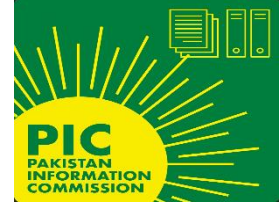


Pakistan Information Commission
Information Services Academy
Zero Point, Islamabad
 Website: www.rti.gov.pk



APPEAL NO. 224-12/2019

Asadullah
 vs
 Ministry of Energy

Date: 3.3.2020

Fawad Malik: Information Commissioner

A. APPEAL:

1. Brief facts of the appeal are that Asadullah (appellant) has filed this appeal on 12.12.2020 before the Commission under the Right of Access to Information Act 2017, complaining therein that he has not been provided the desired information by the Ministry of Energy (respondent), within the stipulated period of time as mentioned in the Act.
2. The following information was sought by the appellant from the office of the respondent under the Right of Access to Information Act 2017, vide his application dated 5.11.2020;
 1. " Allocation of development fund to your department for the financial year 2018-19.
 2. Utilization of development fund by your department in the year 2018-19."

B. PROCEEDINGS:

3. The notice dated 18.12.2019 was issued to the Secretary, Ministry of Energy with the direction to provide reasons in writing within seven days as to why the requested information has not been provided to the applicant as each public body is bound to respond to a request as early as possible and in any case within ten working days of the receipt of the request.
 The notice was not responded therefore the appeal was set down for hearing before the Commission on 26.2.2020, and both the appellant as well as the respondent were informed accordingly vide notices dated 12.2.2020.

C. ISSUES:

4. Out of the pleading the following issues arise before the Commission;
 - i. *Whether the requested information falls within the category of public record?*
 - ii. *Whether the requested information is open for disclosure?*
 - iii. *Whether the conduct of the public body amounts to deliberate obstruction and delay?*

D. COMMISSION'S VIEW:

5. After going through the contents of the appeal and the Act the Commission has consensus on the issues as described below;
 - a. The basic and the core issue in this appeal is whether the information requested by the appellant falls within the category of record and is open for disclosure under the Act. The allocation of development funds and its utilization by a department is category of record which has been mentioned in section 6 of the Act as public record. This category of record ought to have been published and computerized including uploading over the internet, by the principal officer of the public body within six months of the commencement of the Act as required under sections 5 & 8 of the Act.
 - b. The development funds are allocated in the annual budget passed by the parliament for the Public Sector Development Projects (PSDP) for each ministry. This information should be in public domain and ought to be proactively disclosed as required under Section 5(g) of the Act.
 - c. The respondent public body has not responded and processed the information request as required under section 13 and violated the time limit as provided in section 14 of the Act. The respondent has overlooked and ignored the two notices issued by this Commission and has not bothered to appear before the Commission at the time of hearing of the appeal to represent the public body.
 - d. Each public body is under obligation to respond to a request as soon as possible and in any case within ten working days of the receipt of the request. This period can further be extended for another ten days where the requested information requires a search through large number of record or the record is located in different offices. In the case in hand the public body has violated the mandatory provisions of the Act. The conduct of the respondent public body amounts to willful and deliberate

obstruction in providing the requested information attracting the imposition of fine under section 20(f) of the Act.

- e. The purpose of the enactment of this Act is to ensure that the citizens have improved access to the record held by the public authorities and promote the purposes of making the government more accountable to the citizens, to promote the culture of transparency and reducing corruption and inefficiency in the system. The purpose will be defeated if the public bodies fail to comply with and follow the mandatory provisions of the Act showing their adamant behavior.
- f. The article 19A of the Constitution of Pakistan ensures the provision of information to the citizens as fundamental and constitutional right which cannot be denied or abridged at the whims of the government authorities.

E. ORDER:

- 6. The appeal is allowed with the direction to the designated Public Information officer of the respondent to share with the appellant the requested information forthwith, under intimation to the Commission within ten working days of the receipt of this order. The designated information officer is held responsible for deliberately and willfully obstructing the provision of the requested information warranting imposition of fine under section 20(f) of the Act but taking lenient view he is directed to be careful in future.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
March 03, 2020

This order consists of 3 (three) pages; each page has been read and signed.