

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 341-02-2020

NADEEM UMER
VS
ISLAMABAD CLUB

Fawad Malik: Information Commissioner

Dated: 19.8.2020

A. APPEAL:

1. The brief facts of the appeal are that Mr. Nadeem Umer, appellant sought certain information from the Islamabad club, in the public interest under the Right of Access to Information Act 2017. The detail of the requested information in the application dated 28.1.2020 is reproduced as under;

1. *“Provide certified copy of Financial Audit Reports for the following Years:*

- i. Financial Year 2014-15*
- ii. Financial Year 2015-16*
- iii. Financial Year 2016-17*
- iv. Financial Year 2017-18*
- v. Financial Year 2017-18*

2. *List of the properties / shops / restaurants / leased or Outlet by the Islamabad Club, along with the following details,*

- a) When these properties / shops / restaurants were leased / rent awarded.*
- b) Name of tenant.*
- c) Monthly / Annual Rent.*
- d) Certified copy of the lease / rent agreement.*

3. *Total number of the registered club members.*

4. *Total number of the players / members in each game.*

5. *Total number of the games played in the club.*

6. *Details of the available facilities in the club.*

7. *Total number of the trainers / coaches affiliated with the club, along with the details of their wages.*

8. *List of the private functions (marriages, conferences, parties etc) held in the Islamabad Club from Jan 2016 till date along with the details of the revenue generated from each event / activity.”*

2. The Islamabad Club refused to share the requested information to the appellant vide letter No. IS/SO/2020/1.1/073 dated 10-2-2020 on the ground that the Club management do not come within the ambit of public body as defined in the Right of Access to Information Act 2017. The appellant feeling aggrieved preferred his appeal before the Commission on 25.2.2020 for the reprisal of his grievance.

B. PROCEEDINGS:

3. The appeal was fixed for hearing before the Commission on 18.3.2020 and both the parties were informed accordingly vide notices dated 6.3.2020.
4. Mr. Waseem Abid Advocate appeared before the Commission to represent the club at the time of hearing and submitted the written reply on behalf of the Administrator Islamabad Club but the hearing was adjourned in the wake of the Corona Virus pandemic.
5. In the reply the administrator has objected the maintainability of the appeal, the club being non-juristic person. It is further stated that the club was initially established as company limited by guarantee where after through Islamabad Club (Administration) Ordinance 1978, the administration of the club was transferred to and vested in the office of the Administrator appointed by the Federal Government and is aided and advised by the Managing Committee also appointed by the Federal Government. That no funding is received from the Federal Government and the funds are generated independently from contribution made by the members of the club. That the appellant is not a member of the club therefore has no *locus standi* to ask for the information and that the requested information is exempted under the provisions of the Act.
6. The club vide letter dated 2.6.2020 was directed to apprise the Commission the detail of the funds received by the club from the government exchequer and the detail of the acquisition of land presently in the use of the club.
7. In response the club has informed the Commission that the land which comprises of the Islamabad club premises has been leased out by the Capital Development Authority, Islamabad. Islamabad Club makes regular payments on account of lease rentals to the CDA on yearly basis. The copies of the pay order in favour of CDA paid by the club reflect that an amount of Rs. 14,700/- on account of Annual Lease Rent of Islamabad Club land and Rs. 12,300/- on account of Annual Lease Rent of Polo Ground & Extension of golf Course for the year 2020-21 has been deposited in favour of CDA.
8. Keeping in view the divergent pleadings by the Club the case was fixed for hearing before the Commission on 19.8.2020 and the respondent was directed to produce before the Commission at the time of hearing the Memorandum and byelaws of the club for further probe and inquiry. Both the parties were informed accordingly vide notices dated 11.8.2020.
9. Mr. Waseem Abid advocate, legal adviser on behalf of the Islamabad club and the appellant in person appeared before the Commission at the time of hearing. Mr. Waseem Abid reiterated the stance taken by the club in the written reply and arguments whereas the appellant has produced following two Newspaper clipping in aid of his appeal. (i) "Audit report finds irregularities in Islamabad Club affairs"

C. ISSUES:

10. Whether the Islamabad Club falls outside the scope of public body as defined in section 2(ix) of the Right of Access to Information Act 2017?
11. Whether the appellant having no locus standi has no right to question for the requested information from the respondent?

12. Whether the appeal is not maintainable against the Islamabad Club?
13. Whether the requested information and record is exempted from disclosure under the Act 2017?

