

**Pakistan Information Commission
Government of Pakistan**

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In the Pakistan Information Commission, Islamabad

Appeal No 898-02/21

Zahid Hussain Wasim

(Appellant)

Vs.

Defence Housing Authority, Gujranwala

(Respondent)

ORDER

Date: November 17, 2021

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on February 10, 2021, to the Commission, stating that he had submitted information requests to Administrator, Defence Housing Authority, Gujranwala on January 04, 2021 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:
“That, M/s EPCS (Private) Limited, Lahore has submitted its request to your good office to register as consultant company. Please provide all bidding documents along with qualification experience and experience certificates etc. that was submitted by M/s EPCS (Private) Limited, Lahore for registration as consultant”.

B. Proceedings

3. Through a notice dated June 07, 2021, sent to Administrator, Defence Housing Authority, Gujranwala, the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.
4. The Appeal was fixed for hearing on August 31, 2021 and both parties were informed through notices sent on August 02, 2021.
5. The Appeal was again fixed for hearing on September 14, 2021 and both parties were informed through notices sent on September 01, 2021.

6. Mr. Mohsin Munir, Law Officer, DHA Gujranwala, attended hearing and requested time to submit response to the information request of the Appellant. On request of Respondent hearing was adjourned for September 21, 2021.

7. Respondent through an email dated September 20, 2021 submitted response, which is as under:

“That the Appellant applied for certified copies of all bidding documents along with qualifications, experience and experience certificates etc. that was submitted by M/s EPCS (Private) Limited, Lahore to register as consultant company in DHA Gujranwala.

The request of Appellant was denied by DHA Gujranwala rightfully as:

1. *M/s EPCS is a private company and the documents provided by them for the registration purpose cannot be shared with a third party as it will constitute a serious breach of trust.*

2. *Article 19-A of Constitution of Pakistan is not applicable in this matter as it is not a matter of public importance nor the documents of a Private Company is declared as Public Record under Section 6 of the Right of Access of Information Act, 2017.*

3. *Documents submitted by M/s EPCS (Private) Limited, Lahore are exempted from disclosure under Section 16(g)(i) as these documents are not DHA's but were obtained from a third party and its disclosure will constitute an actionable breach of confidence by aggrieved party.*

4. *Registration of any firm/consultant with DHA Gwa is done through a comprehensive procedure adopted. Moreover, it is sole responsibility of DHA Gwa under its by-laws and cannot be done/denied based on a personal issue between M/s EPCS (Private) Limited, Lahore and the Appellant.*

5. *Appellant has no locus standi to file this appeal. If Appellant wanted his own firm registration documents, then those, as claimed by the Appellant, could have been returned or given accessed without any issue. However, asking some other firm/company's documents due to personal issues is not applicable here.*

Keeping above in view it is requested that appeal may please be dismissed.”

5. Response submitted by the public body was shared with the Appellant September 22, 2021.

6. The Appellant through an email dated September 28, 2021 submitted his rejoinder to the response of the public body which is as under:

“The applicant is not satisfied about the reply received from Defence Housing Authority, Gujranwala. You are once again requested to give direction to Defence Housing Authority, Gujranwala to provide me certified copies of requested documents/information within stipulated time mentioned in law.”

C. Discussion and Commission’s View on Relevant Issues

6. The commission has to decide that whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred to as the “Act”.

7. This commission is of the view that documents submitted by firms/individuals to a public body for contracts are public documents as these documents reveal level of competence of the firms/individuals to carry out tasks funded by the tax-payers of the country.
8. The 'Profile' of an organisation may or may not indicate level of competence for the execution of projects, bidding documents along with qualification, experience and experience certificates surely help officials in deciding awarding or otherwise of projects to a firm. That is why, the disclosure of these documents is warranted by the letter and spirit of the Right of Access to Information Act 2017 to achieve the stated objectives of Act enunciated in its Preamble which are as under:
 - a. Making government more accountable to citizens';
 - b. Greater level of participation of citizens in the affairs of the government';
 - c. 'Reducing corruption and inefficiency';
 - d. Promoting sound economic growth'; and
 - e. Promoting good governance and respect for human rights.
9. It is pertinent to mention here that this commission has earlier settled the issue, in Appeal No 1198-07/21, Ameer Waseem Khan Vs Pakistan Stone Development Company, that blanking out personal information from records, for the purpose of sharing them with citizens in compliance of the Act 2017 does not tantamount to tampering with the record. The commission held that it is not unlawful to sever parts of documents for the purpose of sharing record under the Act. This commission maintained that if the public interest warrants the disclosure of a record/information, though some of the 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.
10. The personal/private information means CNIC details, residential addresses, telephone numbers, bank accounts/financial details and health conditions. It is binding on the Respondent to blank out private information and share the rest with the Appellant.
11. According to Section 9 of the Act, each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent; but the Respondent has not so far nominated any official to deal with the information request of the citizen.
12. This commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.

13. This Commission maintains that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be ‘accessible’ for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of ‘accessible’ in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:

“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

D. Order

14. Appeal is allowed. Administrator, Defence Housing Authority, Gujranwala is directed to provide complete information mentioned in para 2 of this Order to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
15. Administrator, Defence Housing Authority, Gujranwala is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put contact details of PIO on its web site 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.
16. Administrator, Defence Housing Authority, Gujranwala 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 within 30 days of the receipt of this Order.
17. Administrator, Defence Housing Authority 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 at the earliest but not later than 10 working days of the receipt of this Order.
18. Copies of this order be sent to Administrator, Defence Housing Authority Gujranwala and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
November 18, 2021

This order consists of 4 (four) pages, each page has been read and signed.