



Appeal No 330-02/2020
Naeem Sadiq (Appellant)

Vs.

Ministry of Foreign Affairs (Respondent)

Order

Date: June 1, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 20/02/2020, to the Commission, stating that he Submitted an information request to the Secretary, Ministry of Foreign Affairs dated 30/12/2019 under the Right of Access to Information Act 2017,
2. The information sought by the Appellant is as follows:
 1. *Between 1.8.2017 and 30.12.2019, the Pakistan Foreign Office wrote how many and to which countries, letters that permitted, invited, or approved the hunting of houbara bustards.*
 2. *Kindly provide a photocopy of each of these letters.*
 3. *Kindly ensure that these letters are countersigned by a responsible official as the correct and complete record.*
 4. *Kindly provide the above information and records within 10 working days as stipulated in the law.*

B. Proceedings

3. Through a letter vide N. DCP(P&I)18-6/2019-20(Allocation) dated 09/01/2020, the public body stated that subject information cannot be shared under Article 16 (a)(ii) of Right of Access to Information Act, 2017.
4. The hearing of the case was fixed for 05/03/2020 through the hearing notice sent to designated Public Information Officer on 24/02/2020 and both parties were informed accordingly.
5. Through another letter vide No. DCP(P&I)-18-6/2019-20 dated 04/03/2020 the public body stated, the Ministry of Foreign Affairs does not issue hunting permits. After the 18th Amendment subject of Wild Life was shifted to the provinces, therefore, provincial wildlife departments issues the hunting permit in accordance with their respective Wildlife Laws. Ministry of Foreign Affairs only conveys its recommendations to the Provinces.

Keeping in view the sensitive nature of foreign relations, requested information cannot be shared as it may cause damage to the interest of Pakistan in conduct of its international relations.

6. The hearing of the case was held on 05/03/2020 and Mr. Adeel Pervez – Dy. Chief of Protocol – appeared on behalf of the respondent. Mr. Pervex maintained that the “Keeping in view the sensitive nature of foreign relations, requested information cannot be shared as it may cause damage to the interest of Pakistan in conduct of its international relations”.

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?
8. The item No. 1 of the requested information is about “1.8.2017 and 30.12.2019, by the Pakistan Foreign Office wrote how many and to which countries, letters that permitted, invited, or approved the hunting of houbara bustards”.
9. This commission fails to understand as to how information about the total number of letters written and the names of the countries pertaining to the hunting of houbara bustards can be sensitive? How can this information be sensitive that X number of letters have been written to these countries during this period? Especially, when information about the dignitaries of the countries that visit Pakistan for the hunting of houbara bustards is already available in the public domain?
10. While information about the total number of letters written and the names of the countries pertaining to the hunting of houbara bustards cannot be deemed sensitive, there could be legitimate reasons to consider some of the content of these letters to be sensitive.
11. The Act makes allowance for exemption from disclosure of sensitive information. However, the Respondent has not followed procedure laid down in the Act to classify information and exempting it from disclosure. Furthermore, the Respondent has accorded blanket exemption to the requested information.
12. Information can only be exempted from disclosure by adopting procedure described in Section 7 (f) of the Act which is as under:
 - a) ““Records declared as classified by the Minister-in-charge of the Federal GovernmentProvided that the Minister-in-Charge of the Federal Government shall have to record reasons as to why the harm from disclosure of information outweighs public interest and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded”.
13. The Respondent did not follow this procedure. The Respondent has merely referred to Section 16 (a)(ii) of the Act to deny access to the requested information.

14. The Respondent has merely referred to exemption clause of the Act, has not recorded reasons for withholding requested information from the citizen as also required under Section 17 (4) of the Right of Access to Information Act 2017 which is as under:

“The public body shall, in an appeal under sub-section (1), bear the burden of proof of showing that is acted in accordance with the provisions of this Act”.

This commission maintained in its Order in the case of Mukhtar Ahmed Ali VS Federal Board of Revenue, (FBR), which was challenged by the FBR but was upheld by the Honourable Islamabad High Court that “the requested information can only be withheld from a citizen by invoking an exemption clause on justifiable grounds.

While there may be legitimate reasons for exempting sensitive information contained in a document from disclosure, it does not mean that portions of the document which are not sensitive can also be exempted from disclosure. It should be noted that even when there are justifiable reasons for withholding the requested information, Public Information Officers are expected to fulfil their legal obligation to provide parts of records or information which are not excepted from disclosure as required under Section 16 (a) (i) which is as under:

“Provided that where only part of a record or the information falls within the scope of the exceptions provided for in this Act, that part shall be severed and the residual record or information shall be provided to the applicant”.

D. Order

15. The appeal is allowed. The Respondent is directed to provide the requested information about the total number of letters written and the names of the countries pertaining to the hunting of houbara bustards. The Respondent is also directed to provide certified copies of the requested letters after redacting sensitive content. This information be provided to the Appellant at the earliest, but in any case, not later than 10 working days of the receipt of this order.
16. Copies of this order be sent to Secretary, Ministry of Foreign Affairs, (MOFA), Public Information Officer, MOFA and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

June 04, 2020

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