

Pakistan Information Commission
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In The Pakistan Information Commission, Islamabad

Appeal No 1831-03/22

Hidayat Ullah

(Appellant)

Vs.

National Accountability Bureau

(Respondent)

ORDER

Date: July 20, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal from Mr. Hidayat Ullah Khan dated March 21, 2022, stating that he submitted an information request dated February 23, 2022 under the Right of Access to Information Act 2017 to the Director General, National Accountability Bureau, Peshawar. 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:

“Clause (b) ii of sub-section (1) of section 16 of the Right of Access to Information (RTI) Act, 2017 states that information may be exempt if its disclosure is likely to harm the detection, prevention, investigation or inquiry in a particular case. However, clause k) of the very sub-section states as under,

The exemptions set out in section 16 shall cease to apply after every twenty years and that record of public bodies shall be made public.

2. That NAB reference No. 1 of 2001 titled STATE versus 1. Inayat ullah Khan S/O Haji Atal Khan Ganadapur supervisor (Retd.) Agricultural Engineering Department resident of 7-the Mall D. I. Khan (Accused No. 1),

Hidayat Ullah Khan S/O Haji Atal Khan Gandapur Superintending Engineer, Irrigation NWFP, Peshawar Resident of D. I. Khan (Accused No. 2) was submitted before the Accountability Court NWFP Peshawar by chairman NAB on 21 December 2000. Therefore, the period of exemption from disclosure under section 16 of RTI Act, 2017 stands expired.

In light of the above stated facts, furnishing the record of information/complaint leading to investigation and ultimately filing of the reference No. 1 of 2001 in the Accountability court Peshawar is requested in accordance with the relevant provisions of the RTI Act, 2017 at your earliest convenience.”

B. Proceedings:

3. Through a notice dated April 05, 2022, sent to Director (Media) / Public Information Officer, National Accountability Bureau, the Commission called upon the Respondent to submit reasons for not providing the requested information, which was not replied within the given time.
4. The appeal was fixed for hearing on June 14, 2022 and both parties were informed through notices sent on May 17, 2022.
5. The appeal was again fixed for hearing on June 28, 2022, but the respondent neither submitted any written arguments nor attended any hearing.

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

6. The commission has to decide 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 to as Act.
7. The record requested by the appellant is regarding a case of year 2000 submitted by the National Accountability Bureau in the Court. According to Section 16(k) of the Act the record held by any public body even if it is exempted under the act is a public record after twenty years.
8. Section 16(k) is as under:
“k) The exemptions set out in section 16 shall cease to apply after every twenty years and that record of the public bodies shall be made public.”
9. Moreover, the appellant has the right to have access to the requested information and he and his father were the accused in the said case. It is their basic right to have access to the record on the bases of which an investigation was initiated against them.
10. 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”.
11. The Commission also expresses concerns over the non-serious behaviour of the Respondent, as despite providing multiple opportunities and conducting multiple hearing the respondent neither submitted any written argument nor attended any hearing.

12. This Commission observes that the Respondent is continuously wilfully denying the Right of Access to Information as guaranteed in the Article 19A of the Constitution of Pakistan, and the Right of Access to Information Act 2017 by not implementing the earlier passed verdicts of this Commission in multiple orders.
13. 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.
14. 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".

D. Order

23. Appeal is allowed. Director (Media) / Public Information Officer, National Accountability Bureau is directed to provide complete information mentioned in para 2 of this Order to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
24. The Respondent is also directed to take immediate steps to proactively share through the website 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 on the website of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
25. Copies of this order be sent to 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: June 20, 2022

This order consists of 3 (three) pages, each page has been read and signed.