

Appeal No. 2017-06/2022

Salman Shabir

Vs

Election Commission of Pakistan

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Salman Shabir filed an e-mail request under the Right of Access to Information Act, 2017 read with Article 19A of the Constitution of Islamic Republic of Pakistan, 1973. Through his application dated 06.06.2022 addressed to the Secretary, Election Commission of Pakistan he has sought the following information:

“Three of our family members have only one address on our CNIC and NICOPs, however upon checking on 8300, it shows three different voting areas.

- ❖ *Can you explain the reason why my vote is at a different location than my brother and his wife all of us having the same address on ID card?*
- ❖ *The NIC/NICOPs are:*
 - *35202-8511027-1 (my)*
 - *35202-6963471-5 (brother)*
 - *5400-0472193-4 (brother’s wife)*
- ❖ *How long does it take for an address updated on CNIC to reflect in the electoral rolls system?*
- ❖ *Is it a manual process or automated?*
- ❖ *Please share the following for my vote against 35202-8511027-1.*
 - *Complete audit trail of the movement of my vote in your system.*
 - *Along with the documents that triggered the move if any.*
 - *Details of operators/approvers in the system of the move.*
- ❖ *What is your process to identify and rectify such discrepancies in your system/process without relying on citizens to report them?”*

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2. Feeling aggrieved for the non-provision of information within the period provided under the Act, he has filed appeal before the Pakistan Commission on access to information, Islamabad.

B. PROCEEDINGS

3. The notice of the Commission is responded by the Director (MIS), Election Commission of Pakistan vide letter dated 17th July, 2022 to the following effect:

“I am directed to refer to your office letter dated 29-06-2022 on the subject cited above and to state that the Hon’ble Election Commission of Pakistan is not amenable to your jurisdiction vide order dated 25-03-2022 passed by the Hon’ble Islamabad High Court.”

4. Along with the reply copies of the orders dated 24.03.2020 in writ petitions Nos. 963/2020, 964/2020, 965/2020 and orders dated 09.03.2020 in writ petitions nos. 784/2020 and 785/2020 titled *“Election Commission of Pakistan Vs Pakistan Information Commission”* filed before the Islamabad High Court, Islamabad are appended. In the said Writ Petitions the orders of the Commission passed in the respective appeals filed by Shahbaz Akmal Jandran and Mr. Naeem Sadiq has been suspended by the Hon’ble Islamabad High Court.
5. The appeal was fixed for hearing before the Commission on 3.8.2022 and both the appellant and the respondent were informed accordingly. No one appeared before the Commission to represent the public body at the time of hearing of appeal.

C. COMMISSION’S VIEW

6. 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

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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 appellant has demanded the said information invoking his rights under the Right of Access to Information Act, 2017 read with Article 19A of the Constitution of Islamic Republic of Pakistan, 1973.

7. The Election Commission of Pakistan has claimed that it is not amenable to the jurisdiction of Pakistan Information Commission. The ECP's claim is based on the orders dated 25-03-2022 passed by the Hon'ble Islamabad High Court in Writ Petition Nos. 963/2020, 964/2020, 965/2020, 984/2020 and 985/2020 titled Election Commission of Pakistan Vs Pakistan Information Commission etc. filed before the Islamabad High Court, Islamabad.

In the said Writ Petitions the orders of the PIC passed on the appeals filed by Shahbaz Akmal Jandran, Advocate and Mr. Naeem Sadiq have been suspended that were impugned therein, before the Hon'ble Islamabad High Court, Islamabad. The orders of the Hon'ble Islamabad High Court are applicable to the extent of the pending petitions only for the reasons, firstly that it is interim order whereby the orders of the PIC are suspended, writ petitions are pending for final adjudication, secondly that it is not *Judgement in rem*; as interim relief is given on a particular subject matter, it will only remain between the said parties and thirdly the subject matter in the present appeal is different by a different appellant from the ones pending adjudication before the Hon'ble High Court.

8. 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. The right of access to the information and record is fundamental right guaranteed under article 19A of the Constitution of Islamic Republic of Pakistan, 1973 and statutory right under the Right of Access to Information Act,

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2017. This right cannot be delayed or denied on the pretexts and whims of beurocratic hurdles and delaying tactics as it would amount to infringement of fundamental rights.

9. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practise would improve the participation of the people in the public affairs aimed at reducing corruption, misuse of authority and power, nepotism, discrimination and inefficiency in the governance.

D. ORDER

10. The appeal is allowed. The Secretary, Election Commission of Pakistan is directed to furnish the appellant all the requested information and record detailed in para 1 of this order, forthwith, but in any case not later than seven days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner
Announced on 16.08.2022

Certified that this order consists of 04 pages, each page has been read and signed.