information or record:

i. Does MoFA have a policy to remove access barriers at the work place so that the officers with different disabilities could perform their official duties on equal basis with others?

Does MOFA have the policy to provide assistant to officers with different disabilities to take care of their mobility needs while performing their duties such as visiting different officers and attending meetings, within and outside the country? iii. Has MoFA prepared policy documents

spelling out access barriers faced by the officers with different disabilities and support to be provided to these officers?

b. In response, the Ministry responded by highlighting that disabled officers of the Ministry have been provided facilities including laptops/tabs with compatible software, accessibility ramps/lifts, adapted washrooms with support rods and other steps have been taken. It was further stated that Ministry of Human Rights and Finance were also requested to provide applicable rules and special arrangements for such officers.

c. As a consequence, the learned Information Commission, in its interim order, held that while the Ministry has taken certain measures to ensure accessibility at the workplace and that it provides laptops / tabs with compatible software, it does not have a specific policy regarding specific needs of its employees with disabilities to enable them to exercise their right of access to information at the workplace. It was further held that records of correspondence have not been submitted, and the response does not indicate steps taken by the Ministry to implement ICT Right of Persons with Disabilities Act 2020 and UN Convention on Rights of Persons with Disabilities. The following issues were raised by the learned Information Commission:

i. How do officers with disabilities, in the absence of specific policy document spelling out their specific needs, exercise their right of access to information/records to discharge their official duties, and, attend official meetings with dignity and equal basis with others?

ii. In the absence of specific and clearly spelled out written policy, how access barriers are removed so that officers with disabilities can exercise their right to information? Whether requests regarding support for their mobility needs and gadgets to exercise official records/information are treated as a matter of privilege, or right? If former, its implication in terms of right to dignity of officers with disabilities? Which and how compatible software and assistive aids are provided to officers with disabilities to perform official work i.e., Wheelchairs, accessible workstations (desk and chairs), scanners, braille embossers, screen magnifiers, braille refreshable displays, screen readers, etc. iv. What steps have been taken by the Respondent to implement provisions of ICT Rights of Persons with Disabilities Act 2020 including its section 15 (5) which requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities which is as under:

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

vi. Whether the Respondent has conducted accessibility audit of its buildings, web site and its modes of communication?

2. It is submitted with respect that the above issues raised by the learned Information Commission were not raised by the appellant, who had inquired whether the Ministry had a policy to remove access barriers at the workplace for officers with different disabilities. The learned Information Commission has supplemented the request raised by the appellant through its own request, and proceeded to inquire that in the absence of a policy, how do officers with disabilities exercise their right of access to information.

3. Pertaining to the original questions and the subsequent queries raised by the Information Commission, it is submitted that the Ministry of Foreign Affairs has taken the following measures including those envisaged in ICT Rights of Persons with Disabilities Act 2020

There is no discrimination/bar on recruitment or postings abroad and within the Ministry (detailed posting placement list of officers/officials with disabilities is attached Wheel-chair ramps have been constructed to ease their access to both the main buildings as well as all allied buildings of the Ministry

ii. Facility of wheel chair on demand basis. (Photos Attached)

iii. Provision of elevators at Agha Shahi Block, Shahibzada Yaqboob Khan Block and Pak Brunei Friendship Hall.

iv. Provision of separate car parking. Provision of Laptops/tabs having requisite specifications/software including JAWS.

vi. Separate and preferential General Waiting List for accommodation

vii. Renovation of washrooms as per their requirements.

viii. The Ministry has also developed official Website in a user-friendly manner, having following specifications:

a. Allows users to enlarge font size.

b. Color contrast sensitivity c. Keyboard navigation

d. Minimize the use of tables in the website

ix. Provision of any other assistance that an officer with disability may require.

4. The copies of this Ministry's correspondence with Ministry of Human Rights and Finance Division are also attached.

5. It is further informed that the Ministry attaches utmost importance to this matter and has initiated the process of formulating policy guidelines to facilitate rights of persons with disabilities".

6. In the hearing held on January 25, 2022, the Respondent submitted that it had "initiated the process of formulating policy guidelines to facilitate rights of persons with disabilities". The members of the commission noted that in the absence of disability policy, officers with disabilities will not be able to exercise their right to information with dignity on equal basis with others and their rights will be granted as favour, including the right of access to official records through their special software.

7. The record on the file shows that in subsequent hearings, the representatives of the Respondent kept the commission informed about the status of the formulation of "policy guidelines to facilitate rights of persons with disabilities". Mr. Marwan Ayyesh, Director Research, Ministry of Foreign Affairs also shared the draft guidelines formulated by the Respondent.

C. Issues

8. The instant appeal has brought to the fore the following issues:

- (a) Has the Respondent followed the procedure enunciated in the Right of Access to Information Act, 2017, henceforth referred to as "the 2017 Act", for responding to the information request?
- (b) Does the assertion of the Respondent that this commission "supplemented the request raised by the appellant through its own request, and proceeded to inquire that in the absence of a policy, how do officers with disabilities exercise their right of access to information?" hold water?

(c) Has the Respondent provided requested information to the Appellant?

