



**In the Pakistan Information Commission, Islamabad**  
**Appeal No 2114-08/22**

**Ahmed Saeed**

**(Appellant)**

**Vs.**

**Federal Board of Revenue**

**(Respondent)**

**ORDER**

Date: November 03, 2022

Zahid Abdullah: Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated August 18, 2022 to the Commission, stating that he submitted an information request to the President Secretariat through email on July 29, 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:

*“This is to request you to kindly inform the Undersigned whether tax has been collected from Mr. Puri/ his family/ their companies by FBR in respect of RS. 3,196, 854, 697 (Rupees Thirty One Billion Ninety Six Million Eight Hundred Fifty Four Thousand Six Hundred Ninety Seven) held by him/them. Mr. Irfan Puri and his family members and companies including IP Commodities (Pvt.) Limited, Karachi were required to pay tax on amounts received by them. The Undersigned had brought information to the notice of FBR vide letter dated 26th February 2022 sent by Registered post [Serial of Slip No. 431 dated 26th February 2022] addressed to the Chairman FBR, and apprised him of some relevant facts.*

*You may also like to peruse the enclosed affidavit of Mr. Irfan Puri by which he confirmed receiving amount [in Para 10.2 of his Affidavit] which Affidavit was filed by him in the High Court at London. HASCOL, a Pakistani company, in their letter, dated 3rd December 2014 had confirmed this fact also.”*

**B. Proceedings**

3. The appeal was fixed for hearing on September 01, 2022. Mr. Mohammad Nawaz, Sccond Secretary, Federal Board of Revenue attended the hearing and submitted its response, which is as under:

*“The requisite report has been received from Commissioner-IR, AEOI Zone, Karachi. It has been reported that under the provisions of clauses (g) and (h) of section 7 of the Right of Access to Information Act, 2017, the information relating to personal privacy of an individual or record of private documents furnished to a public body, cannot be provided under the said Act. Further under the provisions of section 216(1)(c) of the Income Tax Ordinance, 2001 any record of any proceedings or any proceeding relating to the recovery of a demand, are confidential and public servants have been prohibited under the said provisions of the said Ordinance, from disclosing such record or particulars.”*

4. Response submitted by the public body was shared with the Appellant on September 09, 2022.
5. The appellant on September 22, 2022 through an email submitted rejoinder to the response of the public body which is as under:

*“Please note that we are not satisfied with the response of FBR as we are not satisfied on the ground and facts as mentioned in the appeal.*

*That the appellant is the citizen of Pakistan and have care to secure the public money and save the country from tax theft in the country. The appellant aggrieved with the response of respondent dated 27<sup>th</sup> June 2022 forwarded to us through FBR vide letter dated 6<sup>th</sup> July 2022 (received on 9<sup>th</sup> July 2022) from the respondent which is not satisfactory hence this appeal is filed for seeking appropriate direction to FBR. Please note that:*

1. *The FBR is the government department who maintain the record of tax for the benefits of this country which tax is being used for public hence it is called a public money.*

2. *The appellant approached the respondent (FBR) asking them to confirm as to whether tax has been collected from Mr. Puri/ his family/ their companies by FBR in respect of a huge money Rs.2,196,854,697/- (Rupees Thirty Billion Ninety Six Million Eight Hundred Fifty Four Thousand Six Hundred Ninety Seven) held by him/the. Mr.Irfan Puri and his family members and companies including IP Commodities Pvt. Limited, Karachi who were required to pay tax on amount s received by them.*

3. *That the appellant has submitted the documentary evidence against the respondent about receiving of the huge amount and that evidence/information was brought to the notice of respondent vide letters dated 26<sup>th</sup> February 2022 addressed to the Chairman FBR and apprised him of some relevant facts concerning to the issue but the same was not answered.*

4. *That later the appellant sent a letter dated 30<sup>th</sup> May 2022 to the respondent (as designated officer) and also sent him to peruse the affidavit of Mr. Irfan Puri by which he confirmed receiving amount (in Para10.2 of his Affidavit) which affidavit was filed by him in the High Court at London. HASCOL, a Pakistani company, in their letter, dated 3<sup>rd</sup> December 2014 and confirmed this fact also.*

5. *That the respondent sent a vague reply dated 27<sup>th</sup> June 2022 forwarded to the appellant through FBR vide their letter dated 6<sup>th</sup> July 2022 (received on 9<sup>th</sup> July 2022).*

