



**Appeal No 116-09/19**

**A H Nayyar (Appellant)**

**Vs.**

**Ministry of Housing and Works (Respondent-1)**

**Federal Government Employees Housing Authority (Respondent-2)**

Date: December 31, 2019

**ORDER**

**Date: December 31, 2019**

**Zahid Abdullah:** Information commissioner

**A. The Appeal**

1. The Appellant filed an appeal with the commission on September 25, 2019 in which he stated that he had requested information from Ministry of Housing and Works under the Right of Access to Information Act 2017.

2. The information sought by the Complainant, through application dated 14/10/19, is as under:

(1) The Final terms and conditions under which the contract for supply of water to the residents of sector G-14 was awarded this year.

(2) The agreed item-wise time schedule of the work assigned to the contractor for road infrastructural development of sector G-14.

**B. Proceedings**

3. Through a letter dated September 25, 2019 the Appellant said,

“I had sent information request to the secretary Ministry of Housing and Works on 11 September 2019. I have failed to receive any response from the secretary to date”.

4. The hearing was fixed for 28/11/2019 through a letter dated 13/11/2019 and both the parties were informed accordingly.

5. In the hearing Ministry of Housing and Works was represented by Mr. Muhammad Nazir Jawad, ASC, and Federal Government Employees Housing Authority was represented by Mr. Ihsan Elahi, Deputy Director (Technical).

6. In the hearing, both agreed to provide the time schedule of contract, water supply through tanker, long term line from Shah Allah Ditta. They promised to provide the requested information by 02/12/19. They also mentioned that there are lots of documents related to the requested information and difficult to proactively share through web site.

7. Through an email dated 27/12/19, the Appellant shared the following:

“In response to your action on the two requests of mine, the Authority officials sent me the attached two pieces of information. One is the letter of acceptance of the contractor for the supply of water to the sector, and the other is the timeline of the development currently being undertaken, The first is not what I had asked for; I had asked for the contract paper containing detailed conditions of the contract. The second piece of information is, thankfully, what I had asked for”.

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

8. The questions of consideration before this commission are as under:

- (a) whether the requested information falls in the category of public information as declared in Section 6 of the Right of Access to Information Act 2017?
- (b) whether the representatives of the public bodies reneged on their promise made before the commission in the hearing to provide requested information to the Appellant within agreed upon time period?
- (c) Whether the information provided by the Respondents corresponds to the information requested by the Appellant?
- (d) Whether the Respondents have the resources to proactively share categories of information mentioned in Section 5 of the Right of Access to Information Act 2017? and
- (e) Whether the Respondents have designated and notified Public Information Officers (PIOs) as required under Section 9 of the Right of Access to Information Act 2017?

9. The requested information is public record according to Section 6 (c) of the Right of Access to Information Act 2017 which is as under:

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

10. Since the Ministry of Housing and Works and Federal Government Employees Housing Authority fall under the definition of the public body as given in Section 2 of Act therefore, it is under statutory obligation not only to provide access to information on request but also proactively publish, on its website, all information mentioned in Section 5 of the Act.

11. The public body is legally obligated to proactively disclose through its web site the requested information under following sub-sections of Section 5 of the Right of Access to Information Act 2017:

- a) *“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;*
- b) *Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect*
- c) *Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees*
- d) *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.*
- e) *The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body”.*

. 12. The commission is of the view that the information provided by the Respondent only partially corresponds to the information requested by the Appellant. In fact, it is a testament to the lack of thought and casual attitude adopted by the Respondent in providing the requested information to the Appellant. This commission observed in the case of Naeem Sadiq VS Civil Aviation Authority, Appeal No 038/04/19 that “Public officials are expected

to demonstrate sound judgement and due care in deciding on information requests filed by citizens”.

13. The dichotomy between the information requested and the information provided demonstrates that the powers vested in the public official have not been exercised “reasonably, fairly, justly, and, for the advancement of the purposes of the enactment” as required under Section 24A (1) of the General Clauses Act 1897.

14. The plea of the Respondents that the requested information cannot be proactively shared through web site as it involves a large number of records does not hold water on the following grounds:

(a) All that is required is a cheap scanner, widely available in the market to scan the documents and put on the web site; and

(b) public bodies are expected to do better when the technology i.e. scanners and smart phones are so cheap that even the blind people are not only scanning documents and books through cheap scanners and smart phones but making them available to the fellow blind people through social media tools and web sites.

15. The Preamble of the Right of Access to Information states that “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”. The Preamble goes on to describe *raison d’etre* of enacting the Right of Access to Information Act 2017 which is “to 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”.

16. The commission appreciates the fact that the Appellant has exercised his fundamental and constitutional right of access to information in a matter of public importance affecting him not only in personal capacity but the requested information in the instant appeal is for public good. It is only through such public participation in public affairs that the government can be held accountable to people and corruption and inefficiency in the government can be reduced.

#### **D. Order**

17. The appeal is allowed. The Respondents are directed to provide certified copies of records pertaining to the final terms and conditions under which the contract for supply of water to the residents of sector G-14 was awarded this year. This information be provided to the Appellant at the earliest, but in any case, not later than 10 working days of the receipt of this order.

The Respondents are directed to designate and notify Public Information Officers, (PIOs) by post as required under Section 9 of the Right of Access to Information Act 2017 and submit copies of notifications to this office within 10 working days of the receipt of this Order. The Respondents are also directed to put names, designations and contact details of PIOs on the website and submit the compliance report of putting information on the website within 10 working days of the receipt of this Order and submit compliance report to the commission.

Furthermore, the Respondents are 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 02/02/2020.

18. Copies of this order be sent to the Respondents and the Appellant for information and necessary action.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on:  
December 31, 2019

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