

**Pakistan Information Commission  
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad  
Appeal No 1700-01/22**

**Uzair Ahmad**

**(Appellant)**

**Vs.**

**National Bank of Pakistan**

**(Respondent)**

**ORDER**

Date: August 19, 2022

Zahid Abdullah: Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated January 01, 2022 to the Commission, stating that he submitted an information request to the Manager, National Bank of Pakistan on December 14, 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 follows:

گزارش سائل نے 2008 سے لے کر 2008 تک ہونے والے سٹریٹ براری نیشنل بینک آف پاکستان بہاولنگر میں پیشینہ مد میں ہونے والے فراڈ نسبت اپنی تحریری درخواست میں بھی گزارا FIA پریزیڈنٹ نیشنل بینک آف پاکستان، وزیراعظم اسلامی جمہوریہ پاکستان کو گزارا ہے۔ جتنا بوالہ مذکورہ فراڈ کے بارہ میں سائل نے ایک درخواست محکمہ ہے جو کہ امیر کاروائی ہے

سائل بطور پاکستانی شہری محکمہ جات میں کرپشن لعین، بدانتظامی، لاقانونیت سے متعلق درخواست گزار نے کابینہ دی حق رکھتا ہے۔ دیے ہیں (Remarks) سائل نے جو کہ درخواستیں اعلیٰ حکام کو گزارا میں ان کے بارہ میں سٹیژن پورٹل پر بھی آواز اٹھائی جس پر پریزیڈنٹ نیشنل بینک آف پاکستان نے جس کو بار بار پڑھ کر میرے ذہن میں مختلف سوالات پیدا ہوئے ہیں جن سوالات کے جوابات حاصل کرنا اسٹٹ ٹوانفار میشن ایکٹ 2017 کے تحت سائل کابینہ دی حق ہے اور چونکہ بطور میجر آپ کی جانب سے سول دعویٰ کی صورت میں سول کورٹ اسیشن کورٹ رجوع بھی کیا گیا ہے سائل کو مطلوبہ سوالات کی جو انفار میشن درکار ہیں وہ درج رہیں ہیں۔ بہ کہ سال 2006ء سے 2008 تک بینک میں تعینات ہونے والے شاف کے نام اور ان کی ذمہ داریاں کیا تھیں؟

کہ جو عارضی طور پر تعینات ہونے والے ملازمین کے خلاف مقدمہ نمبر 08/302 درج کروایا گیا ہے ان ملازمین کو کس مجاز اتھارٹی نے پینشن کے سکروول مرتب کرنے اور اکاؤنٹ آفس بہاولنگر میں بھجوانے کا القیاد یا تھا اور ان ملازمین کی بطور کیتر پیشینہ کلرک اور تمام تر فیشن ویکٹ کی ادا نیگیوں کی ذمہ داری کس مجاز اتھارٹی کے حکم سے عمل میں لائی میں تحریر کیا ہے کہ سول سیشن کورٹ سے اپیل خارج (Remarks) گئی؟ اگر تحریری حکم دیا گیا ہے تو حکم نامہ کی کاپی بطور انفار میشن دی جائے۔ الا یہ کہ پریزیڈنٹ نے اپنے

Now the appeal is pending with Honourable Lahore high EL court Bahawalpur branch and the same is Adjourned and no date is yet to be fixed