6. *That the respondent are duty bound to provide such information to the appellant under the act but they refused to provide it to the appellant hence appellant left no option except to approach this Honourable le Commissioner to direct the respondent to provide the information as asked from them by the appellant.*

7. *That the respondent relied upon section 7 clause (g) and (h) of the Act 2017 which does not help them to refuse the request of appellant as the appellant has never asked to provide the documents but only asked whether or not the public money /tax is secured by the person on the amount received by them (as show in the documentary evidence provided by the appellant) as such the respondent could send a simple reply in yes or no about tax amount.*

8. *The respondent while refusing to provide information they relied upon Section 216 (1) (C) of Income Tax Ordinance 2001 which states that “any record of any assessment proceedings or any proceeding relating to the recovery of a demand,”. That the appellant has never ever asked the respondent to provide any record of any assessment proceedings or any proceedings related to the recovery of demand but he only asked that the tax money payable to the department as per*

*law is paid or not hence the respondent is not justified to wrongly intemperately the section and refuse the request of appellant.*

9. *That the Act 2017 is specifically enacted for the purpose that a citizen who are actually a real tax owners had of access to information from the government and statutory bodies that received public funds, such right was based on the principle that information belonged to the people, it boosted transparency, which in turn strengthened accountability, reduced corruption, nepotism and arbitrary decision by public authority and improved delivery of public services. Access to information was increasingly recognized as a prerequisite for transparency and accountability of government as safeguarding citizen against mismanagement and corruption.*

10. *The Lahore High Court in the reported case PLD 2020 LAHORE 110 relied upon number of case laws and detail discussion on several points further confirms that “Any citizen without an obligation of explaining his interest could seek information regarding any public matter/document from any public body/functionaries, Only being a citizen of Pakistan was enough to constitute his cause of action.....In a civilized society government institutions must fulfill this obligation to improve their credibility by taking public into confidence about their internal working and decisions including budget, expenditure, income etc”*

11. *That the FBR may be directed to provide information to the applicant as whether or not tax amount is received by them or not as applicant believes that the respondent are hiding this fact to accommodate the party.”*

### **C. Issues**

6 The instant appeal has brought to the fore the following issues:

- (a) Has the Respondent provided the requested information to the Appellant permissible under the Right of Access to Information Act, 2017?
- (b) Can the final Orders issued by the President of Pakistan be exempted from publication on the web site of President Secretariat under any of the exemption clauses of the Act 2017, including likely invasion of privacy of identifiable individual, or, causing harm to legitimate interests of a commercial entity?
- (c) Does the web site of the Respondent, President Secretariat contain categories of information mentioned in Section 5 of the Right of Access to Information Act, 2017?

### **D Discussion and commission’s views on relevant issues:**

7. The requested information about appeal mechanisms and orders on representations is not available on the web site of the Respondent, President Secretariat. The representative of the President Secretariat submitted before the Commission that the web site is in the process of upgradation. Once it is updated, all categories of information mentioned in Section 5 of the Act, 2017 will be proactively published on the web site.
8. This Commission holds that once an Order is issued by the President of Pakistan on a representation filed by a citizen, or, a public body, or, a commercial entity, its disclosure cannot be withheld from any citizen under Section 6 (d) of the Act, 2017, nor, its proactive publication can be withheld on the web site under Section 5 (1) (b) of the Act, 2017.
9. This Commission holds that right of access to information for one is right of access to information for all. If a record, in the case of instant Appeal, a final Order is to be made available to the parties of the case, the public has also the right of access to such an Order.
10. This Commission maintains that all appellate bodies and courts protect right to privacy of identifiable individuals as well as legitimate commercial interests of commercial entities in the final Orders. Therefore, the assertion of the Respondent that some of the final Orders are not published on the web site as these may cause harm to privacy/commercial interests does not hold water. In any case, the Act, 2017 envisages a situation wherein a document, which should be otherwise be made public but its parts may contain private information,

or, information that may cause harm to legitimate commercial interests of an entity. In such an eventuality, the part containing private information, or, information likely to cause harm to legitimate commercial interests can be severed from the document as mentioned in Section 16 (1) (i) of the Act, 2017.

