



**In the Pakistan Information Commission, Islamabad**

**Appeal No 1706-01/22**

**Mukhtar Ahmed Ali**

**(Appellant)**

Vs.

**Registrar, Supreme Court of Pakistan**

**(Respondent)**

**ORDER**

**Date:** August 24, 2022

**Zahid Abdullah:** Information Commissioner

1. The Appellant filed an appeal, dated January 01, 2022, to the Commission, stating that he submitted an information request to the Registrar, Supreme Court of Pakistan on November, 29, 2022 under the Right of Access to Information Act 2017 and that he was not satisfied with the response of the public body.

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

*“Copies of relevant rules, regulations, orders and decisions which provide guidance/ direction about how the Supreme Court’s accounts should be audited;*

- 1. Audit reports of the Supreme Court’s accounts for the last five years including FY 2019-20, FY 2018-19, FY 2017-18, FY 2016-17, and FY 2015-16; and*
- 2. Details of any fee, compensation or charges paid to audit firms for the conduct of audit of Supreme Court accounts for the last five years i.e. if the audits were conducted by private firms and no by the Auditor General of Pakistan”.*

**B. Proceedings**

3. Through a letter dated January 14, 2022, the Respondent provided the following response to the Appellant:

*“With reference to your requested dated 29.11.2021, I am directed to inform you that right to seek information has been granted under Section 3 of the Act, 2017. According to the said provisions of the Act, information and record held by a public body. It is evident that only information and record held by a public body. It is evident that only information and record held by a public body is accessible under the Act, 2017. As “Public Body” is a defined term under the Act, 2017 only public bodies falling within the ambit of the said definition can be required to provide the information under the provisions of the Act, 2017, Although the definition of the “Public Body” provided in the Act, 2017 is very exhaustive, yet .the legislature in its wisdom did not include this Court within the folds of said definition and excluded it from the purview of the Act, 2017*

1. *In view of above, request for information received vide your request dated 29.11.2021 being outside the purview of the Right of Access to Information Act, 2017 cannot be entertained under the law and accordingly regretted*
2. *These issues with the approval of the Competent Authority”.*

**C. Issues**

4 The instant appeal has brought to the fore the following issues:

- (a) Do proceedings on the instant appeal warrant sine die adjournment?
- (b) has the legislature in its wisdom included this Court within the folds of the definition of public body and excluded it from the purview of the Right of Access to Information Act, 2017, henceforth referred to as the Act, 2017?

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

5. The record on the file pertaining to Appeal No 060-06/19 in the case titled Mukhtar Ahmed Ali vs Supreme Court of Pakistan suggests that the maintainability of the Writ Petition No. 4284/2021 is under consideration of Honourable Islamabad High Court which means that it is at pre-admission stage. The question in this petition under consideration is whether the Registrar of the Honorable Supreme Court of Pakistan is competent to invoke the jurisdiction of the court and whether the same falls within the definition of aggrieved person in the context of Article 199 of the Constitution and not the Order of the Commission itself, at least at this stage.
6. This commission maintains that the pendency of a writ petition regarding the admissibility of another matter cannot be a valid ground to stop the Commission from performing its functions in other appeals before it.
7. The Act does not accord blanket exemption to any public institution. This commission has already held that Registrar office of Honourable Supreme Court of Pakistan comes within the definition of public body under Section 2 (xi) (e) which is as under:  
“Any court, tribunal, commission, or board under the Federal law;”.
8. In the absence of any judgement of any of the High Courts, or, of the Supreme Court which bars citizens from seeking information from the Registrar, Supreme Court, under the Right of Access to information Act on the grounds that it is tantamount to curbing independence of the judiciary, this commission is left with no option but to determine likelihood of any such eventuality.
9. The honourable Supreme Court as a public institution performs two kinds of functions i.e., a) judicial functions and b) administrative functions pertaining to procurements and recruitments, involving public funds, like any other public institution.
10. This commission is of the view that the exercise of constitutional and statutory right of citizens in matters of public importance through the Act is neither likely to, nor, designed to curtail independence of the superior judiciary. This commission also believes that exercise of constitutional right of access to information in matters of public importance through the Act cannot be equated with executive oversight of superior judiciary.
11. The categories of information to be proactively disclosed under Section 5 of the Act have no bearing on the independence of the judiciary. Similarly, the information to be provided to the applicants under Section 6 of the Act is also not in conflict with the independence of the judiciary. Furthermore, the Public Information Officer to be designated under the Act

will receive applications and can turn down any request for information which is likely to impact independence of the judiciary, relying on the relevant exemption clauses of Section 7 and 16 of the Act.

12. This commission is of the view that the constitutional right of access to information in matters of public importance can only be restricted on reasonable grounds supported by law. This commission holds that only provisions of this Act can restrict disclosure of any information.
13. This commission maintains that the disclosure of the requested information is permissible under the provisions of the Act, 2017.
14. This commission maintains that the Respondent was legally bound to proactively publish the requested information about “Copies of relevant rules, regulations, orders and decisions which provide guidance/ direction about how the Supreme Court’s accounts should be audited”, on its web site as required under Section 5 of the Act, 2017.
15. Similarly, the Respondent was legally bound to proactively publish the requested information about “Audit reports of the Supreme Court’s accounts for the last five years including FY 2019.20. FY 2018-19, FY 2017-18, FY 2016-17, and FY 2015-16”, through its web site as required under Section 5 of the Act, 2017.
16. This commission also holds that the requested information about “Details of any fee, compensation or charges paid to audit firms for the conduct of audit of Supreme Court accounts for the last five years i.e., if the audits were conducted by private firms and no by the Auditor General of Pakistan”, is permissible under Section 6 (b) and (c) of the Act, 2017.
17. It is pertinent to mention here that this commission has maintained through its different Orders 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**

18. The Appeal is allowed. Worthy Registrar, Supreme Court of Pakistan is directed to provide the Appellant the requested information in para 2 of this Order, at the earliest, but not later than 7 working days of the receipt of this Order, with intimation to this commission.
19. Worthy Registrar, Supreme Court of Pakistan is 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, ensuring accessibility of the information proactively published on its web site for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities.
20. Worthy Registrar, Supreme Court of Pakistan 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](http://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.

21. 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 24, 2022

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