مذکورہ بالا عبارت تحریر کی ہے جس کی نسبت اوپیلرٹ پٹیشن نمبر جو کہ جنابوالہ کی جانب سے عدالت عالیہ لاہور ہائی کورٹ پیج بہاولپور میں دائر کیا گیا ہے اور تاحال بقول جٹا V- بوالہ کے زیر ساعت بھی ہے۔ اس کی معلومات فراہم کی جائیں۔ اگر اپیل کی کاپی بھی سائل کو دے دی جاوے تو سائل شکر گزار ہوگا۔ یہ کہہ جو کہ ملک نیشنل بینک آف پاکستان نے جاوید اشرف بھٹی، ملک قاسم ودیگر کے خلاف انکوائری کی ہے اس انکوائری میں مقدمہ نمبر 08/302 بینکنگ جرائم کورٹ کے فیصلہ کو پیش کیا گیا تھا اور اسی طرح جنگ جرائم کورٹ کے فیصلہ کے خلاف لاہور ہائی کورٹ پیج بہاولپور میں کریمینل اپیل کی گئی کیا اس کے فیصلہ کو بھی مخکمانہ انکوائری میں پیش کیا گیا تھا؟؟؟ اس بارے میں مکمل مفصل میں بینک نے تحریر کیا کہ یہ گاڑی (Remarks) معلومات فراہم کی جائیں۔ ی۔ہ۔ک۔ جاوید اشرف بھٹی کے بارہ میں سرکاری گاڑی کے استعمال کی شکایت کی گئی ہے اس کے ریکوری کے لیے استعمال ہوتی ہے اسے جاوید اشرف بھٹی ذاتی استعمال میں نہلاتا ہے۔ جس پر سائل جاننا چاہتا ہے کہ ایسے کون کون سے بینک ڈیفالٹریں جن کی رہائش ہارون آباد برانچ سے شروع ہو کر عدن ویلی (جاوید اشرف بھٹی کی رہائش تک آتے رہتے ہیں ان ڈیفالٹر کے نام بھی بتائے جائیں؟

جنابوالہ مذکورہ معلومات سائل کو بغرض قانونی چارہ جوئی جو کہ سائل نے عرضداشت گزار دی ہیں ان میں معاون ثابت ہوگی اور مذکورہ بالا معلومات حاصل کر نارائنٹ ٹوانفار میشن میں مہیا کرنے کے پابند ہیں۔ Ten Working Days ایکٹ 2017ء کے تحت سائل کا بنیادی حق ہے جو کہ جنابوالہ سائل کو سے حالات بالا نہایت ادب سے استدعا ہے کہ سائل کو مذکورہ بالا معلومات رائنفار میشن ایکٹ 2017ء کے تحت فراہم کی جائیں عین نوازش ہوگی تحریر

## B. Proceedings

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on May 03, 2022 and its text is as under:  
*"That the appellant has no locus standi to file the instant appeal against National Bank of Pakistan (NBP), hence the same is liable to be dismissed.*

*2. That the appellant filed the titled appeal for the provision of record of other employees of NBP to which he has no concern whatsoever. He filed this appeal under ulterior motives to blackmail and pressurise the respondent bank. He sought the information of other employees of the respondent bank just to harm on the respondent bank, engage it and its thousands of employees in litigation. He has misused the beneficial piece of legislation (the Right of Access to Information Act 2017) for his personal vendetta in such a blatant fashion which is unwarranted under the Constitution and law*

*3. That provision of the information and record sought by the appellant from the NBP is relating to its employees inducted in the bank during the period 2006 to 2008 is nothing but an invasion in the personal privacy of the identifiable individuals.*

*4. That the provisions of the Right of Access to Information Act 2017 are not applicable on the record relating to the personal privacy of any individual under section 7(g) of the said Act. Moreover, the information sought by the appellant is exempted from disclosure under section 16(b)(c)) of the RTIA Act 2017.*

*5. That as regards the information sought pertaining to the thousands of employees of the petitioner Bank, the same fell in the category of personal information of the bank employees which was exempted from disclosure as per section 7(g) of the Act 2017. In this context, the*

*Supreme Court of India in case titled Girish Ramachandra Deshpande vs Central information Commission & ors SLP(C) No. 27734 of 2012 held as under:*

*13 The performance of an employee/ officer in an organization is primly a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central public Information Officer or the state public information officer of the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate order could be passed but the petitioner cannot claim those details as a matter of night.*

