

In the Pakistan information commission Islamabad

Appeal no 176-11/2019

Shafiq Ur Rehman Rana

(Appellant)

Vs

Post Master General Southern Punjab Circle Multan (Respondent)

Date: 11.2.2020

Fawad Malik: Information Commissioner

A. APPEAL:

1. The brief facts of the instant appeal are that Mr. Shafiq Ur Rehman Rana (Appellant) filed a complaint against Mr. Fazal Ur Rehman Senior Post Master Bahawalpur whereupon an inquiry was conducted on 6.8.19 at Bahawalpur GPO by Mr. Aslam Pervez A.D (Inv) Circle office Multan.

2. The appellant submitted an application to the Post Master General, Southern Punjab Circle, Multan under Freedom of Information Ordinance 2002, alongwith even dated application form on 16.8.2019, requesting therein attested copy of the inquiry report along with its enclosures. The request was not responded hence feeling aggrieved the appellant preferred another application on 11.9.2019 to the Director General, Pakistan Post, Islamabad requesting his good office to intervene in the matter for getting early provision of the requested information.

3. On the intervention of the office of the Director General, the Assistant Post Master General (O&FS) Circle office, Multan vide letter dated 9.10.2019 decided the application as under;

“Your application regarding supply of documents has been reviewed by the competent authority. It cannot be entertained under provision of Rule No. 7 of Right of Access to Information Act 2017”.

4. The appellant has challenged the decision dated 9.10.2019 in the appeal before the commission filed under section 17 of the Right of Access to Information Act 2017.

5. The appeal was fixed for hearing before the commission on 11.12.2019 vide notice dated 19.11.2019.

B. POINTS OF CONSIDERATION:

- Whether the information request filed under Freedom of Information Ordinance 2002 can be treated under the Right of Access to Information Act 2017?
- Whether the appeal has been filed within the limit of time?
- Whether the inquiry report is excluded from disclosure under section 7 of Right of Access to Information Act 2017?
- Whether the applicant can be asked the purpose of acquisition of the record or information?

C. DISCUSSION:

- a. The Right of Access to Information Act 2017 was enacted in October 2017 repealing the Freedom of Information Ordinance 2002, but the appellant being unaware filed his request under the repealed Ordinance. The Act requires each public body to ensure the notification of one or more designated officer, within thirty days of commencement, and the officer so appointed is required to assist the applicants who are facing any problem or difficulty or are unaware of the Act, for filling the information request.
- b. The public body vide decision dated 9.10.2019 has treated and decided the application under the Right of Access to Information Act 2017, therefore the appeal has been rightly filed before the commission under the Act *ibid*. Even otherwise right to information is a fundamental right of the citizens which cannot be denied merely for the ignorance of the Act on technicalities.
- c. The impugned decision dated 9.10.2019 was challenged in appeal before the commission on 15.10.2019 through registered post which was received back undelivered on 1.11.19 therefore the appeal is considered to have been filed well within limit of time for the reason that the appellant was unaware of the correct address of the commission. As discussed *supra* the fundamental right cannot be denied to the citizens.
- d. The appellant has been denied the requested information i.e Inquiry Report against Mr. Fazal Ur Rehman Senior Post Master Bahawalpur GPO on account of late delivery of ordinary/registered mail and other Misc issues. It is worth mentioning here that the said inquiry was conducted by Mr. Aslam Pervez A.D (Inv) Circle office Multan on the complaint filed by the appellant. The said inquiry report should have been communicated to the appellant mainly for the two reasons, firstly that the appellant was the complainant of the inquiry having right to know the outcome of the inquiry and secondly section 5(1)(i) of the Act makes it obligatory for the public bodies to publish including uploading over the internet, reports including inquiry or investigation reports that have been finalized. The impugned decision is illegal and not sustainable been taken on the wrong assumption of exclusion mentioned in section 7 of the Act.
- e. Section 11(5) of the Right of Access to Information Act 2017 specifically bars the public bodies from asking the applicant, the purpose of acquisition of information or record, or to provide reasons for his request.

D. ORDER:

6. The Appeal is allowed. The respondent is directed to provide the appellant a certified copy of the inquiry report requested for within seven days of the receipt of this order.

The respondent is also directed to take immediate steps to proactively share through the website 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 11.2.2020.

Copy of this order be sent to the respondent, the appellant for information and compliance.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on February 11, 2020

This order consist of 3 (three) pages, each page has been read and signed