

Pakistan Information Commission
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In The Pakistan Information Commission, Islamabad

Appeal No 1896-05/22

Sharafat Ali Zia

(Appellant)

Vs.

Cabinet Division

(Respondent)

ORDER

Date: July 20, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal from Mr. Sharafat Ali Zia dated May 06, 2022, stating that he submitted an information request dated April 18, 2022 under the Right of Access to Information Act 2017 to the Deputy Secretary (Coord) / Public Information Officer, Cabinet Division. The public body has refused to provide requested information to him 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:
 - (a) *“Year-wise particulars of gifts, valuing each Rs. 100,000/- and above, received by different Pakistani dignitaries. Senior officials from foreign country governments/ international organizations during the last 10 years along with price of such gifts determined by **Tosha Khana**.*
 - (b) *Criterion adopted by Tosha Khana for determining price of gifts mentioned at (a) above;*
 - (c) *Particulars (name, designation and department) of recipients of gifts mentioned at (a) above; and*
 - (d) *Details of gifts mentioned at (a) above that were followed to be retained by the recipients of gifts or payment of price of such gifts determined by the said Tosha Khana.”*

B. Proceedings:

3. Through a notice dated May 12, 2022, sent to Deputy Secretary (Coord) / Public Information Officer, Cabinet Division, the Commission called upon the Respondent to submit reasons for not providing the requested information.

4. The Respondent through letter vide No 8/4/2020-TK dated May 20, 2022 submitted its response which is as under:
“It is stated that the information requested by the applicant are classified and cannot be provided as per Clause-7(f&g) and Clause {1(a)(ii)} of Right of Access to Information Act, 2017.”
5. The Appeal was fixed for hearing on June 14, 2022 and both parties were informed through notices sent on May 30, 2022.
6. Mr. Qasim Rashid, Deputy Secretary (Coord), Cabinet Division and Ms. Nida Rehman, Section Officer (TK) appeared before the Commission and repeated the same stance that the requested information is exempted from disclosure under the Right of Access to Information Act, 2017.

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

7. The commission has to decide:
 - i. Whether the requested information falls within the ambit of public document under the Right of Access to Information Act, 2017, hereafter referred to as the “Act” or not?
8. This Commission in multiple orders including Rana Abrar Vs Cabinet Division, Abdullah Malik Vs Cabinet Division and other held that record related to the Tosha Khana is a public record and it should be provided to the citizen under the Act.
9. This Commission through an Order in Appeal No 810-12/20 Rana Abrar Khalid Vs Cabinet Division held that the record related to gifts received by Government dignitaries does not fall within the ambit of Section 7 (f&g) and Section 16{1(a-ii)} of the Act.
10. This Commission has maintained that when certified information about these gifts will be made available in the public domain for everyone to see, citizen of Pakistan will know that the gifts received on their behalf are being properly managed. Availability of the certified information about the gifts deposited in „Tosha Khana“ in public domain will not only make the entire process about the management of these gifts open and transparent, it will contribute to reducing trust deficit between citizens and public institutions contributed by opacity and secretive ways of functioning of public institutions. Even citizens of the states on whose behalf gifts are received by our elected representatives and public officials will come to know that their gifts are properly managed, resultantly strengthening people-to-people and inter-state relations.
19. It is pertinent to mentioned that the Respondent has challenged the order this Commission passed in appeal title Rana Abrar Kahlid Vs Cabinet Division but despite multiple hearing so far the Honorable Islamabad High Court has not suspended the Order of this Commission nor bar the Commission from proceeding for the implementation of the said order.
20. 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.

21. 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.
22. 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. Deputy Secretary (Coord) / Public Information Officer, Cabinet Division 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 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 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 at the web site 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 Deputy Secretary (Coord) / Public Information Officer, Cabinet Division and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

July 20, 2022

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