

Pakistan Information Commission

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In the Pakistan Information Commission, Islamabad

Appeal No 234-12/19

Schehr Yar Ahmed

(Appellant)

Vs.

Federal Insurance Ombudsman

Through its Registrar

(Respondent)

Order

Date: October 21, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 20-12-2019, to the Commission, stating that he submitted an information request to the Federal Insurance Ombudsman dated 04-12-2019 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 - i. Enclosed please find Annexure-A (Format) to provide the requisite information duly certified along with documentary evidences.

Complaint Title	Vs Name of Insurance Co.	Complaint filed on (Date)	Decision announced (Date)	Relief provided to complainant or Insurance Co.

B. Proceedings

3. Through a notice dated December 30, 2019 sent to The Federal Insurance Ombudsman the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. Another notice dated July 24, 2020 was sent to the Registrar of the Federal Insurance Ombudsman the Commission called upon the Respondent to submit reasons for not providing the requested information.
5. The Respondent did not respond to the notice and the hearing date was fixed for September 24, 2020 through the hearing notice sent on August 19, 2020 and both parties were informed accordingly.

6. No one appeared on behalf of the Respondent on the date of hearing on September 24, 2020.

C. Discussion and Commission’s View on Relevant Issues:

7. The questions for the consideration of the commission are as under:
 - (a) Should a citizen have access to requested information in accordance with the provisions of the Right of Access to Information Act 2017, hereafter referred as Act?
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
 - (c) Has the Respondent ensured the implementation of the proactive disclosure of information as required under Section 5 of the Act?
 - (d) Is the information made available on the web site of the Respondent accessible for all citizens of Pakistan, including the blind, low vision and with other disabilities?
8. The requested information should not only be made available to the Appellant as a constitutional right of access to information in matters of public importance under Article 19-A of the Constitution of Islamic Republic of Pakistan but also as a statutory right under different provisions of the Right of Access to Information Act 2017. The Preamble of the Act states:

“Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.
9. The public body is legally obligated to proactively disclose through its web site the requested information under following sub-sections of Section 5 of the Right of Access to Information Act 2017:
 - (d) Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it.”
10. The requested information is declared public records under Section 6 (d) which is as under:
 - a) Final orders and decisions, including decisions relating to members of public;
11. After the enactment of the Right of Access to Information Act 2017, it is not at the discretion of the public bodies to proactively disclose categories of information through web site which they deem fit. Hence, the Respondent is legally bound to proactively share all categories of information mentioned in Section 5 of the Act.
12. The implementation of Section 5 of the Act can only be ensured if federal public bodies continuously juxtapose categories of information enlisted in section 5 with the information provided on the web sites. In this regard, all federal public bodies are

required to use Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017 to ensure proactive disclosure of information. This template can be retrieved from the web site of the commission www.rti.gov.pk In this template, the Pakistan Information Commission has explained as to how each category of information is to be proactively disclosed through web sites.

13. Pakistan has ratified UN Convention on Rights of Persons with Disabilities. Article 4: General Obligations lists obligations of the state parties in achieving the purpose of the convention as enunciated in Article 1. The states parties are expected to “adopt all appropriate legislative, administrative and other measures” to achieve the purpose of the convention and “modify or abolish existing laws, regulations, customs and practices” which run contrary to the spirit of the convention.
14. Article 9 of the UN Convention on Rights of Persons with Disabilities talks about the elimination of barriers pertaining to “information, communications and other services, including electronic services and emergency services “.
15. Article 21: Freedom of Expression and Opinion, and Access to Information aims at ensuring that persons with disabilities have freedom of expression as well as freedom of information. They should be able to receive and impart information in the manner of their choice. The states are required to ensure that information intended to be provided to the general public should be made available to persons with disabilities in formats they prefer, and in timely manner and there should not be extra costs involved for making the information accessible. The states parties should accept and facilitate “the use of sign language, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions”. This provision of the article aims at fostering the spirit of accepting diversity and differences as the generally accepted modes of communication are not the only ways of communication and having access to information. In Pakistan, in the absence of web accessibility policy, almost all the official websites are inaccessible, in varying degrees, to the disabled people.
16. Section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 makes it binding on the federal public bodies to ensure accessibility of their web sites, catering to the special needs of persons with disabilities and it is as under:

“(5) The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.
17. This commission has observed that public bodies generally upload scanned images of documents which people are forced to convert into Doc. And Excel formats for research purposes. As such these scanned images are inaccessible for general public, let alone the blind who use screen reading softwares to read documents.
18. 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. This commission is of the view that it is about time federal public bodies start taking seriously the accessibility of the web sites as well. The web sites of public bodies should be accessible to level AA of Web Content Accessibility Guidelines (WCAG) 2.1 (of W3C).

The public bodies should ensure incorporation of web accessibility standards in the design of their web sites. ‘Web accessibility checklist’ can be retrieved from the web site of the commission www.rti.gov.pk

A quick reference guide for WCAG2.1 is available at this link: <http://www.w3.org/WAI/WCAG21/quickref/>

19. In the instant appeal, the Registrar of the public body, deemed to be Public Information Officer, (PIO), as required under Section 9 of the Act when a PIO is not designated by the head of a public body, failed to perform following obligations under the Act.
 - I. Failure to provide “written acknowledgement in response to” a request for information filed by citizen as required by Section 10 (1) of the Act.
 - II. Failure to follow procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act which is as under:

“(2) The designated official shall process the request and by notice in writing inform the applicant that---

 - a) A request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of the prescribed fee. On payment of the fee the designated official shall provide the requested record, or
 - b) The request has been rejected-
 - i. On the basis that it does not comply with the provisions of this act and the rules made there under but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
 - ii. On the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
 - iii. On the basis that it is incorrect, because it relates to information which is substantially the same information that has already has been provided to the same applicant during last six months; or
 - iv. In whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which the notice shall specify the exact exception, relied upon and specifying details regarding the right of the applicant to appeal against this decision”
 - v. Failure in following the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.
20. The PIO not only delayed and denied access to the requested information, the PIO also failed to comply with the duly sent notices of the commission.
21. Had the Respondent gone through the Act after receiving request for information of the citizen and notices of this commission, clearly referencing the Act, it would have saved time and resources of this Commission. It also demonstrates that the Respondent has not taken any steps for the implementation of the Act. It demonstrates that the powers vested in officers are not being exercised “reasonably, fairly, justly, and for the advancement of the purposes of the enactment” as required under Section 24A (1) of the General Clauses Act 1897.

22. This commission is of the view that the wilful delay or denial of the requested information causes undue cost to citizens and the commission. Citizens have to approach this commission for the exercise of their fundamental constitutional right of access to information which involves cost both in terms of money and time.
23. Citizens of Pakistan through their elected representatives have included the provision of imposing fine on public official who wilfully delay or deny access to the requested information so that they do not have to pay the undue cost in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official.
24. The commission has no option but to fulfil its legal obligation and offset this trend of raising cost in terms of time and money for citizens, the commission and the superior judiciary.
25. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

26. The appeal is allowed. The Registrar, Federal Insurance Ombudsman is directed to provide certified copies of final orders issued on all complaints.
27. The information mentioned in para 26 be provided, with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
28. The Respondent is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification to this effect on its web site as required under Section 5 (1) (b) of the Act, put name, designation and contact details of the PIO on its web sites as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
29. 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 by 22/11/2020.
30. 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](#) by 22/11/2020.
31. Copies of this order be sent to Registrar, Federal Insurance Ombudsman and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
October 22, 2020

This order consists of 6 (six) pages, each page has been read and signed.