

Pakistan Information Commission

1st Floor, National Arcade, 4-A Plaza
F-8 Markaz, Islamabad
Website: www.rti.gov.pk
Phone: 051-9261014
Email: appeals@rti.gov.pk
@PkInfoComm



In The Pakistan Information Commission, Islamabad

Appeal No-072-06/2019

Sher Muhammad Chishti

(Appellant)

Vs.

National Assembly Secretariat

Through Public Information Officer

(Respondent)

ORDER

Date: January 18, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal with the commission on 20/03/2019 in which he stated that he had requested information from National Assembly Secretariat, under the Right of Access to Information Act 2017.

2. The information sought by the Appellant, through application dated 2/10/2018, is as under:

- i. “Respectfully it is stated that I have some knowledge about our past rulers available in different books written by many authors. Now I intend to collect information from different quarters about our present ruler- Mr Imran Khan Niazi, Prime Minister of Pakistan. The following information is not available anywhere except your office which may kindly be sent to me at your earliest convenience. I shall be highly thankful to you for this favor.

Period 2013 to 2018

Year	Assembly Sessions Held	No. of days with dates he attended	All benefits Salary
-------------	-------------------------------	---	----------------------------

- ii. National Assembly responded via Letter No. F.1(12)/2018-Ser(Misc), dated 15/10/2020. The text is as under:

“With reference to your application dated 2/10/2018 addressed to Secretary, National Assembly Secretariat on the above noted subject. Attested copy of your CNIC is required to further process the case. You are therefore, advised to submit the same to the undersigned with reference to your application.”

- iii. Another letter was sent by National Assembly, reference No. F.1(12)/2018-Ser(Misc), dated 15/11/2018, text is as under:

“Kindly refer to your application dated 2/10/2018 on the subject noted above and to inform that the requisite information is available on the official website of the National Assembly i.e www.na.gov.pk.”

- iv. A third letter by the National Assembly was sent to the Appellant, reference No. F.1(12)/2018-Ser(Misc), dated 22/11/2018, text is as under:

“Kindly refer to your application dated 12.11.2018 on the subject noted above and to inform that this Secretariat has already conveyed the position to you vide letter dated the 15th November, 2018.”

- v. The Appellant responded with a letter dated 12/11/2018, demanding provision of specific information from the Public Body.

B. Proceedings

3. On June 19/06/2019, First Notice and Acknowledgement Letter were issued to the Respondent and the Appellant respectively.
4. The Public Body responded via letter No. F.1(12)/2018-Ser(Misc) dated 1/07/2019, the relevant text is as under:

“That this Secretariat has already provided the desired information vide Letter No. F-1(12)/2018-Ser(Misc), dated 02/01/2019. However, the information regarding salary/allowances and other perks are prescribed in the Salaries and Allowances Act 1973 is available on the official website of the National Assembly of Pakistan i.e. www.na.gov.pk.

That the Appellant has filed the Appeal on the grounds to get the details of attendance of Mr. Imran Khan, in the National Assembly sessions held from the period 2013 to 2018 which is already available on the official website of the National Assembly of Pakistan.

That as far as second ground of appeal relates to number of days with dates during which Mr. Imran Khan attended the National Assembly sessions in aforesaid period. The requisite information is also available on the website of the National Assembly.

That third ground of the Appellant is about seeking the details of all the benefits, salary/allowances and other perks either monthly or session wise, the competent authority has regretted the information. As far as the details of payments (salary/allowances) made to Mr. Imran Khan are concerned, competent authority has already regretted the same and conveyed to Appellant. The decision of Honourable Speaker being competent authority is final under Rules of Procedure and Conduct of Business in the National Assembly, 2007 which is reproduced as under.

Decision and ruling of the speaker:- *Whenever the speaker decides or gives his ruling on any matter on the floor of the House or in his office on the file, as the case may be, it shall not be called in question, and that shall be final except on a motion for rescinding it.*

It is respectfully, prayed that the instant application being bereft of any substance, may kindly be dismissed.”

5. On 2/7/19 the Appellant confirmed that he had received the Acknowledgement Letter from the Commission.
6. Information sent by the Public Body via Letter No. F.1(12)/2018-Ser(Misc) was shared with the Appellant on 5/07/2019.
7. Via letter dated 11/07/2019 the Appellant expressed dissatisfaction over the response of National Assembly.
8. The Appellant wrote to the Commission on 01/08/2019 confirming whether the Commission had received his letter expressing dissatisfaction or not.
9. On 11/11/2019 Appellant sent a letter to the Commission reminding the Commission that he has not received the requested information.