6. That in the said backdrop, the titled appeal filed by the appellant is not maintainable and is liable to be dismissed in the supreme ends of justice

*Reply on facts:*

*That the contents of the titled appeal are false, frivolous, against law and facts, hence denied vehemently. The information/record sought by the appellant through this appeal are relating to other employees of NBP, to which he has no concern whatsoever. He filed this appeal under ulterior motives to blackmail and pressurizes the respondent bank. The information sought is pertaining to the thousands of employees of the respondent Bank, the same fell in the category of personal information of the bank employees which was exempted from disclosure as per section 7(g) of the Act 2017 read with article 17-A of the Constitution of the Islamic Republic of Pakistan 1973. The appellant has stated in his appeal that the matter is sub-judice before the Federal Investigating Agency (FIA), civil court, sessions court, Banking Offences Court and the Hon'ble High Court, so the information sought by him is exempted for its disclosure as envisaged under section 16(b)(c)(i)) of the RTIA Act 2017.*

*That in reply to para-i of the appeal, it is submitted that the information sought by the appellant in this Para is the personal information of the NBP employees. As such the record requested by the appellant, concerning other officials/employees of the bank, such request of the appellant cannot be acceded to for the reason that sections 7(g) and 16(c) of the Act 2017 safeguards the personal privacy of the individuals, so the same is exempted from disclosure as per the provisions of the RTIA Act 2017 read with article 17-A of the Constitution of the Islamic Republic of Pakistan 1973.*

*That in reply to Para-ii of the appeal, it is submitted that the appellant has himself asserted in this para that case FIR No. 302/2008 has been registered against the employees, so in such situation, the information sought by him is exempted from disclosure as envisaged under section 16(b)(c)(i)(j) of the RTIA Act 2017.*

*That in reply to Para- of the appeal, it is submitted that the appellant himself stated that the matter is sub-judice before various fora ie the learned civil court, learned sessions court and the Hon'ble High Court The proceedings pending before or decided by the learned civil Court, learned District & Sessions Court and the Hon'ble High Court are under the exclusive domain and control of the concerned Hon'ble court and the NBP has no concern to hold such information under the RTIA. The relevant rules and regulations and the law is available to deal with such situation ie provision of certified copies of records). Any information required by the appellant pertaining to the court cases, he should have to approach the concerned office of the Court as per the procedure prescribed under the law.*

*iv. That in reply to Para-iv of this appeal, it is submitted that the appellant himself asserts in this para that case FIR No. 302/2008 has been registered against the employees, decided by Banking Offences Court and pending before the Hon'ble High Court. Any proceedings pending before or decided by the learned Banking Offences Court, and the Hon'ble High Court are under the exclusive domain and control of the concerned Hon ble court. The relevant rules, regulations and the law is available to deal with such kind of situation ie provision of certified copies of record). Any information required by the appellant pertaining to the court cases, he should have to approach the concerned office of the Court as per the procedure prescribed under the law. In such situation, the information sought by him is exempted from disclosure as envisaged under section 16(b)(c)(i) of the RTIA Act 2017*

*That in reply to Para v of the appeal, it is submitted that the information sought by the appellant pertaining to personal information of the employees of the NBP and its customers which cannot be given to him in any manner under the law. The information sought by the appellant relates to personal privacy of the identifiable individuals and the case/prosecution sub-judice before the court of competent jurisdiction, so the same are*

*excepted from disclosure under the provisions of sections 7 (g) & 16(b)(c)) of the RTIA Act 2017*

*That from the contents of the instant appeal, the intention of the appellant is very much clear that he wants to use the information to take action against the NBP. Admittedly, the appellant has no concern whatsoever with the NBP or connection with the information sought. He sought the information of other employees of the respondent bank just to inflict harm on the respondent bank, engage it and its thousands of employees in litigation to get his nefarious designs. He has misused the beneficial piece of legislation (the Right of Access to Information Act 2017) for his personal vendetta in such a blatant fashion which is unwarranted under the Constitution and law .*

