



Appeal No 201-12/19

Mukhtar Ahmed Ali

(Appellant)

Vs.

National Database Registration Authority, Islamabad

(Respondent)

Order

Date: March 02, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 06/12/2019, to the Commission, stating that he Submitted an information request to the Chairman, National Database Registration Authority, (NADRA) dated 10/10/2019 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 - a) *A list of various types of NADRA offices (category/ type wise) across the country along with their addresses;*
 - b) *Total sanctioned staff strength of NADRA and existing vacancies at all levels including gender wise break down of available staff;*
 - c) *Total number of various types of mobile registration vehicles (type and district wise) along with their model, capacity to register and latest condition (i.e. functional or not);*
 - d) *Month, district and gender wise statistics of citizens who obtained new NICs since January 1, 2018.*
 - e) *Month, district and gender wise statistics of citizens who obtained new NICs since January 1, 2018 through mobile registration vehicles.*
 - f) *Number of disable persons and transgender persons, who have obtained NICs since January 1, 2018 (category/ district wise);*
 - g) *Total number of disable persons and transgender persons, who currently hold NICs as per NADRA record (category / district wise);*



h) Number of disable persons and transgender persons who have obtained new NICs since January 1, 2018;

i) Month, district and gender wise statistics of deceased NIC holders, whose NICs have been cancelled since January 1, 2018.

j) Total number of NIC holders who are above 90 years of age as per NADRA record.”

B. Proceedings

3. Through a notice dated 10/12/2019 sent to Chairman NADRA and later another notice dated 16/12/2019 was also sent to Faik Ali Chachar, designated Public Information Officer, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent did not respond to the notices of the commission. The appeal was fixed for hearing on 12/02/2020 through the hearing notice sent to designated Public Information Officer on 17/01/2020 and both parties were informed accordingly.
5. Through a letter dated 18/02/2020, the respondent refused to share the information on the grounds that ”under the provisions of the Right of Access to Information Act 2017, the information sought does not fall within the purview of “Public Report” as specified in Section 6 of the Act, nor has the same been notified by the Federal Government as “Public Record under clause (e) of the Section 6 of the said Act.

Moreover, there is no provision in NADRA Ordinance, 2000 for communication of any information to any other person except: -

- a. for the purpose of any criminal proceeding; or
- b. to any gazette officer authorized by the Authority.”

C. Discussion and Commission’s View on Relevant Issues

6. The questions for the consideration of the commission are as under:
 - (a) what steps have been taken by the Respondent to ensure the implementation of the Right of Access to Information Act 2017, henceforth referred to as Act?
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
 - (c) Is requested information available with the public body? and
 - (d) Can requested information be provided to the Appellant under the Act?
7. So far as the question of steps taken by the Respondent to implement the Act is concerned, Section 9¹ of the Act has been implemented by the Respondent. However,

1. ¹ **Designated Official**-- Each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent; Provided that where no designated official has been notified or he is absent or not available, principal officer of the public body shall be the designated official:



the Respondent has not made available information about the designated Public Information Officer, (PIO) on its web site as required under Section 5 (1)(h)² of the Act.

8. The requested information is public information and does not come within purview of the exemption clauses of the Act referred to by the Respondent. In fact, the Respondent should have proactively disclosed requested information through its web site as required under Section 5 (1) (a)³ And Section 5 (1) (i)⁴ Of the Act.
9. The Respondent stated that that the requested information could not be provided under provisions of the NADRA Ordinance, 2000. However, this argument does not hold water in the presence of Section 25⁵ Of the Act read with Article 8⁶ Of the Constitution of the Islamic Republic of Pakistan.
10. This commission has observed, as in the instant appeal and in many other appeals, that secrecy is the norm and transparency an exception when citizens exercise their fundamental right of access to information held by public bodies. Federal public bodies

Provided further that in case of non- government organization, it may designate a senior officer as per its organizational structure.

