

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No E196-12/21

Muhammad Tajamul Hanif

(Appellant)

Vs.

National Commission for Human Development

(Respondent)

Order

Date: March 02, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission on its Online Appeal Management System has received an appeal from Muhammad Tajamul Hanif dated December 05, 2021, stating that he submitted information request dated November 05, 2021 under the Right of Access to Information Act 2017 to the National Commission for Human Development. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. The information sought by the Appellant is as under:
 1. *“At the time of regularization in 2013, what date of joining was considered to determine the HEC attested degree required from an employee for the scrutiny of document?”*
 2. *What educational qualification and degree were mentioned by me (Muhammad Tajamul Hanif employee code 4314) in “Employee Fact Sheet” at the time of joining as Program Manager (UPE) Education after appointment in November 2008?*
 3. *How many employees of NCHD having 14 years or less than 14 years of education are working in BPS-18, BPS-17 and BPS-16?*
 4. *How many employee of NCHD had 14 years or less than 4 years of education at the time of their appointment and improved their qualification up to 16years of education or above after their joining?*
 5. *Did NCHD withdraw/cancelled notification No. W.P.3115-2015/2015/23 dated 25-11-2015?*
 6. *How many employees of NCHD having a degree from the institute not recognized by HEC are dismissed so far?*
 7. *Is there any letter from HEC validating the claim made by HoD – HR in the 48th meeting of the Commission? i.e.:*

“HOD – HR clarified that the said employee claimed masters and produced an MBA degree of an institute located in Philippines. A letter was written to HEC to inquire about the said institute. As per HEC reply this institute even does not exist physically. His degree is considered fake based on these facts.”

8. *How many petitioners were regularized out of 26 in compliance with the judgment of Islamabad High Court, Islamabad W.P.424/2015, and what reason was recorded for not regularizing the remaining ones?”*

B. Proceedings

3. This commission through a notice dated December 09, 2021 sent to the Director General, National Commission for Human Development called upon the Respondent to submit reasons for not providing the requested information.
4. The Appeal was fixed for hearing on February 08, 2022 and both parties were informed through notices sent on January 05, 2022.
5. Mr. Khurram Baig, Legal Advisor, National Commission for Human Development (NCHD) appeared before the Commission and requested time for the provision of the information to the Appellant, which was allowed and hearing was adjourned for February 16, 2022.
6. Mr. Khurram Baig, Legal Advisor, National Commission for Human Development (NCHD) attended the hearing held on February 16, 2022 and again requested some time for the provision of the requested information to the Appellant. Hearing was again adjourned for February 22, 2022.
7. The Appellant Mr. Muhammad Tajamul Hanif and Mr. Khurram Legal Advisor, National Commission for Human Development (NCHD) attended the hearing held on February 22, 2022.

C. Discussion and Commission’s View on Relevant Issues

08. 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 Act.
09. The information/documents requested by the Appellant in the instant appeal belong to the Section 5 (d) of the Act which is as under:
 - a) *“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;”*
10. The information requested by the appellant is also public record under the Section 6 (d) of the Act, which is as under:
 - “d) Final Orders and decisions, including decisions relating to members of public; and”*

11. Purpose of the Act is to ensure the Transparency in the business of the Government, as the Preamble of the Act states:
“Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.
12. The appellant in his appeal has stated that he has been dismissed from service on allegation of submission of fake education documents, and now the department is reluctant to share the record on basis of which the decision is taken. This Commission observes that the appellant has the right to have access to those documents/information on basis of which the department has dismissed him from the service.
13. The Respondent in its response dated January 27, 2022 stated that “the information which is sort by the individual pertains to other employees as he is not entitled to such information”. This Commission maintains that the appellant in his information request dated November 05, 2021 has not requested any record relating to the personal privacy of any individual.
14. The public body in its response also stated that identical nature cases are sub judice before Islamabad High Court. This Commission holds that information can not be exempted from its disclosure only on the basis that any identical nature case is sub judice before any Court. It is a fundamental right of every citizen to have access to public record on basis of which he/she can defend himself/herself in any court.
15. The Commission also expresses concerns over the non-serious behaviour of the Respondent, as despite committing multiple times the provision of the information to the appellant during the hearings held in Pakistan Information Commission, the public body is reluctant to provide the requested information to the appellant.
16. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.
17. 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.
18. 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

19. The appeal is allowed. The Director General, National Commission for Human Development is directed to provide the information requested in Para-2 with to the

Appellant, intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.

20. The Director General, National Commission for Human Development is also 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.
21. Director General, National Commission for Human Development is also 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.
21. Copies of this order be sent to the Director General, National Commission for Human Development and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

March 02, 2022

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