D Discussion and commission's views on relevant issues:

9. In the instant Appeal, the record on the file shows that the Respondent demonstrated disregard to the provisions of the Act, 2017.
10. In the instant appeal, the Respondent failed to provide written acknowledgement of the request for information filed by the citizen as required under Section 10 (1) of the Act.
11. The Respondent also failed in following the procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act.
12. The Respondent also failed in adhering to 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 and only responded to the notices of the commission.
13. This commission maintains that the response submitted before this commission by the Respondent, MoFA, in response to the information request of the Appellant is inadequate and does not provide the requested information.
14. This commission also holds that this commission is vested with powers to under Section 20 (1) (d) of the Right of Access to Information Act, 2017 to “Order a public body to disclose information to an applicant or to take such other reasonable measures as it may deem necessary to remedy any failure to implement the provisions of this act”.
15. This commission maintains that in response to the question: “Does MoFA have a policy to remove access barriers at the work place so that the officers with different disabilities could perform their official duties on equal basis with others?”, the Respondent was only required to provide Yes/NO answer. Instead, the Respondent submitted before this commission measures that are taken to facilitate officers with disabilities. Similarly, in response to the question: “Does MOFA have the policy to provide assistant to officers with different disabilities to take care of their mobility needs while performing their duties such as visiting different officers and attending meetings, within and outside the country?”, the Respondent was only required to provide Yes/NO answer. The Respondent also submitted that “MOFA is in touch with the Ministry of Human Rights, Islamabad and Finance Division to seek information about any rules/special arrangements provided to government servants with special needs/disabilities. Based on the feedback received from the aforementioned two entities, this Ministry would then devise its own internal/external guidelines, if required, for its officers with different abilities”.
16. This commission sought answers through its subsequent questions as a part of “reasonable measures as it may deem necessary to remedy any failure to implement the provisions of this act” as the response was inadequate and also contained improper language i.e., “officers with different abilities”, in contravention to the interpretation of this commission of ‘accessible’ in section 5 of the “2017 Act”, provisions of the ICT Rights of Persons with Disabilities Act 2020, National Policy for Persons with Disabilities 2002, National Plan of Action for Persons with Disabilities 2006, The Accessibility Code of Pakistan 2006, the ILO Convention 159 Related to Vocational Rehabilitation and Employment (Disabled Persons) Convention 1983 and UN Convention on Rights of Persons with Disabilities which the state of Pakistan ratified in 2011.

17. It is pertinent to mention here that this commission has maintained through its different Orders 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 and all website should be made accessible in accordance with World Wide Web Content Accessibility Guidelines, also known as W3CG. 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”.
18. It would be stating the obvious that when the Appellant has sought access to policy “to remove access barriers at the work place so that the officers with different disabilities could perform their official duties on equal basis with others”, those official duties include, inter alia, getting ‘access to official records in the performance of the official duties. Furthermore, ‘access’ needs of persons with disabilities are characterized by the nature of their different disabilities and can only be ensured through reasonable accommodations clearly spelled out in a legally binding policy document.
19. The Respondent, MoFA has shared details of measures and facilities provided to the officers with disabilities which prima facie seem inadequate taking into consideration different access needs of officers with different disabilities. Furthermore, in the absence of any policy document, clearly spelling out their specific needs and rooted in a law, the question arises as to whether any such facilities are provided through the exercise of discretionary powers, upon a ‘request’ or, as a matter of ‘right’. That is why this commission asked subsequent question as to “Whether requests regarding support for their mobility needs and gadgets to exercise official records/information are treated as a matter of privilege, or right? If former, its implication in terms of right to dignity of officers with disabilities?”
20. It is heartening to note that the instant request for information and the appeal has brought into focus the access needs of officers with disabilities and that the Respondent has “initiated the process of formulating policy guidelines to facilitate rights of persons with disabilities” as submitted in the hearing.
21. The fact that the Respondent informally shared the draft ‘Disability Index’ aimed at formulating policy guidelines to facilitate rights of persons with disabilities demonstrates that the Respondent is moving from ‘discretionary measures’ approach to adopt a legal and rights based inclusive approach to provide enabling environment to officers with disabilities so that they could perform their official functions on equal basis with others, including the right of access to information/records.
22. While the draft ‘Disability Index’ is a step in the right direction and shows the intent and efforts of the Respondent MoFA to provide enabling environment to its officers and staff with disabilities, a cursory analysis of both its language and the content highlights the need to involve input from officers and staff with disabilities and those officers of the Respondent who have extensive experience of working on human rights issues as the language and content both are in contravention of domestic legal and policy obligations and international commitments. Moreover, a ‘Disability Index’ cannot replace a formal legally binding policy document formulated in line with domestic laws and policies and international commitments.

23. This commission also believes that the case of Respondent, Ministry of Foreign Affairs cannot be seen in isolation. The instant Appeal and earlier Orders of the commission seeking compliance reports from public bodies regarding incorporation of WCAG to ensure information accessibility for persons with disabilities indicate that federal public bodies need to move from 'discretionary measures' approach to adopt a legal and rights based inclusive approach to provide enabling environment to officers with disabilities so that they could perform their official functions on equal basis with others, including the exercise of right of access to information/records.

E. Order

24. The Appeal is allowed. The Respondent is directed to place this Order before the Minister-in-Charge so that the employees with disabilities could exercise their right of access to information/records to perform their official functions on equal basis with others, as a matter of right through a legally binding policy document as required under the Right of Access to Information Act, 2017, the ICT Rights of Persons with Disabilities Act, 2020 and the UN Convention on Rights of Persons with Disabilities to which Pakistan is a state party.
25. The Respondent is directed to ensure accessibility of the information in line with the Web Content Accessibility Guidelines proactively published on its website 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.
26. Copies of this order be sent to the Respondent, the Appellant, Secretary to the President, Secretary to Prime Minister and all federal Secretaries for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
October 13, 2022
This order consists of 7 (seven) pages, each page has been read and signed.