

IN THE PAKISTAN INFORMATION COMMISSION

ISLAMABAD

APPEAL NO. 523-8-2020

Mst. Saltanata Bibi
Vs
Wapda Hospital, Peshawar

26.10.2020

Fawad Malik: Information Commissioner

A. APPEAL:

1. In the instant appeal Mst. Saltanata Bibi has called in question the decision by the Medical Superintendent, WAPDA Hospital, Peshawar vide his letter dated 18.07.2020 through which her request for the provision of Birth Certificate and Medical History of her mother namely Mst. Hussan Pari, who expired in the hospital, has been refused by the hospital authority. Being aggrieved the appellant has knocked the Pakistan Information Commission invoking her right under the Right of Access to Information Act 2017 and 19.A of the Constitution of Pakistan 1973.
2. The application dated 07.07.2020 filed by the appellant in the office of Medical Superintendent, WAPDA Hospital, Peshawar is reproduced as under;

“I hope this epistle finds you in the best of your health & high spirits. My mother (Hussan Pari) has remained admitted in your hospital for 11 days back in March 2006. She had paralysis & remained in Comma for 4 days in medical ward on first floor. I was there with her throughout till she took her last breath on 14th or 15th March 2006, sharp at 04:25 am.

Respected Madam, I am facing some legal issues for distribution of property with my brother Abdur Rehman (Rt.ALM17301-2735581-5, Copy # 1126).

I have requested two times for provision of my mother’s medical history and death certificate through my son but request was not entertained by the staff at your hospital.

You are humbly requested to please provide me my mother’s medical history and death certificate for legal process to get justice”

3. In reply to the application submitted by the appellant the Medical Superintendent, WAPDA Hospital, Peshawar vide his letter dated 18.07.2020 declined the request as under:-

“It is intimated that mother of Mr. Abdul Rehman Ex.ALM was registered at this hospital as his dependent. If any certificate is required, a request should be processed by Mr. Abdul Rehman Ex.ALM, accordingly.”

B. PROCEEDINGS:

4. The appeal was fixed for hearing before the Commission on 07.10.2020 and both the appellant as well as the Medical Superintendent of the Hospital were informed accordingly vide notices dated 25.08.2020.

5. Before the date of hearing the hospital vide letter dated 21.09.2020 submitted the written reply before the Commission. The reply is reproduced as under;

“In connection to the cited subject, Mother of Mr. Abdul Rehman Ex.ALM was registered at this hospital as his dependent. Mst. Saltanata Bibi sister of Mr. Abdul Rehman Ex.ALM requested for issuing death certificate of her mother, mentioning in her application that she has some legal issues in the court regarding distribution of property. It is pertinent to mention here that this is a departmental hospital and a written reply under Ref. Letter No.MS/WHP/PF/4884/85 dated 18.07.2020 was issued to Mst. Sultanata Bibi Sister of Mr. Abdul Rehman Ex.ALM regarding issuing death certificate of her mother in which it is mentioned that, Mother of Mr. Abdul Rehman Ex.ALM was registered at this hospital as his dependent, if any certificate required, a request should be processed by Mr. Abdul Rehman Ex.ALM accordingly.

6. The reply submitted by the hospital was shared with the appellant. The appellant being not satisfied with the reply filed her objections to the following effect;

“I am not satisfied from the reply of WAPDA Hospital Peshawar.

- 1. Death Certificate is a public document. The copy of the certificate shall be given to any person related to the family of the deceased.*
- 2. For the purpose of legal proceedings we have moved an application for the copy of death certificate to WAPDA Hospital Peshawar at a time of death she was admitted there.*
- 3. Mst. Saltanata Bibi is the real daughter of Mst. Hussan pari (deceased).”*

7. Keeping in view the contents of appeal, the reply submitted by the hospital and dissatisfaction shown by the appellant the appeal was fixed for hearing before the Commission on 21.10.2020 and both the appellant as well as respondent were informed accordingly through notice dated 08.10.2020.

