

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1372-10/21

Ashfaq Ali Shah

(Appellant)

Vs.

State Engineering Corporation

(Respondent)

Order

Date: December 21, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated October 11, 2021, to the Commission, stating that he submitted an information request to Chairman, Board of Trustees Sec Management Pension Fund (SECMPF, State Engineering Corporation on September 11, 2021 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.

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

“SECMPF, It may be appreciated, falls within the purview of the subject act(article 2), as it enjoys tax exemption, is registered/approved under income tax ordinance 1979, and all the money it holds has come from public funds(sec & its units are fully owned by the government of Pakistan)

However, SECMPF does not seem to have implemented the provisions of This Act (In particular articles 5,8 & 9)to make available all record online For access by the beneficiaries of the fund in particular and public in General the said act is attached herewith

SECMPF may, therefore, take necessary steps to implement the stipulations of the subject act. I am of the view that under mentioned documents and information in respect of SECMPF, duly verified/approved, be uploaded on the internet for easy access

1. Trust deed
2. Rules
3. Latest/last audited accounts
4. Latest actuarial valuation
5. Minutes of the last three meetings of the board of trustees
6. Announcements/news regarding disbursement of pension and other related events

B. Proceedings

3. The Respondent, in its response to the notice of the commission submitted through its letter dated November 04, 2021 that:

“It is submitted that SEC Management Pension Fund (SECMPP) Trust was established in year 1984 by State Engineering Corporation (SEC). During its prime time, the Corporation had 13 units including: HMC, PMTF, PECO, HEC, ENAR Pet Rotech Services etc. SECMP operates as an independent Trust with the prime objective to look after the pension benefits retired officers of the corporation and its companies. SECMPF is operated / managed by Board of Trustees comprising of senior officers of SEC and its member companies. The Trust office is maintained in SEC Corporate Head Office which provides operational support. presently, the financial health of Pension Fund is not healthy due to privatization of member companies. Moreover, due to non-remittance of gratuity contribution by its present member companies, the funds are depleting day by day. An amount of Rs.527.965 million on 30.06.2020 is outstanding towards its member companies. It is not possible to deal with individually with almost 700 pensioners via Web-site and mail as it involves extra expense. Further, the applicant was also remained Trustees of SEC Management Pension Fund (SECMPF) and no such practice was existed even his presence / tenure.

In view of the above, the matter may be placed before Board of Trustees of Management Pension Fund (SECMPF) for seeking their advice in the matter.

These issues with the approval of Chairman-SEC Management Pension Fund”.

C. Issues

4. The instant appeal has brought to the fore following questions:
- (a) Has the Respondent implemented provisions of the Right of Access to Information Act 2017, henceforth referred to as “the Act 2017”, including Section 5, 8 and 9?
 - (b) Has the Respondent provided the requested information to the Appellant?

D. Discussion and Commission’s View on Relevant Issues

5. The Right of Access to Information Act 2017 has empowered citizens to seek information from civil servants and they are legally bound to acknowledge their information requests and respond to them within specific time-frame. In the instant appeal, the Respondent neither acknowledged the receipt of the information request nor provided the requested information.
6. This commission holds that the Respondent has not provided specific information as requested by the Appellant and has shared unrelated information.
7. The Right of Access to Information Act 2017 was enacted on October 16, 2017. The Act provided ample time of six months to each Principal Officer of a federal public bodies to ensure the publication of categories of information mentioned in Section 5 on its web site which is as under:

“Section 5

Publication and availability of the record: (1) The principal officer of each public body shall, within six months of the commencement of the this Act, ensure that the following

categories of the information and record are duly published including uploading over the internet or in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources;

- a) Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;
- b) Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect
- c) Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees
- d) Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- e) The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body
- f) A description of its decision-making processes as defined in the Federal government's secretariat instructions, 2004 and any instructions for the time being in force for the public to provide any input into or be consulted about decisions;
- g) Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget;
- h) The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;
- i) Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized
- j) Such other matters which the principal officer of the public body deems fit to be published in the public interest
- k) Such other information as may be prescribed; and
- l) Camera footages at public places, wherever available, which have a bearing a crime:

Provided that if the information or record pertains to a period earlier than the year 2008. The same shall be published within reasonable time”.

8. The Respondent has not intimated about the steps taken to ensure the implementation of Section 8 of the Act which is as under:

“Computerization and Voluntary Disclosure of record:

Each public body shall Endeavour to ensure within the time prescribes in section 5 and that all record accessible under this Act is computerized and is available online so that authorized access to such public records is facilitated”.

9. The Respondent has not implemented Section 9 of the Act which is as under:

“Section 9 Designated Official-- Each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent;

Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official:

Provided further that in case of non- government organization, it may designate a senior officer as per its organizational structure”.

10. In the instant Appeal, the citizen has sought specific information about steps taken by the Respondent to ensure publication of information/records on its web site. This commission is of the view that trust of citizens in public institutions is irrevocably linked with timely and accurate flow of information between citizens and public institutions. However, this would only be possible when Principal Officers of federal public bodies would ensure implementation of the Right of Access to Information Act 2017 in letter and spirit.
11. This Commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.
12. 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”.*
13. Entrusted with the solemn responsibility of protecting and promoting citizens’ constitutional right of access to information in matters of public importance, this commission will leave no stone unturned for the implementation of the Right of Access to Information Act 2017. Citizens of Pakistan through their elected representatives have included in the Act the provision of imposing fine on public official who wilfully delay or deny access to the requested information so that they do not have to pay the undue cost

in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official.

D. Order

14. Appeal is allowed. The Respondent is directed to proactively publish all categories of information through its web site as required under Section 5 of the Act 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 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.
15. The Respondent is directed to designate Public Information Officer as required under Section 9 of the Act, put contact details on its web site as required under Section 5 (1) (h) of the Act and submit notification to this effect to this commission within 10 working days of the receipt of this Order.
16. The Respondent is directed to ensure accessibility of the information proactively published on its web site 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.
17. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

December 21, 2021

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