

**Pakistan Information Commission  
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad**

**Appeal No 1407-10/21**

**Sharafat Ali Zia**

**(Appellant)**

**Vs.**

**National Accountability Bureau**

**(Respondent)**

**Order**

**Date:** March 14, 2022

**Mohammad Azam:** Chief Information Commissioner

**A. The Appeal**

1. This commission has received an appeal from Sharafat Ali Zia dated October 18, 2021, stating that he submitted information request dated September 20, 2021 under the Right of Access to Information Act 2017 to the Chairman, National Accountability Bureau. 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:

*“During the course of investigation of a complaint lodged by the undersigned with Wafaqi Mohtasib (Ombudsman)’s Secretariat it was revealed that the Capital Development Authority (CDA) had provided its record concerning various amenity plots meant for clinic/ hospital/ dispensary including the one located in M.V Chak Shahzad (Shahzad Town) that were converted into commercial plots by CDA from time to time. Copies of NAB’s letter No.NABR20170519922848/20018/IW-3/Inv dated 23.10.2018 and CDA’s letter No. CDA/EM=II/ 7006-7068 dated 18<sup>th</sup> September, 2019 are enclosed in this regard.*

*2. Despite the lapse of over two years’ time by now however, the present status of the case of hospital plot located in M.V Chak Shahzad (Shahzad Town) is not known.*

*3. Therefore, in pursuance of Section 3 of the Right of Access Act, 2017 it is requested that up-to-date information relating to the case of hospital plot located inM.V Chak Shahzad Town (Shahzad Town) may please be provided as indicated below:-*

  - i. Details of investigation undertaken by NAB in the said case since 2019 till now;*
  - ii. Existing status of Case in the backdrop of above-referred NAB investigation; and*
  - iii. Details regarding prosecution/. Conviction, if any, taken place so far in the said case.”*

## B. Proceedings

3. This commission through a notice dated October 25, 2021 sent to the Director (Media) / Public Information Officer, National Accountability Bureau called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent has through a letter dated December 01, 2021 shared response with the Appellant, which is as under:

*“It is to inform you that the under Section 19 of NAO-1999 which states that “Provided that the copies obtained or information received or evidence collected under clauses (d) and (e) shall be (kept) confidential and shall not be used for any purpose other than legal proceedings under the Ordinance”, therefore the information requested by you through your application cannot be shared as per Section 19 of NAO-1999.”*
5. The Appellant on January 05, 2022 submitted rejoinder to the response of the public body, which is as under:

*“Prima facie Clauses (d) and (e) of Section 19 of National Accountability Ordinance, 1999 (Annex-B) referred to above relate to maintaining secrecy of the information collected by NAB during the course of an inquiry (or investigation) proceedings of an offence under the said Ordinance whereas the applicant’s request in the instant case is quite different; it does not pertain to the areas stipulated in the said Clauses. The applicant’s request is intended to seek un-classified information about the section(s) taken by NAB since after the requisition of CDA’s record concerning the hospital plot under reference. As a citizen of Pakistan, the applicant rightfully deserves to know the progress of inquiry made by NAB in the illegal conversion of status of said Hospital plot from an amenity plot (**meant for community welfare**) to that of a commercial plot and its further sale as such after taking into custody the record of that plot by NAB from CDA **over three years ago.**”*
6. Rejoinder submitted by the Appellant was shared with the Respondent with directions to address the queries of the Appellant within 10 working days.
7. The Respondent on February 16, 2022 again repeated its stance and shared the same response which is as under:

*“Kindly refer to your letter in Appeal No 1407-10/21 dated 4th February, 2022. It is informed that NAB has already responded to the letter of Mr. Sharafat Ali Zia vide letter No 1(2295)/2020/DO(R)/IM-1/NAB dated 1st December 2021.*  
*It is further informed that NAB’s response is covered under article 19-A of Constitution of Islamic Republic of Pakistan and Section 16 (Information Exempt from Disclosure) as well as Section 7 (Exclusion of Certain Record) of the Right of Access to Information Act, 2017. Therefore, the information requested by the applicant cannot be shared as per law.”*

## C. Discussion and Commission’s View on Relevant Issues

08. The commission has to decide that whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred as Act.
09. Prima facie, the Appellant in his information request has sought updates/information about an investigation that was initiated three years ago. The citizen has the right to know the status of proceedings on the cases in the best public interest to have check and balance on the public bodies through the Act.

10. This Commission maintain that if the investigation of the said case is finalised, the Respondent is bound to share the final report with the Appellant under the Section 5(i) of the Act.
11. In the instant appeal, the Appellants has asked information regarding the proceedings made on a particular appeal, the requested information also falls within the ambit of the public record under the Section 5(a) of the Act.
12. Refusing an information request simply by mentioning that it is confidential under the Section 19 of National Accountability Ordinance 1999 is groundless. As the Section 25 of the Act override other laws.

*Section 25 states:*

*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.*

13. Disclosure of this information will improve the check and balance on the performance of the public bodies and by practicing Right to Information laws the citizen will be able to make the public bodies accountable for their performance.
14. Purpose of the Act is to ensure the Transparency in the business of the Government, as the Preamble of the Act states,
 

*“Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.*
15. 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.
16. 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”.*
17. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

#### **D. Order**

18. The appeal is allowed. The Director (Media) / Public Information Officer, National Accountability Bureau is directed to provide the information requested in Para-2 with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
19. Director (Media) / Public Information Officer, National Accountability Bureau is also directed to take immediate steps to proactively share through the web site 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 web site of the commission [www.rti.gov.pk](http://www.rti.gov.pk). The compliance report be submitted to this commission within 30 days of the receipt of this Order.

21. Copies of this order be sent to the Director (Media) / Public Information Officer, National Accountability Bureau and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on:

March 14, 2022

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