

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1091-05/21

Mukhtar Ahmed Ali

(Appellant)

Vs.

Establishment Division

(Respondent)

ORDER

Date: November 07, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal from Mr. Mukhtar Ahmed Ali dated May 25, 2021, stating that he submitted an information request dated April 26, 2021 under the Right of Access to Information Act 2017 to Secretary, Establishment Division. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. *The information sought by the Appellant is as under:*
 - “1. Minutes of the meeting of the Central Selection Board (CSB) held on 4th to 7th January 2021;
 2. List of the civil servants who were considered for promotion to the BS-20 but were either superseded or deferred by the CSB during its meeting held on 4th to 7th January 2021;
 3. Copies of ALL "PER Grading and Quantification Forms for Promotions to BS-20" [duly filled in, in accordance with the requirement of Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019), and as developed and presented to the CSB in its meeting held on 4th to 7th January 2021.

4. *Copies of ALL "Panel Performa For Central Selection Board For Promotions to BS-20 Posts" [duly filled in, in accordance with the requirement of Civil Servants Promotion (BPS-18 to BPS-21) Rules, 2019), as developed and presented to the CSB in its meeting held on 4th to 7th January 2021.]*

B. Proceedings

3. In response to the notice of this Commission, the Respondent on June 16, 2021 submitted its response which is as under:
“ I am directed to refer to your notice dated 31-05-2021 on the subject and to attach list of officers who were promoted in each cadre. As regards information regarding the names of those who were not promoted or deferred, the same cannot be shared with the applicant in view of Section 7(g & h), and Section 16(1) c & g (i) and 16(1) h(iii) of the Right of Access to information Act, 2017.”
4. Response submitted by the Respondent was shared with the appellant on June 24, 2021. The appellant on August 11, 2021 submitted rejoinder to the response of the public body.
5. In response to the rejoinder submitted by the appellant, the Respondent has shared the list of the “list of the civil servants who were considered for promotion to the BS-20 but were either superseded or deferred by the CSB during its meeting held on 4th to 7th January 2021. The respondent again claimed that the remaining information is exempted from disclosure under the Right of Access to Information Act, 2017.
6. The appellant on October 13, 2021 again submitted rejoinder to the response of the public body and stated that even the response submitted in Response to Question No 2 is not in accordance with the question that he asked, moreover the information shared is either missing or not readable and not properly certified.
7. The appeal was fixed for hearing on December 07, 2021, December 28, 2021, January 11, 2022, February 01, 2022, February 15, 2022, and October 11, 2022.
8. After multiple hearings, the Respondent through a letter dated 14th February, 2022 submitted its response which is as under;
“Under Section 16(1)(c) [information involving invasion of a privacy of an identifiable individual] and 16(i)(iii) [undermine the deliberative process in a public body by inhabiting the free and frank provision of advice or exchange of views] read with Section 7(g) [record relating to the personal privacy of any individual] of the Right of Access to Information Act, 2017.
ii. This information also hits the provisions of Section 7(g) [record relating to the personal privacy of any individual] of the Right of Access to Information Act, 2017 as the decision of supersessions / deferments of officers is only conveyed/intimated to the individual officers and even not provided to the concerned departments where the officers are serving or posted; and neither notified nor provided to any other person except the concerned

individual being considered the invasion of privacy of an identifiable individual also, in terms of Section 16(1)(c) of the Act ibid.

iii. Public sharing of minutes of CSB and other related solicited documents will expose civil servants to negative social consequences and infringe their privacy which as an individual is also protected in terms of section 7(g) of the Right of Access to information Act, 2017.

iv. Over and above the aforementioned legal position, the solicited record is part of the record that has been classified under Section 7(f) of the Right of Access to Information Act, 2017 and cannot be made public.

It is further added that on the verbal direction of the Commission, original summary on which Prime Minister as Minister-in-charge of the Establishment Division had approved the classification of certain documents in terms of Section 7(f) of the Right of Access to Information Act, 2017, which include the documents solicited by the applicant, has also been presented before the Commission 01-02-2022.

The Establishment Division, therefore, requests that in view of the above mentioned submissions, the appeal of Mr. Mukhtar Ahmad Ali for provision of documents (declared classified) may be rejected”

9. The Respondent neither provided the requested information nor produced the reasons recorded by the Ministry-in-Charge declaring the requested information as classified in terms of Section 7 of the Right of Access to Information Act, 2017.

C. Discussion and Commission’s View on Relevant Issues

10. The commission has to decide
 - Whether the requested information is public record or not?
 - Whether the respondent has provided relevant and complete information to the appellant as requested under the Right of Access to Information Act, 2017, hereafter referred to as Act.
11. This Commission through multiple orders including the Orders on “Appeal No. E253-03/2022 Farhat Mehmood and others Vs Pakistan Institute of Development Economics, Islamabad” held that the requested information is public record under the Act. This commission maintained that The disclosure of ‘minutes of meetings’ and ‘noting on the file’ during the deliberative process is protected to ensure that outside influence does not create hindrances in the deliberative process.
12. It is pertinent to mentioned that the above mentioned order of the Commission is also upheld by the Hon’ble Islamabad High Court.
13. Section 7 (a), (b) and (c) of the Act, clearly mentioned that Exclusion of ‘noting on the file’ and ‘minutes of the meetings’ is subject to a final decision. As such, ‘noting on the file’ and ‘minutes of the meeting’ cannot be shared during the deliberative process.

14. This Commission maintains that the information being requested is not about privacy or private documents of officers, but about official records including decisions of the Board as recorded in minutes of meeting, list of officers deferred or superseded and generally about the service record that was considered during the Board proceedings. Nor does the requested information relate to any intermediary opinion or recommendation, as the Board has already finalized/ approved its recommendations.
15. As the all requested information is public record under the Section 5 of the Act, therefore the public body is bound to provide complete information to the appellant.
16. The fact that the citizens are forced to exercise the Right of Access to Information Act 2017 and have to wait for many months even for the information that should be available on the websites of the public bodies demonstrates that public bodies have not carried out steps for the proactive disclosure of information as required under Section 5 of the Act, 2017.
17. 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

18. Appeal is allowed. Deputy Secretary (Review Board) / Public Information Officer, Establishment Division is directed to provide complete information mentioned in para 2 of this Order to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
19. The Respondent is also directed to take immediate steps to proactively share through the website 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 website of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
20. Copies of this order be sent to Deputy Secretary (Review Board) / Public Information Officer, Establishment Division and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: November 07, 2022

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