



In The Pakistan Information Commission, Islamabad

Appeal No 801-12/20

Syed Kausar Abbas

(Appellant)

Vs.

Ministry of Railways

Through its Public Information Officer

(Respondent)

ORDER

Date: March 08, 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 Director, (Adman), Public Information Officer, Ministry of Railways on November 23, 2020 under the Right of Access to Information Act 2017 but did not received 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 Director, (Admin), Public Information Officer, Ministry of Railways, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. Through a notice dated January 18, 2021, the Public body was directed to provide written reply and arguments to Pakistan Information commission within 15 days.
5. The Respondent did not submit the response.
6. The Appeal was fixed for hearing on February 18, 2021 and both parties were informed accordingly through a notice sent on February 09, 2021.
7. The Respondent did not attend the hearing.
8. The Appeal was again fixed for hearing on February 25, 2021 and both parties were informed accordingly through a notice sent on February 18, 2021.
9. Mr. Shahbaz Ahmed, Assistant Director, (Legal), Ministry of Railways attended the hearing and said that the designated PIO had retired from service. He requested for adjournment of the hearing till 03 March, 2021 but did not attend the hearing.

C. Discussion and Commission's View on Relevant Issues

10. The Respondent, Ministry of Railways, by not responding to the request for information of the citizen and the subsequent notices of this commission has demonstrated lack of

willingness to act in accordance with the provisions of the Right of Access to Information Act 2017, henceforth referred to as Act.

11. If a notified Public Information Officer retires, (PIO), the officer who assumes the charge of his or her post automatically becomes a PIO as it is the post and not the individual officer who is notified as a PIO.
12. Secretary, Ministry of Railways, being the Principal Officer of the public body, was legally bound to complete the process of putting all categories of information mentioned in Section 5 of the Act on its web site within six months of the commencement of this Act, which was enacted on October 16, 2017.
13. The significance of the proactive disclosure of categories of information mentioned in Section 5 of the Act can hardly be exaggerated in terms of improving governance in the country.
14. Under staffing of officers is a perennial problem faced by public bodies. However, this issue does not get public attention it deserves. If a ministry keeps updated diary of its officers on its web site, citizens would know about total number of sanctioned posts and the details about sanctioned posts filled and lying vacant. This critical issue of under-staffing is not going to get public attention if this information is not brought in the public domain through proactive disclosure of directory of officers through web sites.
15. It is common knowledge that citizens face multiple barriers because of the lack of information about services being provided by a public body. For example, if particular sub-section about proactive disclosure of information is implemented, citizens would know about terms and conditions for acquiring any license, permit, consent, approval, grant, allotment or other benefits offered by a ministry.
16. Citizens would be able to know about terms and conditions for all kinds of agreements and contracts that are entered into by a federal public body.
17. Citizens would be able to know about the particulars of the recipients of any concession, permit, license or authorization granted by the public body because it is a legal requirement considering that all such grants are given through taxes of the citizens.
18. Citizens would have greater level of participation in the governance of the country if information about decision making processes of the public body and information about how citizens can provide their input to the public body is made available on the web site of the public body, as required under Section 5 of the Act.
19. There is need for improving availability of information in the public domain about the allocation and utilisation of public funds by federal public bodies so that citizens could know how their taxes are being put to use. This would only happen when public bodies put 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 on their web sites as required under Section 5 of the Act.
20. The implementation of Section 5 of the Right of Access to Information Act 2017 would help citizens exercise their constitutional right of access to information in matters of public importance if federal public bodies put details of the method methods for seeking information from the public bodies. In this connection, each federal public body is legally obligated to put Schedule of costs, developed by Pakistan Information Commission, (available on the commission's web site) for seeking information from federal public bodies on its web site. Furthermore, each federal public body is legally obligated to put name, title, E-mail and telephone number of the Public Information Officer notified under

the Right of Access to Information Act 2017 on its web site, a crucial piece of information which few public bodies have put on their web sites.

21. Officers have to file information requests and then appeals with commission to get access to enquiry reports conducted against them. Similarly, candidates who apply for government jobs seek information by filing appeals with the commission to get access to information about criterion for jobs and marks allotted to successful candidates to gauge the level of fairness adopted by the public body in the recruitment process. Citizens will not have to go through the trouble of filing information requests and appeals with the commission if each public body ensures that all performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized are made available on the web sites of the public bodies. This commission is of the view that trust of citizens in public institutions is irrevocably linked with timely and accurate flow of information between citizens and public institutions. However, this would only be possible when Principal Officers of federal public bodies would ensure implementation of the Right of Access to Information Act 2017 in letter and spirit.
22. The commission is of the view that all federal public bodies are required to determine which categories of information are available on their web site and which are missing by juxtaposing each category of information mentioned in Section 5 of the Right of Access to Information Act 2017 with the information made available on their web sites.

D. Order

23. Public Information Officer, Ministry of Railways is directed to share with the Appellant the requested information about the current status of the availability of the following information on its web site within 7 working days of the receipt of this Order. Secretary, Ministry of Railways is directed to submit compliance report to the commission describing current availability status of the following information on the web site as well as time-frame for publication of each missing information/record on web site within 7 working days of the receipt of this Order:
 - a. directory of the officers of the public body, containing information about total sanctioned posts, filled/vacant posts, responsibilities of officers and information about its functions and services provided by the public body;
 - b. Act and the Rules of the public body, its regulations, bye-laws, orders and notifications;
 - c. manuals and policies of the public body;
 - d. relevant facts and background information relating to important policies and decisions undertaken by a public body;
 - e. statement of policies adopted by the public body;
 - f. criteria, standards or guidelines under which officers of the public body exercise their discretionary powers;
 - g. terms and conditions for acquiring any license, permit, consent, approval, grant, allotment or other benefits;
 - h. terms and conditions for all kinds of agreements and contracts;
 - i. particulars about the recipients of any concession, permit, license or authorization granted by the public body;
 - j. information about decision making processes of the public body and information about how citizens can provide their input to the public body;
 - k. 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;
 - l. The methods for seeking information from the public body;

- m. Schedule of costs, developed by Pakistan Information Commission, (available on the commission's web site) for seeking information from federal public bodies;
 - n. name, title, E-mail and telephone number of the Public Information Officer notified under the Right of Access to Information Act 2017;
 - o. performance reports, audit reports, evaluation reports, inquiry or investigative reports and other reports that have been finalized.
24. Copies of this order be sent to Secretary, Ministry of Railways and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
March 08, 2021

This order consists of 7 (seven) pages, each page has been read and signed