

Pakistan Information Commission
Government of Pakistan
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In the Pakistan Information Commission, Islamabad

Appeal No E175-10/21

Ch. Abdus Sattar

(Appellant)

Vs.

Registrar, Supreme Court of Pakistan

(Respondent)

ORDER

Date: October 07, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated October 14, 2021 to the Commission, stating that he submitted an information request to the Registrar, Supreme Court of Pakistan on September 27, 2021 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.
2. The information sought by the Appellant is as follows:
 - i. *“That being a citizen of the Islamic Republic of Pakistan, I, Ch. Abdus Sattar CNIC No.hereby request that the information namely the Rules Regulations Policy for fixation of the judicial cases in the august Supreme Court of Pakistan, to enable a litigant to know about the expected turn/timing, when the case is likely to be fixed for hearing, may please be provided to me at the following address.*

Ch. Abdus Sattar

Advocate Supreme Court of 284 Block G. Gulshan-e-Ravi Lahore Mobile:
03004103416 email: advosattar@hotmail.com

*ii. I hereby undertake to pay the fee for the requested information, as Section 15 of the Act *ibid*.*

iii. I request that the receipt of the subject request may very kindly be acknowledged as required vide Section 13 of the Act.

iv. A hard copy of the subject request follows, sent through registered Post.”

B. Proceedings

3. Hearing on the instant Appeal was fixed for October 06, 2022 .vide letter dated September 23, 2022. The Respondent was represented by Ahmed Raza, Deputy Secretary Ministry of law and Justice whereas Advocate, Shahid Kamal Khan represented the Appellant. The learned counsel for the Appellant submitted that the Supreme Court of Pakistan is a public body under the Right of Access to Information Act 2017.

4. In the hearing, the members of the commission raised the issue as to whether Registrar, Honourable Supreme Court of Pakistan ask Secretary, La Division to attend the hearing. In the hearing, Mr. Ahmed Raza, submitted a letter and its text is as under:

“In continuation of this Court's letter of even number dated 22.01 2022, I am directed to forward herewith Hearing Summon of Pakistan Information Commission in Appeal No E175-10/22 fixed on October 06, 2022 at 11:30 AM for necessary action at your end, please Pakistan. This issues with the approval of the Hon'ble Chief Justice of Yours”.

C. Issues

5 The instant appeal has brought to the fore the following issues:

- (a) Has the Respondent followed the procedure enunciated in the Act, 2017 for responding to the information request?
- (b) Can Registrar, Supreme Court of Pakistan share hearing summons issued by under the Right of Access to Information Act, henceforth referred to as “the Act 2017 with Secretary, Law Division for necessary action?
- (c) Can PIO, Law Division represent Registrar, Supreme Court of Pakistan before this commission?
- (d) Is Supreme Court of Pakistan a public body under “the Act 2017”?
- (e) Can the requested information about Rules Regulations, Policy for fixation of the judicial cases in the august Supreme Court of Pakistan, to enable a litigant to know about the expected turn/timing, when the case is likely to be fixed for hearing be disclosed under “the Act 2017”?
- (f) Has the Respondent taken steps to ensure proactive disclosure of the categories of information mentioned in Section 5 of “the Act 2017” to

facilitate citizens in exercise their constitutional right of access to information, including those citizens with different disabilities?