8. Dr. Junaid Khan, Deputy Medical Superintendent WAPDA Hospital, Peshawar appeared before the Commission to represent the hospital at the time of hearing. He has produced the register of admission book of the Hospital pertaining to March 2006 reflecting the name of Mst. Hussan Pari mother of Mr. Abdul Rehman. The said record reflects that the patient succumbed to the diseases in the hospital.

C. COMMISSION'S VIEW:

9. Admittedly the appellant Mst. Saltanata Bibi is real sister of Mr. Abdul Rehman and daughter of Mst. Hussan Pari deceased. She has requested through application the Medical History and Death Certificate of her mother from the Hospital for availing the remedy regarding the distribution of property with her brother Mr. Abdul Rehman. The Death Certificate is a public document and all the legal heirs of the diseased have legal and vested right to seek the attested copy of Death Certificate for safeguarding their succession through inheritance and other legal rights. This fundamental right cannot be delayed or refused at the whims of the authority of hospital.
10. The reply submitted by the Hospital with the ascertain that the WAPDA Hospital is a departmental hospital and that mother of Mr. Abdul Rehman was registered at the hospital as his dependant and that the certificate will only be issued to Mr. Abdul Rehman is illogical, arbitrary and unlawful being against the spirit of the Right of Access to Information Act 2017 and amounts to infringing the fundamental right. The representative of the Hospital has not referred any Rules or Regulation of the hospital issued by the health department or any other government office in support of his stance that bar the sharing of the public document to the legal heirs. Seemingly the required documents are being denied to the appellant in an arbitrary manner against the principles of natural justice.
11. The WAPDA Hospital is a public body within the meanings of the Act and provides service to the WAPDA employees and their relatives. To obtain the Death Certificate and the Medical History of the parents is basic fundamental right of the legal heirs. Refusal of these documents amounts to depriving the legal heirs of their right of inheritance therefore for availing the legal remedies regarding distribution of property, all the legal heirs are equally entitled for the requested record. If one of the legal heirs is employee of the department and the deceased was admitted in the hospital as his parent/dependant under entitlement, it does not prohibit or bar the other legal heirs of their right to obtain death certificate or medical history of their own from the Hospital

after filing the request.

12. *Prima facie* the lady is being deprived of her right of inheritance. Section 498.A PPC makes it unlawful to deprive a woman of her rightful inheritance through deceitful or illegal means at the time of opening of succession and make it punishable by imprisonment or a fine or both. Section 498.C PPC prohibits marriage with the Holy Quran and prescribes punishment and a fine for whoever arranges or facilitates such a marriage. Islam and the Constitution of Pakistan guarantees women's inheritance right and clear guidance on the matter. The Islamic theory of inheritance have been summarized in the *Verse of Al-Nisaa*, the forth chapter. In Pakistan inheritance of a deceased Muslim's property is regulated by the Muslim Family Law 1961 and Succession Act 1925. Since the matter pertains to the province Khyber Pakhtunkhwa therefore it would not be out of place to mention here that to protect and secure the rights of ownership of women in the property in the province the Khyber Pakhtunkhwa Enforcement of Women's Property Rights Act, 2019 is in force.
13. It is mandatory for the public bodies to publish including uploading over the internet and computerization for the voluntary disclosure of the categories of record and information mentioned in section 5, within six months and to notify designated officer within thirty days of the commencement of the Act.

D. ORDER:

14. The appeal is allowed. The letter dated 18.7.2020 is set aside. The Medical Superintendent, WAPDA Hospital Peshawar is directed to provide the appellants certified copies of the Death Certificate and Medical History of Mst. Hussan Pari forthwith but in any case not later than 07 days of the receipt of this order.
The public body is further directed to take measures for the implementation of Sections 5, 8 & 9 of the Act, forthwith without any further delay.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced: 27.10.2020

Certified that this order consists of four pages, each page has been read and signed.