



In The Pakistan Information Commission, Islamabad

Appeal No 784-12/20

Syed Kausar Abbas

(Appellant)

Vs.

Ministry of Interior

Through its Public Information Officer

(Respondent)

ORDER

Date: August 30, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 17-12-2020, to the Commission, stating that he submitted an information request to Public Information Officer, Ministry of Interior on November 23, 2020 under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
“You are requested to provide information about steps taken by the public body about proactively publishing each category of information mentioned in Section 5 of the Act on its web site as requested in the following table.

Proactive Disclosure Provisions of Section 5 of the Act	Information to be Proactively Disclosed	Questions	Information (please provide requested information in this column)
Section 5 (1) (a)	Description of the public body’s organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties	Which of this information has been made available on the web site and which is missing? Has the public body published on its web site the	

		directory of officers and the employees along with names, designations, Basic Pay Scales, Salaries, benefits, perks and privileges of the officers and employees?	
Section 5 (1) (b)	Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (c)	Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (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	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (e)	The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body	Has the public body published on its web site criteria and terms and conditions for all kinds of licenses, permits, consents, approval, grants, allotments or other benefits? Has the public	

		body published on its web site list with names and addresses of those received concession, permit, license or authorization?	
Section 5 (1) (1) (f)	A description of its decision-making processes as defined in the Federal government's secretariat instructions, 2004 and any instructions for the time being in force for the public to provide any input into or be consulted about decision	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (g)	Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget	Which of this information has been made available on the web site and which is missing?	
Section 5 (1) (h)	The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials	Has the public body put on its web site Application Form for seeking information under the Act and 'Schedule of Costs'? (Both the form for filing information request and 'Schedule of Costs' are available on the web site of the commission). Has the public body put the name, designation, official E-mail and contact	

		number of the Public Information Officer on the web site?	
Section 5 (1) (i)	Reports including performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized	Has the public body published on its web site all such finalised reports? Which of these reports have been made available and which are missing?	
Section 5 (1) (j)	Such other matters which the principal officer of the public body deems fit to be published in the public interest	Is the public body in the custody of classified records that are more than 20 years old? Have steps been taken to declassify such records under Section 16 (1) (k) of the Act and publish under this provision of the Act?	
Section 5 (1) (l)	Camera footages at public places, wherever available, which have a bearing on a crime	Which of this information has been made available on the web site and which is missing?	

”.

B. Proceedings

3. Through a notice dated December 21, 2020, sent to Public Information Officer, Ministry of Interior, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Appeal was fixed for hearing on February 18, 2021 and both parties were informed accordingly through a notice sent on February 09, 2021.
5. Mr. Ashfaq Ahmed, Assistant Director, Ministry of Interior attended the hearing held on February 18, 2021 and submitted response before the commission.

6. Response submitted by the public body was shared with the appellant on February 18, 2021.
7. The appellant submitted rejoinder on May 24, 2021 to the information shared with him.
8. The appeal was again fixed for hearing on June 10, 2021 and both parties were informed through notices sent on June 01, 2021.
9. The Respondent through a letter dated June 07, 2021 submitted response to the queries raised by the appellant in the rejoinder, which is as under:

Proactive Disclosure Provisions of Section 5 of the Act	Information to be Proactively Disclosed	Questions	Information (please provide requested information in this column)
Section 5 (1) (g)	Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget.	Which of this information has been made available on the website and which is missing?	No revenue is collected by Mol itself. The concerned attached departments like NADRA, IMPASS, CDA etc. deal with revenue collection. The budget details may consist of classified items and cannot be disclosed to general public.
Section 5 (1) (h)	The methods whereby information in the possession or control of the public body may be obtained and the prescribed fee required along with the name, title and contact details of the designated officials	Has the public body put on its website Application Form for seeking information under the Act and Schedule of Cost' (Both the form for filling information request and Schedule of Cost' are available on the website of the commission). Has the public body put the name, designation, official Email and contact number of the public information officer on the website?	Necessary Information is available on website of Mol.
Section 5 (1) (h)	Reports including performance reports, audit reports, evaluation reports,	Has the public body published on its website all such	All such reports may contain information that can be related to

	inquiry or investigative reports and other reports that have been finalized	finalized reports? Which of these reports have been made available and which are missing?	security matters of the Government of Pakistan. Disclosing such reports may cause security hazards.
Section (1) (1)	Camera footages at public places, wherever available, which have a bearing on a crime	Which of this information has been made available and which is missing?	Camera footage is only disclosed to the Security Agencies. If it is disclosed to the public, the criminal elements can take advantage of it.

