

**Pakistan Information Commission
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad
Appeal No 2102-08/22**

Atif Chaudhary

(Appellant)

Vs.

Election Commission of Pakistan

(Respondent)

ORDER

Date: October 24, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated July 28, 2022 to the Commission, stating that he submitted an information request to the Secretary, Election Commission of Pakistan on July 10, 2022 under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:

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

- i. Fresh Electoral list PP-167 Constituency, in the searchable copy to be provided on a USB.*
- ii. Past Electoral list constituency, in the searchable copy to be provided on a UBS, for the elections held in.”*

B. Proceedings

3. Hearing on the instant Appeal was fixed for October 20, 2022 vide letter dated October 06, 2022. The Respondent was represented by Sharza Shakeel, S. A, & Shahnawaz Assistant Director, Election Commission of Pakistan.

C. Issues

4. The instant appeal has brought to the fore the following issues:
 - (a) Can Fresh Electoral lists PP-167 Constituency, and Past Electoral list of the constituency, (when election was held) in the searchable copy on a UBS be provided to the Appellant under the Election Act 2017 and the Right of Access to Information Act, 2017, henceforth referred to as the Act, 2017?*
 - (b) Can photographs of voters, as declared public in Section 79 of the Elections Act, 2017, to the extent of candidate, or, his agent, or, does it tantamount to the invasion of identifiable individuals?*

D Discussion and commission's views on relevant issues:

5. This commission has already settled the identical matter in Appeal No. 2017-06/2022, In the case of Salman Shabir VS Election Commission of Pakistan and holds that *Fresh Electoral lists PP-167 Constituency, and Past Electoral list of the constituency, (when election was held) can be provided to the Appellant, in the searchable copy on a UBS under Section 79 (3) of the Elections Act, 2017* 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”.
6. This commission notes that Section 79 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.
7. This commission also holds that the disclosure of photographs of voters even to the extent of candidate, or the agent of the candidate is tantamount to the invasion of privacy of identifiable individuals, hence hit by Section 7 (g) of the Act, 2017.
8. 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.
9. 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”.
10. 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

11. The Appeal is allowed. The Respondent is directed to provide the Appellant, (provided that the Appellant submits the proof that the Appellant is candidate, or, agent of the candidate) information requested in para 2 of this Order on USB, ensuring that

photographs of voters are not disclosed, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.

- 12 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:

October 24, 2022

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