

**Pakistan Information Commission  
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad**

**Appeal No E201-12/22**

**Shahzad Anwar**

**(Appellant)**

**Vs.**

**Pattan Development Organization**

**(Respondent)**

**ORDER**

Date: September 09, 2022

Zahid Abdullah: Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated December 14, 2021 to the Commission, stating that he submitted an information request to the Chairperson/ Head of Organization, Board of Governors Pattan Development Organization under the Right of Access to Information Act 2017 on November 25, 2021 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
  1. *“Copies of audited accounts and income tax returns of the PDO since it came into being;*
  2. *Copies of latest Financial Management, Human Resource Management, Procurement Management and Administrative Policies of PDO along with copies of the approved resolutions of the Board of Governors;*
  3. *List of heads of organization since its inception along with their tenures;*
  4. *Details of recruitment process of existing head of the organization as defined in PDO Human Resource Management Policy and number of applications received for the position;*
  5. *Current staff strength of PDO across Pakistan along with their duties and functions,*
  6. *List of all immovable assets of PDO along with their addresses, purchase value, market value, existing usage and year wise income so generated from each of their usage since their acquisition.*
  7. *List of immovable assets disposed of by PDO since its inception (year wise) along with their addresses, selling price, resolution of Board of governor approving the disposal, process of disposal adopted for each asset and bid prices so received as a result of the disposal process;*
  8. *List of all projects implemented by PDO since 2008 along with the purpose of each project, name of the national/international funding agency(ies), funding amounts and project durations;*

9. *Reports of implementation of all projects along with district-wise, gender-wise and type of benefit-wise total number of beneficiaries for each project listed in Point 8 above;*
10. *List of registrations, no objection certificates and licenses given to PDO by federal, provincial governments or any of their regulatory agencies with issuance dates.”*

## **B. Proceedings**

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on March 15, 2022 and its text is as under:

- I. *“As a senior member of TDEA management Mr. Shehzad Anwar has access to all the information, he desired us to furnish to him.*
- II. *The said information is also available on our website: [www.pattan.org](http://www.pattan.org) Moreover, on 18th November PATTAN had requested TDEA with whom he is associated to provide us information (see attached print out), which TDEA has not provided to us till today. Instead, in retaliation TDEA filed the said request.*
- III. *Therefore, the request of Shehzad Anwar is based on mala-fide intention, PATTAN Development Organisation is a founding member and first donor of FAFEN.*
- IV. *Sarwar Bari, National Coordinator of PATTAN was twice elected by the General Council of FAFEN as its head. He remained official spokesperson of FAFEN till November 2021.*
- V. *He remained as one of the signatories of TDEA bank accounts even when he was not heading FAFEN.*
- VI. *PATTAN implemented dozens of TDEA and FAFEN funded projects since 2007.*
- VII. *Each time, TDEA had to conduct due diligence of PATTAN. We had submitted all the requested information (under this RTI request) documents to TDEA. Each document was scrutinized by a team of TDEA. The last time we shared these documents with TDEA in January 2021. And he was one of the due-diligence team members. • The applicant being a senior member of TDEA's management must have access to all the record he has requested from PATTAN. In November PATTAN terminated its partnership with TDEA when we found out that TDEA was involved in activities which were directly opposed to its own mandate and the Guiding Principles. We tried our best to reform the TDEA by requesting its Board to take action against the Director programmed who was running TDEA and manipulating FAFEN members to enhance his stranglehold. After exhausting all internal mechanisms of conflict resolution, we decided to go public as a whistle blower.*
- VIII. *On 20th Nov 2021, PATTAN exposed the lies and the wrong doings of the bosses of TDEA through a press conference.”*

4. The Appellant submitted his response on April 07, 2022 and its text is as under:

*“ With reference to the subject it is submitted that the respondent instead of sharing the actual information has tried to divert the information required to some other issues which are not the subject matter. The information has been requested for the past and present related but the website of the respondent does not comply the requisite information Therefore, the respondent may be directed to comply the complaint and provide the requested information.*

*In the light of submissions made above, it is again reiterated that the information required as per requisite of the complainant has not been shared, therefore, the respondent be directed to reply in accordance with the request extended in shape of our notice dated 25.11.2021.*

*I look forward to have the information as priority.”*

5. The record on the file shows that the commission held multiple hearings on this Appeal. MS. Rabia Ghani and Mr. Saeed Khan represented the Respondent and Advocate Rifat Hussain represented the Appellant in these hearings.

