

Pakistan Information Commission
Government of Pakistan
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In the Pakistan Information Commission, Islamabad

Appeal No 1901-05/21

Ambreen Kanwal

(Appellant)

Vs.

Economic Affairs Division

(Respondent)

Interim Order

Date: August 16, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated May 06, 2022 to the Commission, stating that she submitted an information request to the Secretary, Economic Affairs Division on March 17, 2022 under the Right of Access to Information Act 2017 but not satisfied with the response of the public body.

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

1. “As you know that under the Right of Access to Information Act 2017 every citizen has right to access information held with public bodies. Under this law, a public body is bound to provide requested information to requester. In this context, I request you to kindly provide me the following information/ documents, duly certified about the Pakistan's Membership status of Open Government Partnership (OGP)

- a. Copy of all correspondence with Cabinet Division to seek approval of National Action Plan from Cabinet.
- b. Copy of all correspondent (sent to and received from) with OGP Secretariat.

I shall appreciate if the above requested information/ documents are kindly provided within ten (10) working days of the receipt of this application, as required by Section 12 of the Right of Access to Information Act, 2017”

B. Proceedings

3 The record on the file suggests that the Respondent submitted its response on the intervention of this commission on June 23, 2022 and its text is as under:

- i. *“It is to inform that the Section Officer (Coord) may attend the subject hearing on 23-06-2022 on behalf of Ministry of Economic Affairs. Furthermore, it is relevant to mention here that the subject case is highly confidential, as Minister-in-charge Ministry of Economic Affairs has classified correspondence on Open Government Partnership (OGP) under section 16(1) a (ii) Right of Access to information Act 2017”*

4 The commission held multiple hearings on the instant appeal. *The Respondent was represented by Abdur Razaq, Section Officer, and Sanaullah, Director, Economic Affairs Division. They maintained that National Action Plan of Pakistan draft was prepared but not finalized. They also shared that confidential documents cannot be shared with private persons as decided by the minister in-charge.*

5 *The members of the commission told the representative of the Respondent in these hearings to provide tangible reasons as required under Section 7 (f) of the Right of Access to Information Act, 2017 as to how harm from disclosure of the requested information out weights the public interest.*

6 *The record on the file shows that to-date, the Respondent has not submitted before this commission as to how harm from the disclosure of the requested information outweighs public interest.*

7 *Through an E-mail dated July 29, 2022, the Appellant submitted the following:*

“1. It has hereby reiterated that I submitted an information request under the Act, through a letter dated March 17, 2022. Thereafter, the request was responded to by the GOP (Economic Affairs Division), through a response dated 21 April 2022, afore-mentioned response was not legally satisfactory with respect to the provisions of the Act, subsequently, a complaint was lodged with the Pakistan Information Commission (“Commission”), through a letter dated May 6, 2022, pursuant to which hearing was conducted at the Commission’s discretion on June 02, 2022.

2. Please note, that the Open Government Partnership (OGP) provides a unique platform for national governments to develop multilateral and

coordinated efforts to make their societies more transparent, accountable, and responsive, aspects which are critical for the expansive application of the Right to Information laws.

3. *Pakistan signed up for the OGP in December 2016 and was mandated to prepare and submit its approved National Action Plan (NAP) to the OGP secretariat by mid-2017. An action plan would have displayed Pakistan's commitment to ensuring an enabling environment that guarantees transparency, good governance, and for citizens to access information and engage with the government. However, the government's inability to submit an action plan over the course of half a decade, Pakistan's removal from the OGP as of March 2022, is a matter of concern for all stakeholders, especially the ones who have the most vested in this country, its citizens.*

4. *It is imperative to note that the OGP is an independent institution, that aims to create action plans which include concrete reforms. Pakistan's economy and subsequently, its citizens stand to benefit the most from the country's enthusiastic participation, however, at the same time, a lack of initiative with regard to OGP's mandate would leave the same burdened beyond their capabilities, as they already are.*

