

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 533-08/20

Muhammad Nauman Ul Haque

(Appellant)

Vs.

Multan Electric Power Company
Through Chief Executive Officer

(Respondent)

Order

Date: November 24, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 21-08-2020, to the Commission, stating that he Submitted an information request to the Designate Official, Multan Electric Power Company, Burewala Division dated 14-09-2018 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant about his metre, Consumer ID No. 2150033335 and Reference No. 29-15333-1038007-R is as follows:
 1. Certified copies of complete billing statement, of above mentioned meter since January 2006, with such full details, which would enable me to verify the correctness of entries objectively, like
 - I. Under what heads, what amounts were accrued in each month with their respective justification while describing in detail the unit rate for each month and taxes etc amongst other things?
 - II. Amounts of monthly bills issued by MEPCO, against said meter?
 - III. Amounts of money paid by consumer, against each monthly bill?
 2. Formula to calculate average for "out of order meter"

3. Certified record of all applications made about this meter including several applications made for bill correction from time to time and actions taken on those application and reports rendered.
4. How many units would be consumed if tubewell runs 24/7 for 30 days and how to calculate it.

B. Proceedings

3. Through a notice dated 16-10-2020 sent to the Chief Executive Officer, Multan Electric Power Company, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. Muhammad Khalid Zaman Advocate – counsel of MEPCO collected the copies of appeals and information request on 29-10-2020 and requested more time to provide the requested information to the appellant.
5. The appeal was fixed for hearing on November 05, 2020. No one appeared before the commission.
6. The hearing date was again fixed for November 26, 2020 through the hearing notice sent on November 18, 2020 and both parties were informed accordingly.
7. No one appeared on behalf of the Respondent on the date of hearing on November 05, 2020.

C. Discussion and Commission’s View on Relevant Issues

8. 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?
9. 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”.

10. 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.”

11. 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;.

12. In the instant appeal, the CEO 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”*

13. The Respondent also failed in adhering to 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.
14. 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.
15. The fact that the Respondent has caused delay in providing to the requested information to the Appellant highlights following two issues:
 - (A) That the Respondent has violated timeline mentioned in the Act to provide the requested information to the Appellant; and
 - (B) That had the Respondent implemented provisions of this Act, including, but not limited to Section 4 and 5 of the Act, the unwarranted delay in providing the requested information to the Applicant could have been avoided.
16. This commission has held through its different detailed judgements that federal public bodies are not giving primacy to proactive disclosure of information through their web sites and that proactive disclosure of information is not given serious consideration it deserves.
17. This commission has also established through its different Orders that not only information is to be made available to citizens as required under Section 5 of the Act but it has to be made available on the web sites in a manner that it is accessible for all citizens, including those with different disabilities by incorporating web accessibility standards in the design and development of web site.
18. 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.
19. 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.

20. 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.
21. 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.
22. 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

23. The appeal is allowed. Chief Executive Officer, Multan Electric Power Company is directed to provide requested information to the Appellant about his metre, Consumer ID No. 2150033335 and Reference No. 29-15333-1038007-R which is as under:

1. "Certified copies of complete billing statement, of above mentioned meter since January 2006, with such full details, which would enable me to verify the correctness of entries objectively, like

I. Under what heads, what amounts were accrued in each month with their respective justification while describing in detail the unit rate for each month and taxes etc amongst other things?

II. Amounts of monthly bills issued by MEPCO, against said meter?

III. Amounts of money paid by consumer, against each monthly bill?

1. Formula to calculate average for "out of order meter"

2. Certified record of all applications made about this meter including several applications made for bill correction from time to time and actions taken on those application and reports rendered.

How many units would be consumed if tubewell runs 24/7 for 30 days and how to calculate it".

24. The information mentioned in para 23 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.
25. 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.

26. 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 07/01/2021.
27. 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 07/01/2021.
28. Copies of this order be sent to Chief Executive Officer, Multan Electric Power Company and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
December 14, 2020

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