

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1880-04/2022

Nadeem Umer

Vs

Al-Shifa Trust Eye Hospital, Rawalpindi

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Nadeem Umer filed an appeal before the Pakistan Commission on Access to Information, Islamabad complaining therein that the request through e-mail dated 1st April, 2022 under the Right of Access to Information Act, 2017 has not been responded by Al-Shifa Trust Eye Hospital, Rawalpindi. The appellant invoking his right under Article 19A of the Constitution of Islamic Republic of Pakistan read with the Right of Access to Information Act, 2017 has sought following information:
 - a. *“Please provide the detailed academic and experience documents of the current executive director of Shifa Eye Trust?”*
 - b. *Please provide the details of patients with billing detail who were treated for eye lenses in Shifa eye hospital during 2020 till date?*
 - c. *Please provide the details of the free eye camps organized by the Shifa eye trust during 2020 till date?*
 - d. *Please provide the details of patients treated in free eye camps during 2020 till date?*
 - e. *Please provide the details of doctors with qualifications and experience currently appointed in Shifa eye hospital?*
 - f. *Please provide the details of international and national donors with grants of Shifa eye hospital during 2020 till date?*
 - g. *How many warning letters and showcase notices have been issued to staff working in Shifa eye trust during 2021 till date?”*

B. PROCEEDINGS

2. The Secretary, Al-Shifa Trust Eye Hospital vide letter dated 11.5.2022, was directed to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.
3. The notice wasn't responded therefore the appeal was fixed for hearing before the Commission on 15.6.2022, 20.06.2022 and finally on 29-06-2022 when Mr. Mubashar Mehmood, M-HR appeared to represent the Al-Shifa Trust Eye Hospital.
4. The General Manager Admin, Al-Shifa Trust Eye Hospital claimed exemption however part of the requested information is made available. The reply filed by the respondent is reproduced here under:

- i. *“Al-Shifa Trust Eye Hospital is a Non Government, Non Profit Charity Organization dedicated to prevention and cure of blindness from all over Pakistan. The Trust provides Free Ophthalmic Treatment both indoor/outdoor to about 80% of the needy patients reporting in this Hospital as well as its Allied Branches in Kohat, Muzaffarabad, Chakwal and Sukkur.*
 - ii. *The information sought by the applicant are private, privileged, exempted and relates to privacy of individual and disclosure of such information will damage the interest of the Charitable Trust which is non governmental, semi-government or funded by the government organization. The Act is not applicable on is Charitable Trust, as per Section 1(2) of the Right of Access to Information Act, 2017, it is applicable to public bodies of the Federal Government, which is read as under:-
“It applies to all public bodies of the Federal Government.”*
 - iii. *However a summary of some required information is also available in our News Letters, which is as under:-*
 - a. *Treatment of Patients at Al-Shifa Trust Eye Hospital Rawalpindi and Allied Hospitals. From 2020 till to date 75,595 patients in total have been treated/operated under arrangements of Al-Shifa Trust.*
 - b. *School Screening Camps. Total No. of School Screening Camps from 2020 till to date have been 335 and 293\, 385 children were checked free of cost.*
 - c. *Outreach Screening/Surgical Camps. A total of 503 outreach Camps have been organized under arrangements of ACCO (Al-Shifa Centre for Community Ophthalmology) from 2020 till to date 350,029 patients were checked and 14,674 patients under went Surgical Procedures free of cost.*
 - d. *This Trust Hospital has about 100 Eye Specialists who are highly qualified and are the best Surgeons in Cataract Surgeries as well as their respective Sub Specialties like (Cornea, Retina, Glaucoma, Pediatrics, Oculoplasty and Ocular Oncology.”*
5. Later the learned counsel on behalf of the respondent filed the written reply/arguments. He has further provided the following information:
- a. The required information sought at serial No. 1 & 5 are available on the website of the Trust. The Executive Director of the Trust Mr. Rizwan Asghar, who is retired Brig. From the Army and performing the duties successfully since 26.06.2006, with dedication, zeal, care and dedications.
 - b. The information sought at No. 2 about number of patients treated is also available on the website which is always updated day by day. The disclosure of the names of the patients and allied detail is third party information and its disclosure is against the law and morality.
 - c. About information required at serial No. 3, it is stated that free eye camps organized by Al-Shifa Trust during 2020 till 30th June, 2022 are 1,129.
 - d. About information required at serial No. 4, it is stated that the patients treated in free eye camps during 2020 till 30th June, 2022 are 4,78,189. The number of patients was very less due to COVID-19.
 - e. The detail of the doctors as required in serial No. 5 is available on the website.
 - f. About information required at serial No. 6, it is stated that this information is confidential and is third party information. Its disclosure is against the policy, interest of the Trust and also against the morality.

- g. About information required at serial No. 7, it is stated that there are a large number of employees working in the Hospital and in routine 2 to 3 warning letters/show cause notices are issued daily.