6. On April 26, 2022, the Respondent submitted its response and its text is as under:

- I. *“PATTAN is always ready to cooperate with the institutions and has always acted as a responsible organization. Since its inception, PATTAN has worked with dozens of donors including TDEA. PATTAN is the founding member of FAFEN and has successfully implemented many projects of FAFEN/TDEA. PATTAN hosted the first Secretariat of FAFEN too. It was PATTAN who terminated partnership with TDEA with whom Mr. Shehzad Anwer the applicant works.*
- II. *Mr. Shehzad Anwer (the applicant) is a senior employee of TDEA. Therefore he has access to all the information but made the application to the Commission which is based on malafide intentions.*
- III. *Till 20th November 2021 Pattan was the best partner of TDEA, however when TDEA pushed FAFEN to the brink of destruction, PATTAN after exhausting all internal venues of redressal, had decided to act as a whistleblower which offended TDEA and in reprisal they filed 5 cases including the RTI on Pattan*
- IV. *It is also stated that the required information by the applicant had been shared with his organization TDEA many times and is also available on Pattan's website. Therefore we humbly request to the honorable Commission to dismiss the request of Mr. Anwar.*
- V. *Anything that is not available on our website, we are willing to provide and he may be ordered to deposit money in advance for photocopying and to cover cost of staff time. Please see attached screen shorts of website pages that shows availability of the required information”.*

7. On September 09, 2022, the Appellant submitted his rejoinder and its text is as under:

*“I am writing this email to inform the PIC that I have not received any information against the subject appeal. I also tried my level best to find the requested information on PATTAN website but the information or any of its part is not available”.*

*Despite passing more than six months, I couldn't obtain the information from the PATTAN. I would humbly request to the Information Commission, please issue an order for providing the requested information by PATTAN”.*

8. The Appellant, in his rejoinder, submitted the following table to identify gaps in the information provided by the Respondent:

S/ No	Items Required	Response	Applicant's Response
1	Copies of audited accounts and income tax returns of the PDO since it came into being;	5 years Audit Reports are available on website 5 years Income Tax Returns are available on website	Last five years audit reports and income tax returns of PDO are available on its website. However, audit reports and income tax returns of the remaining years requested are not available i.e. 1993 through 2014, and 2021. These may please be provided.
2	Copies of latest Financial	HR Manual and	All policy manuals are available

S/No	Items Required	Response	Applicant's Response
	Management, Human Resource Management, Procurement Management and Administrative Policies of PDO along with copies of the approved resolutions of the Board of Governors;	FINANCIAL & PROCUREMENT POLICY MANUAL AND PROCEDURES are available on Website	on the website, except Admin Manual. Neither copy of the approved resolutions of the PDO Board of Governors requested, are available. These may be provided.
3	List of heads of organization since its inception along with their tenures;	Details about the head of Pattan is available on website.	Current list of BOG is available on the website, however, information about tenures/co-optations are not given. These may please be provided.
4	Details of recruitment process of existing head of the organization as defined in PDO Human Resource Management Policy and number of applications received for the position;	Mr. Sarwar Bari is the Founder of Pattan and his contract is renewed time to time by the BOG. Latest extension is attached.	Fresh extension of the head of organization is provided, but recruitment process and details are not shared.
5	Current staff strength of PDO across Pakistan along with their duties and functions;	Staff is available on Pattan website	In order to ascertain staff strength mentioned in your response, please provide copy of last approved payroll. TORs of each staff are also required.
6	List of all immovable assets of PDO along with their addresses, purchase value, market value, existing usage and year wise income so generated from each of their usage since their acquisition;	Please see the audit reports and income tax report on the website	Audit reports and Income Tax Returns, available on the website, give only fixed assets as annexure. That too only for last five years, and not since PDO's inception. These documents do not contain details in terms of list wise items, locations, purchase values, market values and year-wise income from usage since their acquisition. Requested details may please be provided.
7	List of immovable assets disposed by PDO since its inception (year wise) along with their addresses, selling price, resolution of Board of governor approving the disposal, process of disposal adopted for each asset and bid prices so received as a result of	Please see the audit reports and income tax report on the website	Audit reports and Income Tax Returns, available on the website, give only fixed assets as annexure. That too for only last five years, and not since PDO came into being. These documents do not contain details in terms of list wise items, locations, selling price and its process of disposals