5. *In view of the foregoing, the current political instability and unrelenting inflation rates, the RTI request in the instant matter was lodged to determine why a promising international platform was not given due consideration. It is important to note, that through the GOP's omission in working towards an action plan, an important policy decision has been made, i.e., to not follow international best practices for the purpose of concrete reforms, and the information required is necessary to ascertain the factual background leading up to this decision.*

6. *Furthermore, the request for information in the instant matter has been undermined on the through frivolous arguments and delaying tactics. Kindly note, that the documents requested are public documents, they are to be recorded by the public body in institutionally managed registry's and are subsequently, open to the scrutiny of the public. The matter at hand relates to policy reforms and efforts made by public servants to make use of international platforms that provide Pakistan an opportunity to work with leading experts of the world for the purpose of concrete reforms beneficial, and as the situation of the country stands, essential for its survival and growth.*

7. *The matter does not relate to any financial transactions, obligations or agreements, as has been alleged by the respondent. Moreover, it is imperative to note, that even if financial matters were under question, the Act does not provide an absolute immunity to financial matters, rather it imposes an obligation to proactively disclose budgets and expenditures for*

the benefit of the public. Hence, should the matter be financial in nature, it would have to satisfy the exceptions provision of the Act and be accompanied with reasonable justifications. These justifications would again be subject to the satisfaction of the relevant statutory body, as empowered by the Act in pursuance of the fundamental right to information guaranteed by the constitution, The Pakistan Information Commission.

8. *In conclusion, it is humbly requested that the matter be expedited with respect to the proceedings pending before the Commission so that my”.*

C. Issues

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

(a) How harm from disclosure of copies of all correspondence of the Respondent with Cabinet Division to seek approval of National Action Plan, developed in consultation with civil society, provincial and federal governments to improve transparency in the functioning of the government, outweighs public interest?

(b) How harm from disclosure of all correspondent (sent to and received from) with OGP Secretariat, a platform *Pakistan* signed up in December 2016 to bring about reforms for greater transparency in the functioning of government departments, outweighs public interest?

D Discussion and commission’s views on relevant issues:

9. **The Appellant has stated that** *“Please note, that the Open Government Partnership (OGP) provides a unique platform for national governments to develop multilateral and coordinated efforts to make their societies more transparent, accountable, and responsive, aspects which are critical for the expansive application of the Right to Information laws”.*

10. *This commission holds that, prima facie, the assertion of the Appellant seems reasonable as Pakistan, realizing the significance of the OGP, signed up for its membership in December 2016.*

11. *While the Minister-in-Charge is required to record reasons for exempting requested information/records from disclosure, the following needs to be kept in mind while recording the reasons:*

(a) *If the requested information is disclosed, whether it will cause harm, or, will it be in the public interest, if citizens of Pakistan come to know as to which minister, or, relevant public functionaries endorsed the decision to sign up for the membership of OGP?*

(b) *If the requested information is disclosed, whether it will cause harm, or, will it be in the public interest, if citizens of Pakistan come to know as to which minister, or, relevant public functionaries opined that the membership of OGP is not in the best interest of Pakistan and on what grounds?*

(c) If the requested information is disclosed, whether it will cause harm, or, will it be in the public interest, if citizens of Pakistan come to know as to what conditionalities were attached for the OGP membership?

Once the Minister-in-Charge has decided about the disclosure, or, otherwise of the requested information based on possible reasons for harm from disclosure outweighing public interest and vice versa, the Respondent will submit decision as well as the recorded reasons for the consideration/decision of this commission.

13 Secretary, Economic Affairs Division is directed to place before the Minister-in-Charge the request for information and the requested records to record reasons as required under Section 7 (f) of the Right of Access to Information Act, 2017, within 7 working days of the receipt of this interim order. Reasons thus recorded be submitted before this commission in the hearing to be held on October 20, 2022 at 11:30 am.

14 Copies of this interim order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: September 22, 2022

This order consists of 05 (five) pages, each page has been read and signed