C. COMMISSION'S VIEW

6. The appellant has asked for the provision of information pertaining to the current executive director, the details of patients with billing detail who were treated for eye lenses, the details of the free eye camps organized, the details of patients treated in free eye camps, the details of doctors with qualifications and experience currently appointed, the details of international and national donors with grants and the detail of warning letters and showcase notices issued to the staff working in Al-Shifa Eye Trust Hospital during 2021 till date.
7. The administration of Al-Shifa Eye Trust Hospital although has provided most of the information but on the other hand has claimed exemption from disclosure. It is stated that Al-Shifa Trust Eye Hospital is a Non Government, Non Profit Charity Organization, that information sought by the applicant are private, privileged, exempted and relates to privacy of individual and disclosure of such information will damage the interest of the Charitable Trust and that as per Section 2 of the Right of Access to Information Act, 2017, it is applicable to public bodies of the Federal Government.
8. Before discussing the merits of the appeal it is imperative to resolve the issue of maintainability of the appeal at the first instance. Section 2(ix)(h) of the Act encompasses the non-governmental organization which has had been directly or indirectly receiving the public funds, subsidy, tax exemption, piece of land or any other benefit connecting public fund. The land underneath the Al-Shifa Trust Eye Hospital is government land entrusted to the trust during the regime of former President of Pakistan, General Mohammad Zia ul Haq. Moreover the respondent in its reply has stated that the trust is funded by the government organizations therefore there is no cavil in holding that the Al-Shifa Trust Eye Hospital is a public body as defined under the Act of 2017.
9. The information and record sought by the appellant is made available by the respondent organization except the names of the patient terming it against the norms of morality. The requested information is also enlisted in the category of public record as defined under the Act, however the Commission considers the stance of the organization appropriate and reasonable as the names of the patients who got their treatment from the trust cannot be disclosed without their consent keeping in view their dignity and privacy, fundamental right under article 14 of the Constitution of Islamic Republic of Pakistan, 1973. It must be taken care that while providing the citizens fundamental right of access to information the other fundamental rights of the citizens must not be penetrated. Likewise the name of any private donor who wishes to keep the secret of his donation is also matter of his/her privacy.

10. Dissenting Note of Information Commissioner Zahid Abdullah:

"I respectfully disagree with my learned colleagues on the following grounds:

- i. *The majority Order relies on unambiguous 'laws of morality' rather than legal provisions of the Right of Access to Information Act, 2017.*

- ii. *The Honourable Parliamentarians, through their collective wisdom have included Section 5 (1) (e) of the Act, 2017 to ensure proactive disclosure of “particulars about the recipients of any concession, permit, license or authorization granted by the public body to counter-check corruption and curb corrupt practices prevalent in public bodies.*
- iii. *The majority Order does not take into the account that the individuals who got treatment as patients are also beneficiaries who got treatment through public funds.*
- iv. *The health-related information of these individuals as patients is protected under right to privacy. As such, health related information of these patients such as nature of the eye disorder and treatment recommended and carried out to each individual, if disclosed, without the express consent of the individual, will infringe upon the right to privacy of an identifiable individual.*
- v. *The individuals who got treatment at these eye camps are beneficiaries of public funds and their names along with addresses is public information and the Respondent is legally bound to share this information while withholding their health-related information.*
- vi. *Similarly, billing details of individuals who got eye lenses through public funds is public information. This information should also be made available on the web site of the Respondent as Section 5 (1) (e) of the Act, 2017 requires “particulars about the recipients of any concession, permit, license or authorization granted by the public body to be proactively published.*
- vii. *There is no stigma attached with free treatment if a person cannot afford such a treatment. In other words, there is no invasion of privacy if community comes to know that a particular individual got treatment for free at Al-Shifa Trust Eye Hospital. Therefore, there is no harm in disclosing the names and addresses of beneficiaries of public funds, if there is at all, it far outweighs the benefits.*
- viii. *The stigma should be attached with people who can otherwise afford but get concessions and benefits from public bodies in connivance with corrupt officials.*
- ix. *The stigma should be attached with those corrupt officials who fudge numbers, register either ‘fake’, or, ‘underserving beneficiaries and embezzle public funds knowing that names and addresses of the recipients of public funds will stay hidden.*
- x. *If names and addresses of beneficiaries are proactively published, as the law requires, it would help curb corrupt practices.*
- xi. *In the majority Order relies on just the numbers of beneficiaries as provided by the Respondent.*
- xii. *As the majority Order does not allow the disclosure of names and addresses of the beneficiaries, the citizen will not be able to counter-check whether these numbers and actual deserving beneficiaries add up and confirm each other.*
- xiii. *The collective wisdom of our Honourable Parliamentarians can be appreciated for ensuring proactive disclosure of names and addresses of the beneficiaries of public funds when we take into consideration how wives of public officials embezzled public funds, meant for the poorest of the poor women under BISP program.*
- xiv. *Had the names and addresses of the beneficiaries of public funds under BISP been proactively disclosed, as required under the Act, 2017, corrupt officials would not have been able to embezzle public funds for such a long time.*
- xv. *The disclosure of the names and addresses of the beneficiaries of the Respondent would serve as a deterrence against corrupt practices. Furthermore, proactive disclosure of names and addresses of the beneficiaries will ensure proper counting of medical gadgets and the amounts involved in such treatments.*
- xvi. *Distinction needs to be made between private and institutional donors of the Respondent.*

- xvii. *The names of the institutional donors and funds donated by each donor cannot be withheld on the grounds of privacy as these donors claim tax exemptions on the basis of these donations.*
- xviii. *The names of private individuals who have donated funds to the Respondent cannot be disclosed without express consent of the private donors.*
- xix. *The Respondent should develop mechanism to seek input from each individual donor as to whether the individual would like or not to disclose the name and the amount donated rather than treating it a private information on its own.”*

D. ORDER

The appeal is disposed of.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

I am not in agreement with the majority decision and have appended my note in the discussion part of this order.

Zahid Abdullah

Information Commissioner

Announced on: October 27, 2022

This order consists of 5 (five) pages, each page has been read and signed.