



In the Pakistan Information Commission, Islamabad
Appeal No 1961-06/22

Rubeena Shaheen

(Appellant)

Vs.

Election Commission of Pakistan

(Respondent)

ORDER

Date: September 19, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated June 09, 2022 to the Commission, stating that he submitted an information request to the Whom it may Concern, Election Commission of Pakistan on March 30, 2022 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:
 1. *“Article 19-A of the Constitution-1973, read with. Sections-3 & 11 of Right of Access to Information Act-2017.*
 2. *Section 79(3) of Election Act 2017, read with Sections 27(b) of Right of Access to Information Act-2017 and Sections 25 Act to Override other laws, read with, the Pakistan information Commission cost schedule (attached)*

I request Election Commission Pakistan to provide me with the following information.

- *A list of NICOP holders in the NA30 constituency, including their Pakistani as well as foreign addresses in the searchable copy to be provided on a USB”*

B. Proceedings

3. Hearing on the instant Appeal was fixed for August 11, 2022 vide letter dated July 28, 2022. The Respondent did not attend the hearin.

C. Issues

4. The instant appeal has brought to the fore the following issues:
Can the polling agent of a candidate have access to electoral roles and the associated records, in the control of the Respondent according to the provisions of the Elections Act, 2017 and 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. This commission has also addressed the issue raised in the instant Appeal in Appeal No. 2017-06/2022. In the case of Salman Shabir VS Election Commission of Pakistan. The commission noted that *“the appellant being a citizen of Pakistanis holding computerized National Identity Card (CNIC) / National Identity Card for Overseas Pakistanis (NICOP), registration document issued to the eligible citizens of Pakistan living abroad. Likewise his brother and brother's wife. All showing the same residential address on their identity cards but the centres allocated for casting of votes are different for all the three. In this backdrop the appellant has raised query for the reason as to why his vote is at a different location than his brother and brother's wife, despite having the same address on their ID cards, whether it is automated or manual process and how long does it take for updating address on CNIC to reflect in the electoral rolls system and whether the process system is capable to identify and rectify such discrepancies in the system/process without relying on citizens to report. In this regard the appellant is looking for the information and record applying thereto i.e. complete audit trail of the movement of his vote in the system along with the documents that triggered the move if any and the details of operators/approvers in the system of the move”*. The commission also observed that *“On the other hand the bare reading of the request alarms a very vital and spirited interrogation of public importance that if not addressed at the earliest may affect a large number of voters in the election process. The voters including the appellant has the privileged right to know whether the selection of polling stations has been made in line with the policy of ECP keeping in view their ease or has been made under some political pressure against their interest”*.
6. Section 79 of the Elections Act, 2017 is relevant in the instant Appeal which is as under:
“ 79. Supply of final electoral rolls.—(1) The Commission shall provide the Returning Officer for each constituency with copies of final electoral rolls for all the electoral areas within that constituency. (2) The Returning Officer shall provide the Presiding Officer of each polling station with copies of the final electoral rolls containing the names of the voters entitled to vote at that polling station. (3) On the application of a candidate or his election agent, the District Election Commissioner or any officer authorized in this behalf by the Commission shall provide to a candidate or an election agent a hard and searchable soft copy on universal serial bus (USB) in portable document format (PDF) or any other tamper-proof format of the final electoral roll with photographs of the voters and shall ensure that the copy is the same as provided to the Returning Officer and Presiding Officers”.
7. This commission notes that this provision of the Elections Act 2017 aims at ensuring free, fair and transparent conduct of electoral process by providing election agents of the candidates soft as well as hard copies of electoral roles containing names, addresses and photograph of the voters of the constituency.
8. This commission holds that as the election agents have the right of access to information about the names, addresses and photographs of the voters of the constituency residing in the country to ensure transparent conduct of electoral process, the election agents also have the right of access to names, addresses and photographs of NICOP holders' voters of the constituency.
9. The Act, 2017 takes precedence over all other laws with regard to what information is to be shared and how information is to be made public.

10. In the instant Appeal, the Appellant has described his preferred mode of access to information which is supported by Rule 4 (1) (b) of the Right of Access to Information Rules, 2019 which is as under:
“The form in which the applicant needs access to information, for such as photocopy, CD, video or audio clip”.
11. So far as the cost of CD, diskette, floppy, cassette, video or any other electronic device containing information is concerned, the Schedule of Costs, notified by Pakistan Information Commission In exercise of the powers conferred by Section 27 (b)of the Act 2017 states that public bodies shall only charge the actual cost of such a device, as determined on the basis of official procurement record. However, no cost is to be charged if the applicant provides his or her own device and requires only an electronic copy of the information.

E. Order

12. The Appeal is allowed. The Respondent is directed to provide the Appellant, (provided that the Appellant submits the proof that the Appellant is election agent of the candidate) information requested in para 2 of this Order on USB at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
13. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: September 19, 2022

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