

**Pakistan Information Commission
Government of Pakistan**

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In The Pakistan Information Commission, Islamabad

Appeal No. E144-08/21

Sajid Mehmood Janjua

(Appellant)

Vs.

Allama Iqbal Open University

Through its Public Information Officer

(Respondent)

Order

Date: November 30, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated August 3, 2021, to the Commission, stating that he Submitted an information request to the Registrar, Allama Iqbal Open University dated August 06, under the Right of Access to Information Act 2017 but the public body did not respond to the information request.
2. The information sought by the Appellant is as follows:

“I am concerned with the illegal appointment in the university by VC Dr Zia Ul Qayyum. I am especially concerned with the appointment of Mr Raja Umar Younas a Registrar and Mr Kaleem Siddiqui as Director IT
Under the Right of Access to Information Act, 2017, I require the details of the experience of Mr Raja Umar Younas and Mr Kaleem Siddiqui. Please also give the details of all other applicants against the posts of Registrar and Director IT who were declared ineligible and not selected for appointment by the Selection Board”

B. Proceedings:

3. Through a letter dated October 14, 2021, the response was submitted by the Respondent, relevant portions are as under:
“After scrutiny the educational as well as experience documents by the Scrutiny Committee comprising of top-level academicians and officers, only a handful successful candidates were called for interview to appear before the AIOU Selection Board which comprises of professionals of high repute from other organizations
The general composition of the AIOU Selection Board is as under.
I. Vice-Chancellor AIOU - Chairman
II. One member of the Federal Public Service Commission Chairman to be nominated by the Chairman of the Commission. - Member

- III. Nominee of the Ministry of Education not below the rank Member of a Joint Educational Adviser - Member
- IV. The Dean of the Faculty concerned - Member
- V. The Chairman of the Department or the Director of the Institute concerned.- Member
- VI. One member of the Executive Council and two other persons of eminence, to be nominated by the Pro Chancellor, provided that none of the three is an employee of the University - Member

The recommendations of the AIQU Selection Board are also placed before the AIOU Executive Council which constitutes members varying from nominee of the Speaker of the National Assembly, a sitting Judge of Supreme Court of Pakistan nominated by the Chief Justice of Pakistan, the Secretary Ministry of Education, one nominee of HEC, MD PTV, DG PBC one Alim and one women to be nominated by the Chancellor i.e. President of Pakistan.

Furthermore, it is to inform the commission that Mr. Sajid Mehmood Janjua during service in AIOU indulged himself in activities that are not befitting that of a civil servant due to which he was proceeded under Efficiency & Disciplinary Rules 1973 as amended from time to time on the charges of Misconduct. In the light of the available record and recommendations of the Authorized Officer the Competent Authority was convinced that the charge framed against Mr. Sajid Mahmood Janjua, Lab Assistant (BPS-07) have been proved beyond any doubt and therefore, a major penalty of "Removal from Service under Rule 4(1)(b)(ii) of the Government Servants (Efficiency & Discipline) Rules, 1973 as amended from time to time was imposed upon him with effect from 06.03 2020(afternoon)

After imposing of major penalty, he has been involved in malicious campaign against the senior officers of the University in one way or the other and is levelling baseless allegations against the authority of the AIOU just to malign and them interrupt the normal functions of the university, such as

- I. Mr. Sajid Mehmood Janjua filed suit for declaration etc against the issuance of show cause notice before the Court of Civil Judge Islamabad which was dismissed being premature.
- II. He also filed a writ petition for re-instatement in service before Islamabad Hight Court, that was also dismissed being not maintainable.
- III. He filed an application under 22-A Cr P.C before Session Judge Islamaba for registration of FIR against senior management of AIOU for registration of FIR which was rejected.
- IV. Mr. Sajid Mehmood Janjua filed a writ petition in Islamabad High Court illegally cutting of Trees which is still pending
- V. Mr. Sajid Mehmood Janjua filed suit for declaration etc with prayer that election for the year 2019 be declared null & void which is still pending.

In view of the above, you are requested, that I may kindly be allowed to attend present the University point of view in this case that the requisite document might be use against the authorities of AIOU”.

4. The Appellant submitted the rejoinder on October 18, 2021 and its relevant parts are as under:

“I have not challenged or demanded the composition of the Selection Board or my termination process.

I have simply requested for the experience and list of competitors against the post of Registrar & Director IT.

I am not satisfied with the reply of AIOU administration dated October 14, 2021. Please issue a suitable order regarding my appeal”.

