

**Pakistan Information Commission**  
**Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad**

**Appeal No 295-02/20**

**Shehzad Ahmed Khan**

**(Appellant)**

Vs.

**Establishment Division**

Through Its Public Information Officer

**(Respondent)**

**Order**

**Date:** May 20, 2021

**Mohammad Azam:** Chief Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated January 30, 2020, to the Commission, stating that he Submitted an information request to the Secretary, Establishment Division dated January 14, 2020 under the Right of Access to Information Act 2017 but did not received the requested information from the public body.
2. The information sought by the Appellant is as under:
  1. *“List of the officers who have not submitted their assets declaration form during the period of the 2017, 2018 and 2019. (Year and Service Group wise breakup)*
  2. *Details of the action taken against those officers who did not submitted their assets declaration.*
  3. *Certified copy of the policy document for the verification of the assets declared by the officers.”*

**B. Proceedings**

3. Through a notice dated February 12, 2020 sent to the Secretary, Establishment Division the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The appeal was fixed for hearing on March 10, 2020 and both parties were informed through hearing notice sent on February 24, 2020.
5. The Respondent through a letter vide F.No. 65-D-IV dated 26th February, 2020 submitted its response which is as under:

*“The Establishment Division considers that information requested for is covered in the category of exclusion/exemption prescribed in clauses 7(g) and 16(c) of “The Right of Access to Information Act 2017” and, therefore, cannot be furnished.*

*It is further informed that in terms of Rule 7(i) of Civil Servants Promotion (BS-18 to BS-21) Rules 2019, non-submission of annual declaration of assets for the*

*last five years constitutes one of the conditions for deferment. The aforesaid rule is being applied by the CSB/DSB in letter and spirit.”*

5. The response of the public body was shared with the Appellant on March 06, 2020.
6. The Appellant on July 16, 2020 submitted rejoinder to the response of the public body which is as under:

*“It is stated that instead of providing me the requested information about the officers who have not submitted their assets declaration the department has sent me copy of the rules to claim that the requested information is exempted from disclosure. I strongly disagree with the stance of the public body. If the asset declaration of the politician can be shared on the website for the public then why not the bureaucrats? The public have the right to know the asset details of public office holder.*

*You are requested to order the establishment division to share the requested information and also share the same on their website as per law.”*

6. The Appeal was again fixed for hearing on October 13, 2020 and both parties were informed through hearing notice sent on October 02, 2020.
7. Through a letter vide No. F. 6/7/2020 (CP-I) dated October 20, 2020, the Respondent submitted response to the rejoinder of the appellant which is as under:

*“Pursuant to the Notice dated October 2, 2020 in the subject case, representative of Establishment Division appeared before the Pakistan Information Commission on 13-10-2020 and explained the viewpoint of Establishment Division already conveyed to the appellant vide letter dated 26-02-2020 (Annex-I). It was explained before the Commission that:*

*(i) The assets declaration forms filed by the Govt employees have not been declared to be the public record as per Section 6 of the Right of Access to Information Act, 2017.*

*(ii) In terms of Section 7 (g) of the Act *ibid*, record relating to the personal privacy of any individual is excluded from purview of Section 6.*

*(iii) Under Section 16 (c) of the Act *ibid*, the information is exempt from disclosure if it involves invasion of privacy of an identifiable individual*

*(iv) The appellant was accordingly informed in terms of Section 13 (2) (6) iv).*

2. The Commission however, provided to the representative of Establishment Division, copy of the appellant's rejoinder vide his letter dated July 16, 2020 addressed to the Chief Information Commissioner, wherein he expressed his disagreement with the viewpoint of Establishment Division. The appellant's statement, is reproduced below: *“I strongly disagree with the stance of the public body. If the asset declaration of the politician can be shared on the website for the public then why not the bureaucrats? The public have the right to know the asset details of public office holder.”*

3. The above statement indicates that the applicant simply relied on analogy of political figures without specifying any provision of law applicable to Govt employees. The law pertaining to Election to Parliament is a separate domain. The conduct of candidates of election is governed by Article 62-63 of the Constitution and the Elections Act 2017, Section 110 (8) whereof is reproduced for ready reference:

*“(8) The Form and accompanying declarations and statements shall be open to inspection by the public, and the Commission shall make available copies of these documents in such manner and on payment of such fee as may be prescribed.”*

