

**Pakistan Information Commission
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad
Appeal No 2192-08/22**

Nisar Momand

(Appellant)

Vs.

Ministry of Water & Power Development Authority

(Respondent)

ORDER

Date: November 01, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated August 24, 2022 to the Commission, stating that he submitted an information request to the Chairman Ministry of Water & Power (WAPDA) on August 01, 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:

“It is humbly stated that the applicant is elected member of the Provincial Assembly from PK-103 khyber Pukhtoonkhwah and seeks the following information about WARSAK DAM:

- i. Details of PC-1 Warsak Dam.*
- ii. Copy of agreement between the government and Trakzai and Malaguri tribe (Momand Tribe) regarding construction of Warsak Dam.*
- iii. Complete details of the compensation Cheque issued by the government to the Warsak Dam affectees.*
- iv. Complete details of the total area acquired for Warsak Dam”.*

B. Proceedings

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on October 25, 2022 and its text is as under:

“It is apprised that the Warsak Dam Project was being executed by the Warsak Dam Project Organization (WDPO), under the Ministry of Industry and Natural Resources Government of Pakistan, and was completed in 1960. Ministry of Industry and Resources Government of Pakistan transferred the said project with all assets to Wapda in 1961, being the successor of Warsak Dam Project Organization.(F/A)

WAPDA took over the administration and the assets for operation and maintenance of the Power House and Residential as well as Non-Residential buildings constructed for securing the parameters of the Dam and Power House. In the Year 1962-65, an area of about 275 kanal and 3 marlas of Shinpukh Village submerged under Warsak Dam water for which compensation amounting to Rs. 123, 263.66/- was paid by this office as the project was in administrative control of WAPDA. (F/B)

It is worth mentioning here that Warsak Dam is located at boundary of rstwhile Khyber and Mohmand Agencies of FATA. Now with merger of Former FATA with Khyber

Pakhtunkhwa Province, it was being felt necessary to complete the formal documentation of land asset owned by WAPDA at Warsak Dam site. Since the land was acquired by WDPO for construction of Warsak Dam, no relevant record of land acquisition available in this office, therefore Deputy Commissioner Khyber and Deputy Commissioner Mohmand is being requested many times for physical demarcation of WAPDA owned land as per their record. F/C)

After Taking over the project, nothing is outstanding against WAPDA and all the compensation has been made as per (Annex-F/B).

As far as compensation regarding acquisition of land for Warsak Dam and Power House is concerned, the matter may be taken up with concerned Ministry i.e. the then Ministry of Industry and Natural Recourses Government of Pakistan Please”.

4. Hearing on the instant Appeal was fixed for October 26, 2022 vide letter dated October 13, 2022. The Respondent was represented by Arbab Haris, Wapda Development, Wapda and the Appellant also attended the hearing.

C. Issues

5. The instant appeal has brought to the fore the following issue:
Has the Respondent provided information/records to the Appellant as required under the Right of Access to Information Act, 2017?

D Discussion and commission’s views on relevant issues:

6. The Respondent submitted before this commission that PC-1 Warsak Dam and the agreement between the government and Trakzai and Malaguri tribe (Momand Tribe) regarding construction of Warsak Dam are old record and not traceable.
7. This commission notes with concern that such important records with financial implications have been lost by the Respondent. It raises serious questions the way the Respondent in maintaining its records.
8. It is incumbent upon all federal public bodies to ensure digitalization of public records after the enactment of the Act, 2017 as required under its Sections 5 and 8.
9. The Respondent has provided the requested information about “compensation Cheque issued by the government to the Warsak Dam affectees by stating that “In the Year 1962-65, an area of about 275 kanal and 3 marlas of Shinpukh Village submerged under Warsak Dam water for which compensation amounting to Rs. 123, 263.66/- was paid by this office as the project was in administrative control of WAPDA”. It has also stated that as far as compensation regarding acquisition of land for Warsak Dam and Power House is concerned, the matter may be taken up with concerned Ministry i. ethe then Ministry of Industry and Natural Recourses Government of Pakistan Please”. As the Respondent is not the custodian of the requested information, no further action is needed on this count.
10. This commission is satisfied with the response submitted before this commission by the Respondent for not providing the requested information about details of the total area acquired for Warsak Dam: “since the land was acquired by WDPO for construction of Warsak Dam, no relevant record of land acquisition available in this office, therefore Deputy Commissioner Khyber and Deputy Commissioner Mohmand is being requested many times for physical demarcation of WAPDA owned land as per their record”.
11. The instant Appeal has raised serious questions about the implementation of Sections 5 and 8 of the Act, 2017 with regard to both maintenance of record as well as proactive disclosure of categories of information mentioned in the Act, 2017.
12. This Commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 of the Act. This is despite the fact that

Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.

13. 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

14. The Appeal is disposed of to the extent of requested information in para 2 of this Order as the Respondent has provided requested information in its custody.
15. The Respondent is directed to submit report pertaining to steps taken by the Respondent for digitalization of records as required under Section 8 of the Act, 2017 within 10 working days of the receipt of this Order.
16. 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 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. The compliance report be submitted to this commission within 10 working days of the receipt of this Order.
17. 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. The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
18. 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 3 (three) pages, each page has been read and signed.