D. Discussion and commission's views on relevant issues:

- 6 In the instant Appeal, the record on the file shows that the Respondent demonstrated disregard to the provisions of the Act, 2017.
- 7 In the instant appeal, the Respondent failed to provide written acknowledgement of the request for information filed by the citizen as required under Section 10 (1) of the Act.
- 8 The Respondent also failed in following the procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act.
- 9 The Respondent also failed in adhering to the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.
- 10 The Respondent failed to respond to notice of the commission and also failed to attend the hearing. Instead, the Respondent shared hearing summon with Secretary, Law Division 'for necessary action'.
- 11 This commission also holds that PIO, Law Division can only represent Law Division and its attached departments before this commission.
- 12 This commission has settled the issue of Honourable Supreme Court of Pakistan being a public body through earlier Appeal No 060-06/19, Mukhtar Ahmed Ali VS. Registrar, Supreme Court of Pakistan.
- 13 In an earlier Appeal No 1706-01/22, filed against the same Respondent, this commission stated that "the record on the file pertaining to Appeal No 060-06/19 in the case titled Mukhtar Ahmed Ali vs Supreme Court of Pakistan suggests that the maintainability of the Writ Petition No. 4284/2021 is under consideration of Honourable Islamabad High Court which means that it is at pre-admission stage. The question in this petition under consideration is whether the Registrar of the Honorable Supreme Court of Pakistan is competent to invoke the jurisdiction of the court and whether the same falls within the definition of aggrieved person in the context of Article 199 of the Constitution and not the Order of the Commission itself, at least at this stage. This commission maintains that the pendency of a writ petition regarding the admissibility of another matter cannot be a valid ground to stop the Commission from performing its functions in other appeals before it.
- 14 The Act does not accord blanket exemption to any public institution. This commission has already held that Registrar office of Honourable Supreme Court of Pakistan comes within the definition of public body under Section 2 (xi) (e) which is as under:

“Any court, tribunal, commission, or board under the Federal law;”

15. In the absence of any judgement of any of the High Courts, or, of the Supreme Court which bars citizens from seeking information from the Registrar, Supreme Court, under the Right of Access to information Act on the grounds that it is tantamount to curbing independence of the judiciary, this commission is left with no option but to determine likelihood of any such eventuality.

16. The honourable Supreme Court as a public institution performs two kinds of functions i.e., a) judicial functions and b) administrative functions pertaining to procurements and recruitments, involving public funds, like any other public institution.

17. This commission is of the view that the exercise of constitutional and statutory right of citizens in matters of public importance through the Act is neither likely to, nor, designed to curtail independence of the superior judiciary. This commission also believes that exercise of constitutional right of access to information in matters of public importance through the Act cannot be equated with executive oversight of superior judiciary.

18. The categories of information to be proactively disclosed under Section 5 of the Act have no bearing on the independence of the judiciary. Similarly, the information to be provided to the applicants under Section 6 of the Act is also not in conflict with the independence of the judiciary. Furthermore, the Public Information Officer to be designated under the Act will receive applications and can turn down any request for information which is likely to impact independence of the judiciary, relying on the relevant exemption clauses of Section 7 and 16 of the Act.

19. This commission is of the view that the constitutional right of access to information in matters of public importance can only be restricted on reasonable grounds supported by law. This commission holds that only provisions of this Act can restrict disclosure of any information.

20. This commission holds that requested information about “Rules Regulations, Policy for fixation of the judicial cases in the august Supreme Court of Pakistan, to enable a litigant to know about the expected turn/timing, when the case is likely to be fixed for hearing” should not only have been provided in response to the request filed by the citizen, it should have been proactively published on the web site of the Respondent under Section 5 (1) (a) and (b) of “the Act 2017”.

21. This Commission has observed, and the instant appeal reaffirms that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies, including the Respondent, Registrar, Supreme Court of Pakistan. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 of 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.

22. This commission has also noticed that even when Public Information Officer, (PIO) is designated under the Act, information to this effect is either not provided on the web site, or, if it is provided, it is not displayed at a prominent place on the web site.

23. This commission holds that the federal public bodies should ensure that the name, designation, telephone number and E-mail of the PIO is placed at top right corner of the home page of their web sites. Furthermore, as a PIO is designated by post, any change to this effect should be immediately updated on the web site.

24. 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

25. The Appeal is allowed. The Respondent is directed to provide the Appellant certified copies of the “Rules Regulations, Policy for fixation of the judicial cases in the august Supreme Court of Pakistan, to enable a litigant to know about the expected turn/timing, when the case is likely to be fixed for”, as requested by the Appellant in para 2 of this Order within 7 working days of the receipt of this Order and submit compliance report to this effect to this commission.

26. The Respondent 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 10 working days of the receipt of this Order.

27. 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.

28. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on October 13, 2022

This order consists of 6 (six) pages, each page has been read and signed.