² The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;

1. ³ Publication and availability of the record—(1) The principal officer of each public body shall, within six months of the commencement of the this Act, ensure that the following categories of the information and record are duly published including uploading over the internet or in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources;

Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;

⁴ Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized

⁵ Act to override other laws--- The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

⁶ "8. Laws inconsistent within derogation of fundamental rights be void.-

(1) Any law, or any custom or usage having the force law, in so far as it is inconsistent with the rights conferred by this Chapter shall, to the extent of such inconsistency, be void.

The State shall not make any law which takes away or abridges the rights so conferred and any law made in contravention of this clause shall, to the extent of such contravention, be void."

Pakistan Information Commission
Government of Pakistan
Islamabad



have neither implemented Section 5⁷ Nor Section 8⁸ Of the Act. As a consequence, citizens file information requests to get access to information which should have been in the public domain in the first place.

7 Publication and availability of the record—(1) The principal officer of each public body shall, within six months of the commencement of the this Act, ensure that the following categories of the information and record are duly published including uploading over the internet or in a manner which best ensures that these are accessible subject to reasonable restrictions based on limited resources;

- a) Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;
- b) Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect
- c) Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees
- d) Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;
- e) The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body
- f) A description of its decision-making processes as defined in the Federal government's secretariat instructions, 2004 and any instructions for the time being in force for the public to provide any input into or be consulted about decisions;
- g) Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget;
- h) The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials;
- i) Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized
- j) Such other matters which the principal officer of the public body deems fit to be published in the public interest
- k) Such other information as may be prescribed; and
- l) Camera footages at public places, wherever available, which have a bearing a crime:

Provided that if the information or record pertains to a period earlier than the year 2008. The same shall be published within reasonable time.

8 Computerization and Voluntary Disclosure of record--- Each public body shall Endeavour to ensure within the time prescribes in section 5 and that all record accessible under this Act is computerized and is available online so that authorized access to such public records is facilitated.

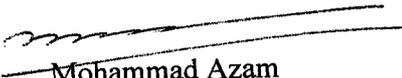
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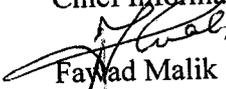


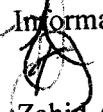
11. All public officials are bound to exercise sound judgement when making decisions. This commission has observed that public officials either do not respond to information requests or turn them down on one pretext or the other.
12. The emerging trend demonstrates that public officials disregard provisions of the Act pertaining to disclosure of the requested information and rely on exemption clauses without applying sound judgement. As such, the powers vested in the officers are not exercised in a manner required under Section 24A (1) of the General Clauses Act 1897⁹. Furthermore, the requirement of Section 24A (2) of the General Clauses Act 1897¹⁰ are frequently compromised.
13. This commission believes that good governance in the country will remain a pipedream unless the trend of secrecy being a norm and transparency an exception in the functioning of public bodies is not arrested and reversed where transparency becomes a norm and secrecy an exception and on justifiable grounds.

D. Order

14. The appeal is allowed. The Respondent is directed to provide the requested information to the Appellant at the earliest, but in any case, not later than 20 working days of the receipt of this order.
15. Furthermore, the Respondent 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 and submit the compliance report to the commission by 10/04/2020.
16. Copies of this order be sent to Chairman, NADRA, designated Public Information Officer, NADRA and the Appellant for information and necessary action.


Mohammad Azam
Chief Information Commissioner


Fayad Malik
Information Commissioner


Zahid Abdullah
Information Commissioner

Announced on:

March 03, 2020

This order consists of 05 (five) pages, each page has been read and signed

⁹ "reasonably, fairly, justly, and for the advancement of the purposes of the enactment"

¹⁰ "The authority, office or person making any order or issuing any direction under the powers conferred by or under any enactment shall so far as necessary or appropriate, give reasons for making the order or as the case may be for issuing the direction and shall provide a copy of the order or, as the case may be, the direction to the person affected prejudicially"