C. Issues

10. The instant appeal has brought to the fore following issues:

- (a) Can the publication of the entire allocated budget by the Parliament to the Ministry of Interior be withheld because of some classified items under the provisions of the Right of Access to Information Act 2017, henceforth referred to as Act?
- (b) What is the procedure for declaring records to be classified after the enactment of the Right of Access to Information Act 2017 and how should the records declared classified earlier be treated?

D. Discussion and Commission's View on Relevant Issues

11. The right of access to information in matters of public importance is not absolute right. However, the right of access to information in matters of public importance can only be restricted, as Article 19-A dictates, through "reasonable restrictions imposed by law".
12. This commission holds that information/records can only be exempted by following process laid down under the Right of Access to Information Act, 2017. Furthermore, this commission also maintains that the Act does not provide absolute and blanket exemption to any record.
13. Section 7 (f) allows a Minister-in-charge to classify a record which is as under:

"Records declared as classified by the Minister-in-charge of the Federal Government Provided 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;"
14. The commission is of the view that contention of the Respondent that "The budget details may consist of classified items and cannot be disclosed to general public" does not hold water in the light of the provisions of the Act. The information about budget items can only be exempted from disclosure by the Minister-in-Charge under Section 7 (f) of the Act. The Minister-in-Charge will record reasons as to how the harm from disclosure of information outweighs public interest. This commission will determine as to whether the recorded reasons meet the threshold of the harm from disclosure of information outweighing public interest.

15. This commission also maintains that proactive disclosure or otherwise of all kinds of reports held by federal public bodies should be determined under Section 5 (1) (i), Section 7 (f), Section 16 (1) (i) and Section 16 (1) (k) of the Act.
16. While all federal public bodies are required to proactively publish all finalised reports, some of these reports, or, some parts thereof may be exempted from disclosure on legitimate security or other concerns. However, these concerns need to be articulated through the recorded reasons of the Minister-in-Charge and submitted before this commission to determine that the harm from disclosure outweighs public interest. Moreover, there is no blanket exemption to any finalised report. This commission is of the view that a public body cannot deny access to any finalised report because parts of records/information of the requested information fall within the scope of exceptions mentioned in Section 16 of the Act. If the public interest warrants the disclosure of a report, though some of its part may contain information which should be exempted from disclosure on reasonable grounds, those parts can be severed and the rest should be made public as required under Section 16 (1) (i) of the Act.
17. Under Section 16 (1) (k) of the Act, a public body cannot shroud in secrecy any report for eternity. This section states that “exemptions set out in section 16 shall cease to apply after every twenty years and that record of public bodies shall be made public”.
18. George Santayana rightly stated that “those who cannot remember the past are condemned to repeat it. That is why, like other nations, our honourable Parliamentarians, have included the provision to declassify records after 20 years so that nation could remember its past, discuss and debate decisions taken in a certain context by politicians and state functionaries.
19. Good governance in the country can only be ensured if we graduate from post-colonial era where secrecy has been a norm and provision of information exception to the modern era wherein running of the business of the country is conducted in a manner that transparency becomes a norm and secrecy an exception. Therefore, it is solemn responsibility of those running the affairs of the state to create balance between protecting information from disclosure, on justifiable ground through recorded reasons, and, proactively sharing of information in public interest which has hitherto been kept shrouded in the veil of secrecy.

E. Order

20. The appeal is allowed. Secretary, Ministry of Interior is directed to:
 - (a) Take steps to record reasons by the Minister-in-Charge, as required under Section 7 (f) of the Act, to exclude budget items that need to be classified and place recorded reasons before this commission, to ensure implementation of Section 5 (1) (g) of the Act;
 - (b) share information about total number of classified reports, along with the title of each report and the date on which each report was classified;
 - (c) Initiate process of declassification of all reports, including those that are more than 20 years old, or, parts thereof, as dictated by Section 5 (1) (i), Section 7 (f), Section 16 (1) (i) and Section 16 (1) (k) of the Act; and
 - (d) Ensure availability on its web site of the methods for seeking information from the public body under the Act and the Schedule of costs, developed by Pakistan Information Commission, (available on the commission’s web site) for seeking information from federal public bodies.

21. Compliance report pertaining to the implementation of the directions mentioned in para 20 be submitted to the commission by September 30, 2021.
22. Copies of this order be sent to Secretary, Ministry of Interior, Public Information Officer, Ministry of Interior and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
August 30, 2021

This order consists of 8 (eight) pages, each page has been read and signed