10. Another reminder was received by the Commission from the Appellant on 13/12/2019 that the requested information has not been received.
11. Another reminder from the Appellant dated 24/12/2019 reminding the non-provision of information.
12. On 7/02/2020 a letter for the reminder of the requested information was sent to the Commission and a copy to the Public Body, by the Appellant.
13. A legal notice was issued to the Commission by the Appellant on 21/07/2020.
14. Through a Hearing Notice dated 25/08/2020, the Commission directed Public Body to appear before the Commission on 3/09/2020.
15. On the 3/09/2020 Mr. Muhammad Usman Ali, Designated Officer, appeared on behalf of National Assembly Secretariat submitted that the Honorable Speaker National Assembly has regretted the provision of requested information to the extent of details of all the benefits, salary/allowances and other perks paid either monthly or session wise to Mr. Imran Khan, MNA. He further submitted that decision of Honorable Speaker is final and immune from the scrutiny of this Commission. He referred to Rule 28 of the Rules of Procedure and Conduct of Business in The National Assembly in support of his argument. He further submitted that the Rules of procedure and Conduct of Business in the National Assembly were framed under Art. 67 of the Constitution and, as such, have the status of law deriving direct mandate from the Constitution. To substantiate his contention he referred to PLD 2014 Supreme Court 131. The Commission invited attention of the Designated Officer to Section 25 of the Act i.e. non-obstante clause and overriding effect of the Right of Access to Information Act, 2017. In response thereto, the Designated Officer submitted that the Ruling or Decision of Honorable Speaker may not be considered as a decision of an individual but the consensus of the Assembly and the same should be respected. He further submitted that decision of Honorable Speaker can only be overturned through motion in the assembly under Rule 28, which reflects that sanctity attached to the decision of Honorable Speaker.
16. A second legal notice was sent to the Commission on behalf of the Appellant dated 1/09/2020.

C. Discussion and Commission's View on Relevant Issues

17. The instant appeal has brought to the fore following questions:
 - (a) Can the exercise of the statutory as well as constitutional right of access to information in matters of public importance be dependent on the Ruling of the Honourable Speaker, National Assembly?
 - (b) Is a public body required to gather information from its web site and share it with the Appellant?
18. This commission is of the view that restrictions on the exercise of the right of access to information are, as enunciated in Article 19-A of the constitution of the Islamic Republic of Pakistan, "subject to regulation and reasonable restrictions imposed by law". The 'law' in this case is the Right of Access to Information Act 2017, henceforth referred to as Act, as its Preamble refers to Article 19A of the Constitution. Therefore, 'reasonable restrictions' on citizens' right of access to information in matters of public importance can only be imposed under relevant provisions of this Act.
19. The will of the citizens of Pakistan, expressed through their elected representatives, in the shape of this Act leads this commission to conclude that:

- (a) The citizens have not accorded absolute powers to any public office holder to restrict access to information through insertion of (f) in Section 7 which pertains to exclusions:
“Records declared as classified by the Minister-in-charge of the Federal Government Provided that the Minister-in-Charge of the Federal Government shall have to record reasons as to why the harm from disclosure of information outweighs public interest and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded”.
- (b) citizens of Pakistan have provided overriding effect to this Act through insertion of Section 25 which is as under:
“Act to override other laws--- The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force”.
20. This commission is of the view that right of access to information in matters of public importance can only be restricted on reasonable grounds supported by law. The Honourable Speaker, National Assembly has restricted access to information about payments (salary/allowances) without providing any reasons.
21. This commission maintains that disclosure of information about the payments (salary/allowances) paid to Members of National Assembly, (MNAs) does not meet the threshold of disclosure outweighing public interest. This commission believes that the expenditure of public money through the payment of MNAs salaries and allowances is a matter of “direct and reasonable interest to taxpayers”, as observed also by UK High Court in a hearing on the issue of payments made to MPs. In fact, the disclosure of information about the payments (salary/allowances) made to MNAs is in public interest as citizens will be able to know how their taxes are being put to use which will lead to reducing trust deficit between citizens and their public institutions.
22. So far as the question of gathering information from web site and sharing it with the applicants is concerned, this commission is of the view that a public body is not required to gather information and share it with applicants if it has already proactively disclosed through its web site. However, public bodies are required to ensure that information/records are made available through the web sites in accessible and easily searchable formats.
23. The Respondent also submitted before this commission that “That as far as second ground of appeal relates to number of days with dates during which Mr. Imran Khan attended the National Assembly sessions in aforesaid period. The requisite information is also available on the website of the National Assembly”. However, when the commission tried to retrieve this information from the web site on January 19, 2021, the links pertaining to 1st Session from 1st June to 5th June 2013 up to 22nd Session from 18th May, to 19th May, 2015 are not working.
24. This commission is of the view that it is not only the responsibility of the federal public bodies to ensure publication of all categories of information mentioned in Section 5 of the Act, they should also ensure the retrievability of information/records. This is only possible when public bodies periodically conduct accessibility audit of their web sites.

D. Order

25. Appeal is allowed. The Public Information Officer, National Assembly Secretariat is directed to provide requested information about the payments (salary/allowances) paid to the Member National Assembly and the attendance record for the time-period mentioned in the request for information within 10 working days of the receipt of this Order.

26. The Respondent is directed to conduct accessibility audit of its web site and submit compliance report to this effect by 22/02/2021.
27. Copies of this order be sent to The Public Information Officer, National Assembly Secretariat, Secretary, National Assembly Secretariat and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
January 21, 2021

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