

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 911-02-2021

Nauman UI Haq

Vs

Evacuee Trust Property Board

Date: 14.4.2021

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Nauman UI Haq has filed the appeal before the Pakistan Information Commission stating therein that his application for information under the Right of Access to Information Act, 2017 has not been responded within the stipulated period provided in the Act.
2. The application addressed to the Chairman, Evacuee Trust Property Board, received in his office vide Diary No. 844 dated 20.1.2021 is appended with the appeal. The appellant has desired the following information regarding the approval of terms of auction for the lease of Evacuee Trust Plazas situated at Phase V, CCA-5-C, Defence Housing Authority, Lahore Cantt.
 - a) *Copy of the minutes and approval by the competent Authority of ETPB regarding auction of leasehold rights of Evacuee Trust Plaza situated/located at Phase V, CCA-5-C, Defence Housing Authority, Lahore.*
 - b) *Copy of the opinion given by the Legal Advisor of ETPB on the DHA Development in Phase V, on the issues of charging of Non-Refundable Security (NRS), and charging of two months' rent as Transfer Fee for First Transfer of leasehold rights of Evacuee Trust Plazas in Phase V, CCA-5-C, Defence Housing Authority, Lahore.*
 - c) *Copy of the approval of the Chairman ETPB, sanctioning the terms and conditions of the Rent Agreements executed by ETPB in favour of the successful bidders duly vetted by the Legal Advisor of ETPB for the ET Plazas in Phase V, CCA-5-C, Defence Housing Authority, Lahore.*
 - d) *Copy of the approval of the Competent Authority of Federal Government approving the terms and conditions of Rent Agreements of Evacuee Trust Plaza of Phase V, DHA, charging of two month rent as transfer fee for the First Transfer of leasehold rights from the tenant to the new transferee.*

B. PROCEEDINGS

3. The Chairman, Evacuee Trust Property Board, vide letter dated 2.3.2021 was directed to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.
4. The reply was not submitted therefore the appeal was fixed for hearing before the Commission on 14.4.2021 and both the appellant as well as the respondent were informed accordingly vide notices dated 17.3.2021. No one appeared before the Commission to represent the respondent public body at the time of hearing of the appeal.

C. COMMISSION'S VIEW

5. The procedure for the acceptance and refusal of the application for information is provided in section 13 of the Act. It is mandatory for the designated officer appointed by the public body to acknowledge the application before processing. If the applicant is entitled for the provision of the information than the same should be provided within the period mentioned in section 14 and in case the request merits rejection then to inform the applicant the reasons under which it is rejected in accordance with the provisions of the Act.
6. While dealing with the matters related to information and record sought by the citizens under the Act 2017, the public bodies are under obligation to respond the applications as mandated in the Act. In the case in hand the respondent has not acknowledged the application, information is not provided to the applicant in the stipulated time frame and the notices of the Commission are waived. The reply is not submitted and the hearing before the Commission was not represented by the public body. It is presumed that the respondent public body is willfully avoiding the proceedings before the Commission and that the public body has nothing in the sleeves to submit in the defense. In such like circumstances the Commission is left with no option but to decide the appeal ex parte after going through the contents of appeal in light of the Act.
7. The bare reading of the requested information depicts that the appellant has desired the record pertaining to the auction for the lease of Evacuee Trust Plazas situated at Phase V, CCA-5-C, Defence Housing Authority, Lahore Cantt. The requested documents detailed in the application are minutes and approval, opinion of the legal advisor for charging of Non- Refundable Security and charging of two months rent as transfer fee for first transfer, approval of the Chairman for the sanction of terms and conditions of the rent agreement and approval of the Federal Government for the said auction of lease. This is sort of information that has been enlisted in the category of public record that ought to have been published including uploading over the internet proactively, to ensure its accessibility, as mandated in section 5 of the Act.

8. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.
9. Right of access to the record and information in the matters of public importance is constitutional and statutory right of the citizens provided under the Constitution of Pakistan and the Right of Access to Information Act, 2017 respectively which cannot be denied or delayed at the whims of the government hierarchy.
10. Each public body, under section 9 of the Act is required to notify designated officer for dealing with the matters pertaining to the provision of the information. In the absence or non availability of the designated officer the Principal Officer of the public body will be considered as the designated officer.

D. ORDER

11. The appeal is allowed. The Chairman, Evacuee Trust Property Board is directed to provide the appellant certified copies of the requested information detailed in the application, forthwith, but not later than seven days of the receipt of this order. The Chairman is further directed to make arrangements for the implementation of the mandatory provisions of Section 5 & 9 of the Act of 2017, under intimation to this Commission by 31.5.2021.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 29.4.2021

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