S/No	Items Required	Response	Applicant's Response
	the disposal process;		along with approval of the Board of Governors' resolutions for disposal of assets. Requested details may please be provided.
8	List of all the projects implemented by PDO since 2008 along with the purpose of each project, name of the national/international funding agency(ies), funding amounts and project durations;	List of Project is given on the website	List of all projects is available on their website since inception to date, however, amounts of projects' funds are not given. These may be provided.
9	Reports of implementation of all projects along with district-wise, gender wise and type of benefit-wise total number of beneficiaries for each project listed in Point 8 above;	All Project Details are given in Audit Reports	Audit reports available on PDO website do not contain projects' implementation reports, giving district wise, gender wise total number of beneficiaries for each project. These may be provided.
10.	List of registrations, no objection certificates and licenses given to PDO by federal, provincial governments or any of their regulatory alliances with issuance dates.	Registration certificate available on website	Registration Certificate is available on the website. However, NOCs, among others, such as MOU with EAD or FBR's NPO certificate are not uploaded.

### C. Issues

9. The instant appeal has brought to the fore the following issues:

- (a) Can an applicant seek access to information if a public body has otherwise provided requested information as a part of due diligence, or, for any other purpose to the public body where the applicant has been working as its employee?
- (b) Can motives of the Appellant be a factor in deciding whether the requested information is to be provided or not?
- (c) Has the Respondent provided the requested information permissible under the Right of Access to Information Act, 2017, henceforth referred to as the Act, 2017?
- (d) What is the fee for providing requested information under the Act, 2017?

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

10. This commission holds that the plea of the Respondent that the requested information is available to the Appellant as it has earlier provided to TDEA where he is working as an employee does not hold water. The Appellant, as a citizen of Pakistan, can seek information from the Respondent, irrespective of the fact that he works in TDEA to whom the Respondent has already provided some/all of the requested information.

11. This commission holds that the Respondent, instead of dwelling upon the motives of the Appellant for seeking the information, should have decided on his request for information under the provisions of the Act, 2017.
12. This commission holds that every citizen of Pakistan has locus standi to seek information from public bodies and under Section 11 (5) of the Act, 2017, officials are specifically forbidden to ask the applicant to submit reasons for seeking information. This also means that the officers are not supposed to dwell upon the motives for seeking the information.
13. This commission holds that the Respondent has provided some of the requested information but not the all information/records permissible under the Act, 2017 as identified by the Appellant in tabular form in his rejoinder.
14. The Act, 2017 takes precedence over all other laws with regard to what information is to be shared, how is it to be shared and what fee will be charge.
15. The assertion of the Respondent that the Appellant should pay in advance cost of the time of its employees for providing the requested information does not hold water.
16. So far as the fee regarding the hard copies of the information/records is concerned, the Schedule of Costs, notified by Pakistan Information Commission In exercise of the powers conferred by Section 27 (b)of the Act 2017 comes into play. According to this, the Respondent is bound to provide first 50 pages free of cost and can only charge Rs.2 per page for any extra copy. There is no provision for charging the time of its employees involved in copying the records.
17. So far as the cost of CD, diskette, floppy, cassette, video or any other electronic device containing information is concerned, the Schedule of Costs states that public bodies shall only charge the actual cost of such a device, as determined on the basis of official procurement record. However, no cost is to be charged if the applicant provides his or her own device and requires only an electronic copy of the information.

#### **E. Order**

18. The Appeal is allowed. The Respondent is directed to provide the Appellant information requested in Para 2 of this Order at the earliest but not later than 10 working days of the receipt of this Order, with intimation to this office.
19. 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: September 13, 2022

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