



Appeal No 051/06/19

Mukhtar Ahmed Ali (Appellant)

Vs.

Senate of Pakistan, Islamabad (Respondent)

Order

Date: December 30, 2019

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated May 6, 2019, to the Commission, stating that he submitted an information request to the Secretary, Senate of Pakistan Office, vide letter no. RTI/Info Rq/2019/115, dated 10-4-2019 under the Right of Access to Information Act 2017 requesting following information.
 - a) “Total sanctioned strength of staff members of Senate (category-wise) against different positions/ pay-scales i.e. from pay scale 1 to 22 (category-wise).
 - b) Total vacancies in the Senate against different pay-scales/ positions (category-wise); and dates since which these positions have been lying vacant.
 - c) Number of staff members who are not regular but have been engaged on daily-wage basis or through short-term or long-term contracts against various positions/ pay-scales (category-wise).
 - d) Number and types of positions created anew since January 1, 2017.
 - e) Total number of female staff members (category-wise) against various positions/ pay-scales. The response may distinguish between the short-term/ temporary staff members and regular ones.

(2)

- f) Total number of persons with disabilities working in the Senate against various positions/ pay-scales (category-wise). The response may distinguish between the short-term/ temporary staff members and regular ones.
- g) Total number of transgender persons working with the Senate against various positions/ pay-scales (category-wise). The response may distinguish between the short-term/ temporary staff members and regular ones.
- h) A certified copy of the latest approved Service Rules of the Senate”.

B. Proceedings

2. Through a notice dated 18/06/2019 the Commission called upon the Respondent to submit reasons for not providing the requested information within 07 working days.
3. Through a second notice dated 11/07/2019 the Respondent was again directed to provide reasons in writing within 03 working days of the receipt of the notice as to why the requested information has not been provided to the Appellant.
4. The hearing was fixed for 05/09/19 through the hearing notice sent on 26/08/2019 and both parties were informed accordingly.
5. The Respondent did not appear before the commission at the time of hearing on 05/09/2019.
6. A final notice of hearing for 22/10/2019 was issued on 02/10/2019 to the designated Public Information Officer by the Senate Secretariat i.e., Additional Secretary (Admin) stating that:

“This is with reference to the enclosed hearing notice dated 26-08-2019. You failed to appear before the commission to represent your organization. You are hereby directed to appear personally before the commission with all the record/information requested by the appellant on October 22, 2019 at 1100 hours to explain the reasons for not providing the requested information to the appellant. Otherwise, the Commission will take action under Section 20(f) of the Right of access to information Act 2017.....”
7. However no one appeared on behalf of the respondent on the date of hearing in spite of three opportunities provided by the Commission.

C. Discussion

8. The commission is of the view that even a plain reading of the requested information shows that it belongs to the category of information which public bodies are

(3)

legally bound to proactively disclose under Section 5 (a) of the Right of Access to Information Act 2017. The information which should have been proactively disclosed by the public body is being protected from sharing with a citizen and no response has been received from the public body even after two reminders and no one appeared in response to the two hearing notices issued by the Commission.

10. The points under the consideration of the commission are, firstly, the request of access to information which should have been proactively disclosed through web site has been ignored by the Public body. Secondly, the Commission notes with grave concern the non serious attitude of the Public Information Officer who has neither responded to the two notices of the Commission nor appeared in two hearings.

12. While Senate of Pakistan has failed to provide any cogent reason for withholding the requested information, benefits of bringing this information in the public domain are too obvious to be missed. The requested information may reveal whether or not Senate of Pakistan is properly staffed to carry out its functions and responsibilities. Whether or not job quota in a federal public body for persons with disabilities, minorities and residents of different provinces is being observed in letter and spirit, to mention just a couple of examples.

13. Public participation in the affairs of the government is key to good governance and citizens can have greater participation in the affairs of the government through the exercise of their right to information. The senate Secretariat is legally obligated to proactively share this information through its web site to ensure greater public participation in its functioning.

14. Exactly the same information was requested by the appellant from the Federal Board of Revenue and this Commission maintained its order in the case of Mukhtar Ahmed Ali VS Federal Board of Revenue which was challenged by FBR but upheld by the Honourable Islamabad High Court that the requested information pertained to proactive disclosure of Information under section 5 of the Right of Access to Information Act 2017. In the Constitutional Petition **W.P. No. 3080/2019 Federal Board of Revenue through its Member FATE versus Chief information Commissioner** the Honourable IHC stated that “ ...The Information sought by the private respondent definitely falls within the ambit of clause (a) of sub section (1) of section 5 of the Act 2017.....”.

(4)

D. Order

14. The appeal is allowed. The Respondent is directed to provide the requested information to the Appellant at the earliest, but in any case, not later than 10 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 02/02/2020.

15. Copies of the order be sent to the Secretary Senate. Respondent i.e, (Public Information Officer of the Senate) 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 consist of 4 (four) pages, each page has been read and signed