11. The Respondent maintained in the hearing that at times Orders on representations contain sensitive information about harassment related issues. This commission is cognizant of the sensitivities involved in such matters. However, it does not mean that there can be blanket exemption to such final Orders. All sensitive information can be withheld and blanked out and the rest of the Order should be made public.
12. This Commission also does not concur with the Respondent that some final Orders cannot be published on the ground that the either of the parties may take any legal action. The right of access to information of citizens cannot be denied on the possibility and assumption that a party may take legal action against the Order of the President of Pakistan.
13. As the Respondent, President Secretariat is in the process of developing its web site, it needs to keep in mind the observation of this commission in multiple orders issued against different public bodies. This Commission has observed the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 of the Act.
14. This commission hopes that such an august office as the President of Pakistan will ensure implementation of Section 5 of the Act, 2017 in letter and spirit, setting example for all federal public bodies.
15. Even a cursory glance at these categories demonstrates that the significance of their proactive disclosure can hardly be exaggerated in terms of improving governance in the country.
16. Under staffing of officers is a perennial problem faced by public bodies. However, this issue does not get public attention it deserves. If a ministry keeps updated diary of its officers on its web site, citizens would know about total number of sanctioned posts and the details about sanctioned posts filled and lying vacant. This critical issue of understaffing is not going to get public attention if this information is not brought in the public domain through proactive disclosure of directory of officers through web sites.
17. It is common knowledge that citizens face multiple barriers because of the lack of information about services being provided by a public body. For example, if particular subsection about proactive disclosure of information is implemented, citizens would know about terms and conditions for acquiring any license, permit, consent, approval, grant, allotment or other benefits offered by a ministry.
18. Citizens would be able to know about terms and conditions for all kinds of agreements and contracts that are entered into by a federal public body.
19. Citizens would be able to know about the particulars of the recipients of any concession, permit, license or authorization granted by the public body because it is a legal requirement considering that all such grants are given through taxes of the citizens.
20. Citizens would have greater level of participation in the governance of the country if information about decision making processes of the public body and information about how citizens can provide their input to the public bodies made available on the web site of the public body, as required under Section 5 of the Act.
21. There is need for improving availability of information in the public domain about the allocation and utilization of public funds by federal public bodies so that citizens could know how their taxes are being put to use. This would only happen when public bodies put 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 on their web sites as required under Section 5 of the Act.

22. The implementation of Section 5 of the Right of Access to Information Act 2017 would help citizens exercise their constitutional right of access to information in matters of public importance if federal public bodies put details of the method methods for seeking information from the public bodies.
23. In this connection, each federal public body is legally obligated to put Schedule of costs, developed by Pakistan Information Commission, (available on the commission's web site) for seeking information from federal public bodies on its web site. Furthermore, each federal public body is legally obligated to put name, title, E-mail and telephone number of the Public Information Officer notified under the Right of Access to Information Act 2017 on its website, a crucial piece of information which few public bodies have put on their web sites.
24. Officers have to file information requests and then appeals with commission to get access to enquiry reports conducted against them. Similarly, candidates who apply for government jobs seek information by filing appeals with the commission to get access to information about criterion for jobs and marks allotted to successful candidates to gauge the level of fairness adopted by the public body in the recruitment process. Citizens will not have to go through the trouble of filing information requests and appeals with the commission if each public body ensures that all performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized are made available on the web sites of the public bodies.
25. This commission is of the view that trust of citizens in public institutions is irrevocably linked with timely and accurate flow of information between citizens and public institutions. However, this would only be possible when Principal Officers of federal public bodies would ensure implementation of the Right of Access to Information Act 2017 in letter and spirit.
26. It is pertinent to mention here that this commission has maintained through its different Orders that the information, proactively published under Section 5 of the Right of Access to Information Act 2017, should be 'accessible' for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of 'accessible' in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:  
  
"The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities".

#### **E. Order**

27. The Appeal is allowed. The Respondent is directed to ensure that, its web site in the process of development, contains 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 in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017'. This template is available under 'Information Desk' category at the web site of the commission [www.rti.gov.pk](http://www.rti.gov.pk). The compliance report be submitted to this commission within 10 working days of the receipt of this Order.
28. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using 'Web accessibility checklist'. This checklist is available under 'Information Desk' category at the web site of the commission [www.rti.gov.pk](http://www.rti.gov.pk). The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
29. 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: November 01, 2022

This order consists of 5 (five) pages, each page has been read and signed.