*That affidavit of Mr. Muhammad Riaz Senior Vice President, Wing Head HR Legal Compliance North (authorized) attorney of the petitioner bank) in support of this reply is attached herewith.”*

5. Hearing on the instant Appeal was fixed for May 26, 2022 vide letter dated May 12, 2022.

### **C. Issues**

6. The instant appeal has brought to the fore the following issues:
  - (a) Is an applicant required to establish locus standi to seek information from a public body under the Right of Access to Information Act, 2017, henceforth referred to as the Act 2017?
  - (b) Can the requested information be exempted from disclosure on the grounds of *lis alibi pendens* as submitted by the Respondent that the matter is *sub judice* in the court?
  - (c) Can the right to privacy of the staff of the public body trump the information about their roles and responsibilities and as to who assigned them these roles under the Act, 2017?

### **D Discussion and commission’s views on relevant issues:**

7. An Applicant is not required to establish locus standi for seeking information permissible under the Act 2017. Furthermore, the Act 2017 specifically requires public bodies not to ask from the Applicant purpose for seeking information under its Section 11 (5).
8. This commission maintains that the requested information permissible under the Act, 2017 cannot be denied on the grounds of *lis alibi pendens*.
9. This commission has maintained through its different Orders that pendency of the writ petition between the parties does not bar the provision of information under the Act unless specifically barred by the court itself, or, under the provisions of the Act. Therefore, the contention of the Respondent that “Section 16 (i) (v) of the RAI Act, 2017, *inter alia*, states that the information may be exempted if its disclosure is likely to prejudice the proceedings in a court or a tribunal” does not hold water.
10. Our ability to exercise our fundamental right of access to information enables us to attain our other fundamental rights such as gainful employment, right to life, right to clean drinking water, right to breathe in clean air and right to healthcare services etc. In fact, the constitutional right of access to information helps citizens in the exercise of right of access to justice as well by having access to records/information to effectively present their cases in the court of law.
11. This commission maintains that the disclosure of the requested information about the staff which was recruited from 2006 to 2008, their roles and responsibilities, who assigned

responsibilities to this staff and written order to this effect is public information under the Section 5 of the Act 2017.

12. The Respondent has also invoked Section 7 (g), privacy clause of the Act, 2017 for denying access to information to the Appellant.
13. This commission has observed that public officials have limited understanding about right to privacy when juxtaposed with the right of access to information held by public bodies. Privacy/personal information is understood to be, broadly speaking, information/data pertaining to access control (username and/or password), financial information such as bank account, credit card, debit card, or other payment instruments, and, passports, biometric data, and physical, psychological, and mental health conditions, medical records, and any detail pertaining to an individual's ethnicity, religious beliefs etc.
14. The Act, 2017 envisages a situation wherein a document, which should be otherwise be made public but its parts may contain private information. In such an eventuality, the part containing private information can be severed from the document as mentioned in Section 16 (1) (i) of the Act, 2017.
15. 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 of 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.
16. This commission has also noticed that even when Public Information Officer, (PIO) is designated under the Act, information to this effect is either not provided on the web site, or, if it is provided, it is not displayed at a prominent place on the web site.
17. This commission holds that the federal public bodies should ensure that the name, designation, telephone number and E-mail of the PIO is placed at top right corner of the home page of their web sites. Furthermore, as a PIO is designated by post, any change to this effect should be immediately updated on the web site.
18. 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".*

#### **E. Order**

19. The Appeal is allowed. The Respondent is directed to provide the Appellant information requested in para 2 of this Order pertaining to the staff which was recruited from 2006 to 2008, their roles and responsibilities, who assigned responsibilities to this staff and written orders to this effect at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.

20. 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:

August 23, 2022

This order consists of 6 (six) pages, each page has been read and signed.