

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1564-12-2021

Rana Abrar Khalid

Versus

Capital Development Authority

Date of Hearing: 23.02.2022

Fawad Malik: Information Commissioner

Present: *Nemo*

A. APPEAL

1. Mr. Rana Abrar Khalid, preferred his appeal under section 17 of the Right of Access to Information Act, 2017 on December 27, 2021 before the Pakistan Commission on access to information, Islamabad. He alleged that the request for information has not been responded by the Capital Development Authority within the frame of time stipulated under the Right of Access to Information Act, 2017.
2. Through an application dated December 09, 2021 addressed to the Public Information Officer/ Secretary, Capital Development Authority Board he has desired information related to multi-story building project named "Fortune Residency" situated at Street 26, NPF E 11/4, Islamabad. The detailed particulars of the requested information are:
 1. *"Has the Capital Development Authority (CDA) granted NOC to the multi-story building project named "Fortune Residency" situated at Street 26, NPF E 11/4, Islamabad (Islamabad Capital Territory)? If not, how the builder Mr Ashraf Dhaidi, Company build a multi-story building project "Fortune Residency and sold out the hundreds of residents flats / apartments/shops without the legal NOC of Capital Development Authority?"*
 2. *Has the Capital Development Authority approved the lay-out plan of "Fortune Residency" (multi-story building project) situated at Street 26, NPF E 11/4, Islamabad? If yes, please provide the copy of approval.*
 3. *Has the Capital Development Authority put objection on the lay-out plan of "Fortune Residency" (multi-story building Project) situated at Street 26, NPF E 11/4 Islamabad (Islamabad Capital Territory)? If yes, why the Capital Development Authority did not stop the construction of "Fortune Residency" at any stage and why the CDA did not stop/restrict sale of flats/apartments/shops in "Fortune Residency"?"*

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4. *Has the Capital Development Authority (CDA) granted NOC to the multi-story building project named "Fortune Residency" situated at Street 26, NPF E 11/4*

Islamabad? If the answer is No, what steps has the CDA taken so far to demolish the building "Fortune Residency", which was constructed in Sector E-11/4 of Islamabad without CDA approval and NOC?

5. *Has the Capital Development Authority (CDA) granted NOC to the multi-story building project named "Fortune Residency" situated at Street 26, NPF E 11/4 Islamabad? If the answer is no, then why the CDA has not yet sent a case against the owner of the building Ashraf Dhaidi (builder) and others to the National Accountability Buru (NAB)?*
6. *Has the Capital Development Authority (CDA) granted NOC to the multi-story building project named "Fortune Residency situated at Street 26, NPF E 11/4 Islamabad? If the answer is no, don't you know that the illegally constructed multi-story building "Nasla Tower in Karachi has been demolished on the orders of the Supreme Court of Pakistan, if Nasla Tower could be demolished then why illegally constructed "Fortune Residency" (without NOC of Any in Sector E-11/4 of Islamabad has not been demolished yet?*
7. *I would like to know how much bribe CDA staff receives every month from Ashraf Dhaidi or the caretaker of the building in return for not demolishing the illegally constructed "Fortune Residency" (located in Sector E 11/4 Islamabad) or not taking any action against the builder/owner Ashraf Dhaidi. Because Ashraf Dhaidt publicly says that he pays bribes to CDA staff every month due to which no action can be taken against him and Fortune Residency too?"*

B. PROCEEDINGS.

3. The Commission vide notice dated December 29, 2021 directed the respondent to provide reasons in 7 working days of the receipt of the notice as to why the requested information has not been provided to the appellant within ten working days as required under section 14 of Right of Access to Information Act 2017.
4. The notice was not responded; therefore the appeal was fixed for hearing on February 23, 2022 and both the parties were informed accordingly vide notices dated January 18, 2022.
5. At the time of hearing no one represented the asking respondent.
6. Letter No. CDA/SCB/PIC/2022/190 dated 25.01.2022 by the Secretary, CDA Board to Director Housing Societies, CDA with the direction to attend the hearing before the Commission is ample proof that the organization was well aware of the appeal fixed for hearing before the Commission but no one appeared to represent the organization. The letter is available on the file.

C. COMMISSION'S VIEW.

7. While dealing with the matters related to information and record sought by the citizens under the Act of 2017, the public bodies are under obligation to respond the applications as mandated in the Act. In the case in hand the respondent has not acknowledged the application, information is not provided

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to the applicant in the stipulated time frame and the notices of the Commission are ignored. The reply is not submitted and the hearing before the Commission was not represented by the public body despite the serving of the notice. It is presumed that the respondent public body is wilfully avoiding the proceedings

before the Commission and that the public body has nothing in the sleeves to submit in the defence. In such like circumstances the Commission is left with no option but to decide the appeal ex parte after going through the file in light of the Act.

8. The appellant has requested the information and record related to “ Fortune Residency” a multi-story building situated at Street 26, NPF E 11/4, Islamabad. The appellant is desirous to know as to whether the Capital Development Authority granted NOC, whether the Capital Development Authority approved the lay-out plan and any objections rose on the lay-out plan of the Project and other information incidental thereto. The appellant is also interested in knowing the bribe being paid by the owners of the building to the CDA staff for extending favours.
9. The project consists of multiple residential flats / apartments and shops therefore the information and record sought by the appellant is matter of public importance for the public at large. Keeping in view the spirit of the act for upholding the transparency the sort of information is mandated to be published and displayed as required under section 5 of the Act. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practise would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.
10. There is no cavil in holding that the information and record pertaining to the grant of NOC and approval of layout plan must be made available by the CDA on the website as well as on the notice board of the office and at the site to the access of the public at large. The query raised by the appellant at serial number 7 in the request regarding the bribe being paid by the owners of the building to the CDA staff for extending favours does not constitute record in printed or digital form. However if any inquiry against the bribe in the matter is pending, makes a public record as defined under the Act.

D. ORDER.

11. The appeal is allowed. The Chairman, Capital Development Authority is directed to provide the appellant information and record concerned with the grant

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of NOC, approval of layout plan and any inquiry against the bribe pertaining to “Fortune Residency” situated at Street 26, NPF E 11/4, Islamabad, forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 7.3.2022

Certified that this order consists of four pages, each page has been read and signed.