5. Through a letter dated November 03, 2021, the Respondent again submitted its response when rejoinder of the Appellant was shared with the Respondent and its relevant parts are as under:

“2. The information sought by Sajid Mehmood Janjua cannot be provided at this moment, being exempted from disclosure under clause 16 (1)(b)(ii) and 16 (1)(vi) of Right of Access to Information Act, 2017, on account of following reasons;

(i) That he is a rogue element, remained involved in subversive activities in AIOU, and was proceeded under E&D Rules 1973, and a major penalty of "Removal from Service" was imposed upon him.

(ii) That, his appeals against the punishment / penalty were dismissed by the courts of law. And a review petition and pending adjudication before the apex forum of AIOU Le... Executive Council/appellate authority, and the disclosure of any information whether related / nonrelated shall likely to hamper / affect the proceedings / outcome of the instant petition, as the Registrar is the Secretary to the Executive Council/appellant authority and the custodian of all related record. Further, the Director IT has the record of all the scientific proofs against the applicant, which are to be produced upon demand of appellant authority.

3. Apropos, the requisite information can be provided at a belated stage i.e. upon completion/ finalization of the proceedings by the appellant authority, if still desired by the applicant. In view of the foregoing, it is requested that the personal hearing in the instant matter may kindly be exempted”.

6. In the hearing held on November 18, 2021, the representatives of the Respondent requested the commission to issue Order for the clarification of the issues involved.

C. Issues:

7. This Appeal has brought to the fore following issues:
 - (a) Can the requested information not be disclosed on the grounds of *lis alibi pendens* as submitted by the Respondent that the matter is sub judice in the court?
 - (b) Can 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?

D. Discussion and Commission’s View on Relevant Issues

8. The right of access to information in matters of public importance is guaranteed protection under the Constitution of the Islamic Republic of Pakistan through Article 19-A which states:

“Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law”.

Our ability to exercise our fundamental right of access to information enables us to attain our other fundamental rights such as gainful employment, right to life, right to clean drinking water, right to breathe in clean air and right to healthcare services etc. In fact, the constitutional right of access to information helps citizens in the exercise of right of access to justice as well by having access to records/information to effectively present their cases in the court of law. Therefore, the plea of the Respondent that the

requested information cannot be disclosed on the grounds of *lis alibi pendens* does not hold water.

9. This commission maintains that both the letter and spirit of the Right of Access to Information Act 2017 dictate the disclosure of certified copies of the experience of Mr Raja Umar Younas and Mr Kaleem Siddiqui and list of candidates who were short-listed and declared ineligible for the post of Registrar. The public interest dictates those educational degrees of short-listed/selected candidates for government posts, their CVs, marks obtained during the recruitment process, remarks of the members of the selection committee during the interview cannot be withheld on the grounds of privacy as it this information is critical to determine the level of transparency and fairness adopted in the recruitment process. Therefore, none of the provisions of this Act, including Section 7 (g) can be attracted to withhold the disclosure of the requested information. The personal/private information means CNIC details, residential addresses, telephone numbers, bank accounts/financial details and health conditions.
10. This commission maintains that the disclosure of the requested information is not only in accordance with both the letter and the spirit of the right of Access to Information Act, 2017, but its disclosure will also help achieve the stated objectives of this Act which are as under:
 - Making government more accountable to citizens’;
 - Greater level of participation of citizens in the affairs of the government’;
 - ‘Reducing corruption and inefficiency’;
 - Promoting sound economic growth’; and
 - Promoting good governance and respect for human rights.
11. This commission is of the view that public participation, one of the stated objectives of this Act, through the exercise of the right to information, will not only help in improving the performance of federal public bodies but will also bridge the trust-gap between citizens and their institutions.
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”.

E. Order

14. The appeal is allowed. The Public Information Officer, Allama Iqbal Open University is directed to share with the Appellant certified copies of the experience certificates of Mr Raja Umar Younas and Mr Kaleem Siddiqui and list of candidates who were short-listed and declared ineligible for the post of Registrar. This information be provided 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. The Respondent is directed to proactively publish all categories of information through its web site as required under Section 5 of the Act 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 at the earliest but not later than 10 working days of the receipt of this Order.
16. 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 at the earliest but not later than 10 working days of the receipt of this Order.
17. Copies of this order be sent to the Public Information Officer, Allama Iqbal Open University and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: November 30, 2021

This order consists of 5 (five) pages, each page has been read and signed.