D. COMMISSION'S VIEW:

14. The basic point in the appeal is to decide whether the Islamabad Club remains outside the jurisdiction of the Commission and do not fall in the category of “public body” as defined in section 2(ix) of the Act because the Club in its reply has objected the maintainability of the appeal. It has been argued that the Islamabad club is non-juristic person and in this regard reliance is placed on (PLD 2019 Isl 331) titled Administrator Islamabad Club vs Aisha Mustafa.
15. The Commission after going through the Article 19.A of the Constitution Of Pakistan, the Right of Access to Information Act 2017 and the reply submitted by the Islamabad Club is of the considered view that the Islamabad club is a “public body” within the meanings of the Act for the following reasons;
 - a. That admittedly through Islamabad Club (Administration) Ordinance 1978, the administration of the affairs of the club is vested in the office of the Administrator appointed by the Federal Government under section 6 of the Ordinance. The Administrator subject to any direction issued by the Federal Government is competent to exercise and perform all such powers and functions as may be necessary for the administration of the affairs of the club. The club is thus controlled by the Federal Government is encompassed within the meanings of the “public body” as defined in section 2(ix)(d) of the Right of Access to information Act 2017.
 - b. That in aid to and advice the administrator in the performance of the club affairs, the Federal Government appoints a managing Committee under section 6.A of the Ordinance 1978.
 - c. That it has been advanced in the arguments by the club that the land comprising the Islamabad club has been leased in favour of the club by the Capital Development Authority, Islamabad. The club makes payment on account of lease to the CDA on yearly basis. The copies of the pay orders in favour of CDA paid by the club reflect that an amount of Rs. 14,700/- on account of Annual Lease Rent of Islamabad Club land and Rs. 12,300/- on account of Annual Lease Rent of Polo Ground & Extension of golf Course for the year 2020-21 has been deposited in favour of the CDA. The lease agreement is a contract for the exclusive possession of land for life, for term of years, at will, or for any interest, usually for a specified rent or compensation. The club is thus utilising the government land, on lease, under its use. On this score alone the club comes within the definition of “public body” as mentioned in section 2(ix)(h) of the Act.
 - d. That it is suffice to hold that the Islamabad club is a public body within the meaning of the RTI Act that the representative of the club during the course of

the arguments has admitted that the annual audit of the club is conducted by the Federal Government Directorate of Audit.

16. Under the Act the request for information can be filed by any citizen. The appellant has sought the requested information invoking his fundamental and constitutional right under article 19.A of the Constitution of Pakistan 1973, in the public interest. Furthermore under section 11(5) of the Act 2017, an applicant, in no case is required to provide reasons for his request therefore *locus standi* of the applicant is not mandated in the Act. The argument of the club that the appellant has no locus standi because he is not a member of the club do not carry weight in the light of the definition of “applicant” mentioned in section 2(ii) in the Act.
17. The case law (PLD 2019 Islamabad 331) referred by the club is not relevant in the case in hand. It has been held by the Honourable Islamabad High Court therein that the Islamabad club being a *non-juristic* person within the meanings of article 199 of the Constitution of Pakistan, the writ petition is not maintainable against the club. In the instant appeal the club claims that Islamabad club is not a “public body” within the meaning of the Act, hence the case referred by the club does not comes in to its rescue because the judgement referred by the respondent has no nexus with the term “public body”. The Act has provided the citizens the right of access to the information held by the public bodies and the Constitution guarantees this right as fundamental in the public interest. Subject to the provisions of the Act 2017, no applicant can be denied access to information held by the public body if it is not exempted under the Act. The Islamabad Club is a public body within the meaning of section 2(ix) of the Act and the application filed by the applicant before the Islamabad club and the appeal before this Commission is maintainable and within the domain and jurisdiction of the Commission.
18. The exemption from disclosure of information is claimed by the respondent club for the reasons that it would involve the detail of personal nature of the members, that the information sought is not of public importance, that it will likely hamper and damage the financial interests of the club, that the detail of wages of employees, trainers and coaches is contrary to the privacy of the individual and that the detail of the functions arranged by the members is private affair of the members. It is further stated that the details of the facilities and games played at the club are available on the website of Islamabad club. The link of website is “islamabadclub.org.pk”
19. The plain reading of the information sought reveals that nothing sort of the personal nature of the members, employees, trainers or coaches is asked by the appellant in his application which would involve invasion of privacy of an identifiable individual nor the Commission allow the sharing of such detail. The nature of the information asked by the appellant is of general nature which ought to have been disclosed by the club administration on its website and on the notice board of the cub to make the functioning of the club transparent. The financial audit report, the detail of utilization of the club land, total number of members, total number of players, total number of games played, detail of facilities, total number of trainers and the list of private functions etc. are the category of record which would not be contrary to the privacy of any individual nor would it hamper and damage the financial interests of the club.

20. The Federal Government Directorate General Audit Report 2017-18 has spotlighted several irregularities such as illegal appointments, illegal investments, operating of illegal bank accounts, illegal membership and arbitrarily misusing of powers by the club authorities. The Audit has pointed irregular purchase of items worth of one billion rupees in violation of Public Procurement Regulatory Authority (PPRA) rules and regulations, by the club. (Pakistan Today 24-9-2019).

21. In another news clipping of Daily Times dated 22.10,2019 reveals that the Islamabad Club has been running matters without approval of the Rules for last four decades. The Auditor General of Pakistan Report 2018-19 disclosed that Federal Government has not approved the financial, services and election rules of the club as per Islamabad Club (Administration) Ordinance 1978.

22. The irregularities highlighted in the affairs of the club are sufficient to raise the eyebrows by the public at large in matters of public importance. The spirit of the enactment of the Right of Access to Information Act 2017, is to ensure that the people of the Islamic Republic of Pakistan have improved access to record held by the public bodies and promote the making of the Government more accountable to its people and of reducing corruption in the affairs of the government.

E. ORDER:

23. The Appeal is allowed. The letter dated 10.2.2020 is set aside. The Islamabad club is directed to provide the appellant certified copies of the requested information forthwith but in any case not later than seven days of the receipt of this order.

Furthermore, the Islamabad club is directed to upload all the record/information on its website as mentioned in section 5 of the Act.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Certified that this order consists of five pages, each page has been read and signed.