



**In the Pakistan Information Commission, Islamabad**

**Appeal No 1692-01/22**

**Rana Abrar Khalid**

(Appellant)

Vs.

**Senate of Pakistan**

(Respondent)

**ORDER**

**Date:** September 21, 2022

**Mohammad Azam:** Chief Information Commissioner

**A. The Appeal**

1. This commission has received an appeal from Mr. Rana Abrar Khalid dated January 18, 2022, stating that he submitted an information request dated December 27, 2021 under the Right of Access to Information Act 2017 to the Senate Secretariat. 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:
  1. *“Please provide the list of officers (working in the & with the Senate Secretariat) who are holding dual citizenship?”*
  2. *Please provide the list of officers (working in the & with the Senate Secretariat) who got marriage to a foreign national?*
  3. *Please provide the list of officers (working in the & with the Senate Secretariat) who are providing their services or consultancy (temporary/regularly/part time) to the local or international (or both) NGOs, Community Development Organizations, Community Development Corporations, Non-Profit Organization, think tanks, research organizations/centers, consultancy firms/ organizations?*
  4. *What action has the Senate of Pakistan taken against many officers who have foreign citizenship or are married to a foreign national or are providing their services or consultancy (temporary/regularly/part time) to the local or international (or both) NGOs, Community Development Organizations, Community Development Corporations, Non-Profit Organization, think tanks, research organizations/centers, consultancy firms/ organizations?”*

**B. Proceedings**

3. Through a notice dated Jan 24, 2022, sent to Secretary, Senate Secretariat, the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not

been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.

4. The respondent through a letter received on February 15, 2022 submitted response which is as under:

“ That the information or record asked by the appellant does not *stricto sensu* falls within the ambit of term “public record” as envisaged by Section 6 of the Right of Access to Information Act, 2017.

2. That under Rule 8 of the Right of Access to Information Rules, 2019 an appellant is bound to attach a certificate with the appeal stating therein that he/she has not already or concurrently filed any application, complaint or suit before any other forum or court. However, said provision of Rule 8 has not been adhered to in the instant case hence the appeal is not maintainable in its present form.

**On Facts:**

That under Section 14(3) of the Pakistan Citizenship Act, 1952, a citizen of Pakistan is allowed to be citizen of United Kingdom and colonies or such gazette specify in this behalf. Regarding marriage with foreigners, Rule 3(2) of the Government Servants (marriage with Foreign Nationals) Rules, 1962 allows marriage with foreigners subject to prior permission of federal government. Similarly, under Rule 3 of the Civil Servants (Service in International Organizations) Rules, 2016 a civil servant is allowed to seek employment in international organization subject to prior permission of the federal government. Thus, it is abundantly clear that dual nationality, marriage with foreigners or service in national or international NGOs I not specifically barred under existing legal regime. Consequently, the Senate Secretariat is not legally bound to maintain or share record/information of the officers as asked by the application.”

5. The response submitted by the public body was shared with the appellant on February 16, 2022.
6. The appellant on March 10, 2022 submitted its rejoinder to the response of the public body, which is as under:

“I received the response of Secretary Senate of Pakistan regarding my Appeal No. 1692-01/22 through this honorable Commission on February 16, 2022, in which Secretary Senate has been refused to provide information which I demanded in my RTI request. The response of Secretary, Senate of Pakistan is totaling dissatisfactory because...

1. Secretary, Senate of Pakistan did not seek exemption under the Section 7 and 16 of the Right of Access to Information Act, 2017 in his response.
2. In fact, only section 7 and 16 of the Right of Access to Information Act, 2017 relating to information exemption from disclosure, while the provision of information which does not fall under the said sections is mandatory for the Government.
3. To the best of my knowledge, the information sought in the RTI Request falls under sub section ‘b’ states that “transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties and functions” and sub section ‘c’ also states that “information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body” is declaration of public record. Of course, questions of RTI request relating to the expenditure of Senate and benefits, privileges, contracts, agreements and appointments of its officers/employees.

4. *The Finance Division has already sent me the information in response to another RTI request (obtained from its three sub departments / wings) asking the same question. If the Secretary of the Senate's exemption claim (information requested) cannot be provided under section 6 of the Right of Access to Information Act 2017, then why has the Finance division sent me the same information from its three sub-departments / wings, why PIO Finance Division did not put objection?*
  5. *In the past, the Higher Judiciary has ruled in favor of the collecting / compiling and presenting the information of government officials / employees with dual citizenship, while at the behest of the judiciary, the said information was also provided, which is now a public record.*
  6. *I have been submitted the declaration before the honorable Commission according to the Rule 8 of the Right of Access to Information Rules 2019 that I have not already or currently filed an application, complaint or suit before any other forum or court for demanded information.*
  7. *How inappropriate it is for the Secretary of the Senate to say in his response that "it is abundantly clear that dual nationality, marriage with foreigners or service in national or international NGOs is not specifically barred under existing legal regimes. Consequently, the Senate Secretariat is not legally bound to maintain or share record/information of the offices as asked by the application". Under the Right of Access to Information Act, 2017 are the government departments bound to provide only information that falls under the category of prohibition/restriction on government officials / employees?"*
7. Rejoinder submitted by the appellant was shared with the public body on March 11, 2022 with the directions to submit response to the queries of the appellant within 10 working days.
  8. The appeal was fixed for hearing on June 14, 2022 and both parties were informed through notices sent on May 17, 2022
  9. The appeal was again fixed for hearing on August 23, 2022 and both parties were informed through notices sent on August 02, 2022. Mr. Shahid Qureshi, Assistant, Senate Secretariate attended the hearing and requested time for the provision of the information, which was allowed and hearing was adjourned for August 25, 2022.
  10. Mr. Muhammad Javed Iqbal, Deputy Director, Senate Secretarit, attended the hearing held on August 25, 2022 but did not submitted response/information.

### **C. Discussion and Commission's View on Relevant Issues**

7. The question for the consideration of the commission is that whether the information requested by the citizen is public information/ record? And whether the public body has fulfilled its duties as defined in the Right of Access to Information Act, 2017 hereafter referred as Act?
8. The information requested by the appellant belongs to the Section 5(d) of the Act.

Section 5(d) is as under:

*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;"*

9. The requested information is also public record under the Section 6(b) and (c) of the Act.

Section 6(c) is as under:

*“(c) Information regarding grant of licenses, allotments and other benefits , privileges, contracts and agreements made by a public body;”*

10. The public bodies are bound to ensure that all such categories of the information and record defined in Section 5 of the Act are duly published including uploading over the internet or in a manner which best ensures that these are accessible to the public.
11. According to Section 9 of the Act, 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; but the Respondent has not so far nominated any official to deal with the information request of the citizen.

#### **D. Order**

12. The appeal is allowed. The Secretary, Senate Secretariat 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.
15. The public body 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 by November 23, 2021.
16. The Respondent is also directed to designate Public Information Officer as required under Section 9 of the Act and upload its notification along with the name, designation and contact details on its website as required under Section 5 (1) (b) and (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
17. Copies of this order be sent to the Secretary, Senate Secretariat and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on:

October 21, 2021

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