



In the Pakistan Information Commission, Islamabad
Appeal No 2108-08/22

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 29, 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 about PP-167 Constituency is as follows:
 - i. *“Number of Voters who moved into and out form the above constituency between dates 24th Feb 2022 and 25th May 2022.*
 - a. *Broken down by move dates.*
 - b. *Along with the Reason of movement and the Election Rule used.*
 - c. *Along with the name/ ID of operator .*
 - d. *Along with the name /ID of approver (if applicable).*
 - ii. *Number of Voters who moved into and out of the above constituency dates 26th Nov 2021 and 23rd Feb 2022.*
 - a. *Broken down by move dates.*
 - b. *Along with the Reason of movement and the Election Rule used.*
 - c. *Along with the name/ ID of Operator.*
 - d. *Along with the name /ID of approver (if Applicable)*
 - iii. *Along with names of the individual (s) moved voter in Question 1*
 - a. *Add another column and pls show # of times each individual voter moved over the past 5 years.*
 - iv. *Along with names of the individual (s) moved voter in Question 2*
 - a. *Add another column and pls Show # of times each individual voter moved over the past 5 year.”*

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 issue:
Can requested information about the movement of voters of PP-167 Constituency 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?

D. Discussion and commission's views on relevant issues:

5. This commission holds that following Section 79 of the Elections Act, 2017 which aims at ensuring free, fair and transparent conduct of elections is relevant in the instant Appeal as it pertains to the maintenance of electoral rolls and how these roles are to be made public:
“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 also holds that it is reasonable to assume that the information technology/software used by the Respondent also keeps track of voters of a given constituency.
7. This commission also holds that as requested information pertains to the functions of the officials involved in the maintenance of electoral rolls for the conduct of such sensitive a task as the conduct of free, fair and transparent elections, no items of the requested information is hit by any of the exemption clauses of the Act, 2017, including its Section 7 (g).
8. This commission maintains that the citizens of Pakistan have the right to know the names of officials involved in the maintenance of electoral rolls, as at times, even slightest change can impact the entire result of a constituency. Such a disclosure would help bridge trust-deficit between voters and the Respondent, Election Commission of Pakistan in the conduct of electoral process as such a disclosure would assure the citizens that voter movement in electoral rolls is not carried out by relevant officials in an arbitrary manner but voters' movement is based on facts and under relevant Rules/Regulations.
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 the requested information in para 2 of this Order 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:

October 24, 2022

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