4. *The above provision of law is applicable to election candidates. As regards declaration of assets forms filed by the Govt employees, there is no law requiring the Govt agencies or public bodies to make such declarations/ statements open to inspection by public. On the contrary, express exemption clause is available in respect of individual records available in Govt departments/ public bodies like the record specified in Section 7 (g) and 16 (c) of the Right of Access to Information Act, 2017.*
5. *Foregoing in view, it is humbly requested that the titled appeal may kindly be disposed of in the light of the above submissions.”*
8. The appeal was again fixed for hearing on October 13, 2020 and both parties were informed through notice sent on October 02, 2020.
9. Mr. Khaleeq Ur Rahman, Deputy Secretary / Public Information Officer, and Ms.Sania Saeed, Section Officer, Establishment Division attendant the hearing and submitted the same response dated October 20, 2020.
10. Response of the public body was again shared with the appellant on November 06, 2020.
11. The appellant again submitted his response on November 10, 2020 which is as under:  
*“There is nothing new in the response of Establishment Division vide No. F.6/7/2020(CP-) dated 20th October 2020.*  
*The respondent stated that assets declaration forms filed by the Govt employees have not been declared to be the public record as per section 6 of the Right of Access to Information Act 2017. All the arguments that they have presented during the hearing and now in written are related to the personal privacy of the government officers.*  
*My information request is very clear, I am not asking about the declaration forms, I have just requested the list of the officers, their names, designations, current posting etc who are not submitting their assets declaration forms regularly as required by the law.*  
*It is respectfully stated that the matter was already decided in the hearing held at Pakistan Information Commission.”*
12. The response of the appellant was shared with the Respondent on November 25, 2020 with the direction to submit written reply as per the original request of the appellant within 7 working day.
13. The respondent did not respond to the notice of the commission.

### **C. Discussion and Commission’s View on Relevant Issues**

14. The questions for the consideration of the commission is as under:  
Does public interest outweigh any harm to personal privacy of civil servants who fail to fulfil their obligation of submitting details of their assets?
15. This commission provided number of opportunities to the Respondent, through duly sent notices and multiple hearings. The respondent failed to submit any legal justification as how only sharing the name and designation of the officers who are not submitting their assets declaration will affect the privacy of the officers.
16. The Respondent has merely referred to the Section 7 (g) and 16(c) of the Act and has not submitted any legal justification or reason as how this information will affect the privacy of the government officials and how it outweighs public interest.
17. The Respondent in its response dated 26th February, 2020 stated that *in terms of Rule 7(i) of Civil Servants Promotion (BS-18 to BS-21) Rules 2019, non-submission of annual declaration of assets for the last five years constitutes one of the conditions for deferment. The aforesaid rule is being applied by the CSB/DSB in letter and spirit.”*

Rule 7(i) of the Civil Servants Promotion Rules 2019. Rule 7(i) states:

*“(i) an inquiry, investigation, case or a reference is pending against any civil servant in Anti-Corruption Establishment, Federal Investigation Agency, National Accountability Bureau or such other organization by whatever name called for:*

*Provided that this clause shall not be applicable in such cases, where on the date of consideration of a civil servant for promotion, such an inquiry, investigation, case or reference is pending against him for more than three years and the delay has not been caused by any reason attributable to the officer;”*

The Respondent did not share the details of the action taken against those officers who did not submit their assets declaration as requested by the Appellant.

18. The Government Servants (Conduct) Rules, 1964 bound the government employees to submit to an annual declaration of income, assets and expenses for the financial year, ending on 30th June.

**Section 12 (2) and (3) of the Government Servants (Conduct) Rules, 1964 is as under:**

*(2) Every Government Servant shall submit to the Government, through the usual channel an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule(1) or the last annual return, as the case may be.*

*(3) Declaration of "Assets Proforma shall be opened in the concerned section each year and entered into the relevant database in the month of December showing any increase or decrease of property as shown in the declaration under sub-rule or, as the case may be, the last annual return.*

19. This commission is of the view that disclosure of this information may serve in reduction of trust deficit between citizens and public institutions as citizens could themselves see that those who are working for the enforcement of rule of law themselves following the rules and laws or not.
20. The commission in an order on Appeal 761-12/20 Nadeem Umer Vs Establishment Division has determined that in any case, on the balance, public interest outweighs any harm to personal privacy of civil servants who fail to fulfil their obligation of submitting details of their assets. It is only through the disclosure of the requested information that citizens of Pakistan, who pay taxes for, inter alia, the salaries of civil servants, will be able to know the following: names, designations and number of officers who are not fulfilling their obligation of submitting their assets declaration;

Frequency and duration of the failure on the part of officers in submitting assets declaration; and action taken, if any, by the Establishment Division against officers who failed to submit their assets declaration.

21. In the earlier appeal, the appellant has requested the list of the officers who have not submitted their assets declaration during their whole service, however, in this instant appeal, the appellant has only requested the list of the officers who have not submitted their assets declaration from the period of 2017, 2018 and 2019, details of the action taken against them by Establishment Division and copy of the policy documents for the verifications of the assets declared by the officers.

#### **D. Order**

22. The appeal is allowed. The Public Information Officer of Establishment Division is directed to provide the information requested in Para-2, with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.

23. The Respondent is also 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 by May 23, 2021.
15. Copies of this order be sent to Secretary, Deputy Secretary (CP-II) / Public Information Officer of Establishment Division and to the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on:

May 20, 2021

This order consists of 05 (five) pages, each page has been read and signed.