



**Appeal No 041/04/19**

**Naeem Sadiq (Appellant)**

**Vs.**

**Cantonment Board Clifton Karachi (Respondent)**

Date: November 18, 2019

**ORDER**

**Zahid Abdullah:** Information commissioner

**A. The Complaint**

1. The Appellant forwarded his request for information to the commission on 06/04/2019 in which he stated that he had requested information from Cantonment Board Clifton under Freedom of Information Ordinance 2002 on 14/06/2017 and requested the same through the forwarded request for information under the Right of Access to Information Act 2017.

2. The information sought by the Complainant, through application dated 05/04/19, is as follows:

1. *“Please provide a true copy of the last 3 years contracts signed between Cantonment Board Clifton, (CBC) and the contractors/Thekedars for provision of following services,*
  - a. *manual sweeping of roads and streets*
  - b. *Loading/transportation of solid waste.*
2. *Please provide a list of how many ‘gutter men’ are employed by CBC for cleaning, clearing and maintenance of gutters / sewerage lines. The list must include the*
  - a. *Name*
  - b. *Approximate length of service and*
  - c. *Religion of each gutter man”.*

**B. Proceedings**

3. Through a notice dated 15/04/2019 the Commission called upon the Respondent to submit reasons for not providing the requested information.

4. Through a letter dated 03/05/2019, the Respondent shared with the commission that the appellant has already filed complaint before the National Commission for Human Rights at Karachi and also invoked writ jurisdiction of Honourable Sindh High Court under Article 19 of the Constitution by filing const.petition No D-852/2019 which is pending in the Honourable High Court of Sindh at Karachi, the law does not permit to switch over to another forum regarding the same grievance during the pendency of proceedings before the forum. In view of the above, the complaint under reference may kindly be dismissed having no merit and not maintainable”.

5. Through an email dated 05/10/19, the appellant submitted before the commission that:

“We have no case in any court against CBC for not providing us the information under RTI. We understand this is the domain of information commission. (even mentioned in our last letter.

We do have a court case against CBC for illegal wages to its staff. This, however, has nothing to do with them providing us the requested info under RTI”.

6. Through an E-mail dated November 16, 2019, The Appellant submitted that:

*“I would like to clarify that one item of the requested information was relating to religion of the janitors. I would like to confirm that this information is not needed and not required by us and may be considered omitted from our request. However, the rest of the informations asked for are essential and the CBC continues to fail to provide those information’s”.*

6. The hearing date was fixed for 14/11/19 through the hearing notice sent on 24/10/2019 and both parties were informed accordingly.

7. The Respondent did not appear before the commission at the time of hearing.

### **C. Discussion and Commission’s View on Relevant Issues**

8. The plea of the Respondent to dismiss the appeal on the ground of *lis alibi pendens* does not hold water as:

A The appeal pertains to information held by public body;

B the Appellant has submitted that “We have no case in any court against CBC for not providing us the information under RTI”.

The requested information pertaining to the provision of “true copy of the last three years’ contracts signed between Cantonment Board Clifton, (CBC) and the contractors/Thekedars” is declared public records under Section 6 (c) which is as under:

“Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body”.

9. So far as request of information about the “list of how many ‘gutter men’ are employed by CBC for cleaning, clearing and maintenance of gutters / sewerage lines”, the public body is bound to proactively disclose this information through its web site as its legal obligation under Section 5 (a) of the Right of Access to Information Act 2017 which is as under:

“Description of the public body’s organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources”

Irrespective of the merit of the plea to dismiss the entire request for information on the ground of *lis alibi pendens*, the Respondent was expected to juxtapose the requested information with Section 5 of the Right of Access to Information Act 2017 to ensure compliance with the provisions of this Act which came into force in October 2017. The commission notes with grave concern that not only the failure on the part of CBC in ensuring proactive disclosure of categories of information enlisted in Section 5 of the Act has caused delayed in the exercise of a fundamental right of access to information in matters of public importance but its reliance on *lis alibi pendens* has also caused delay when this information was not provided on the demand of a citizen. Such is the significance of proactive disclosure of information that had the CBC fulfilled its legal obligation of proactive disclosure of information, the Appellant might not have to file request for information about “how many ‘gutter men’ are employed by CBC for cleaning, clearing and maintenance of gutters / sewerage lines”.

#### **D. Order**

10. The appeal is allowed. The Respondent is directed to provide true copies of the last three years contracts signed between Cantonment Board Clifton, (CBC) and the contractors/Thekedars. The Respondent is directed to provide information about the total number of gutter men' employed by CBC for cleaning, clearing and maintenance of gutters / sewerage lines along with names and length of their service. This information be provided to the Appellant at the earliest, but in any case, not later than 20 working days of the receipt of this order. Furthermore, 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 by 18/12/2019.

11. 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:  
November 18, 2019

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