

## Pakistan Information Commission

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### In The Pakistan Information Commission, Islamabad

#### Appeal No 429-07/20

**Murtaza Hashim**

(Appellant)

Vs.

**Ministry of Foreign Affairs**

Through its Spokesperson / Public Information Officer

(Respondent)

#### Order

**Date:** September 22, 2020

**Zahid Abdullah:** Information Commissioner

#### **A. The Appeal**

1. The Appellant filed an appeal, dated 14-07-2020, to the Commission, stating that he Submitted an information request to the Secretary, Ministry of Foreign Affairs dated 22-06-2020 under the Right of Access to Information Act 2017.

2. The information sought by the Appellant is as follows:

- “1. *Certified copy of Foreign Service of Pakistan (FSP) Pay, Allowances Leave Rules (Amended up to date-2020) {Your Good Office vides No.Rules-1/1/2018 (Misc) dated January 04, 2019 and No. Rules-1/1/2019(Misc) dated April 17, 2019 stated that these rules are under consideration for revision, so it is requested that please provide the latest amended copy of said rules}*
2. *Total Sanctioned and Vacant Post of Assistant Accounts Officer (AAO) in Ministry of Foreign Affairs, Government of Pakistan (Your Good Office vide No. No. Rules-1/1/2019 (Misc) dated April 17, 2019 sated that these information's may be sought from AGPR, whereas AGPR stance is that this information is in domain of Ministry so acquired from Ministry.*
3. *Eligibility Criteria, Service Rules and Service Structure for Assistant Accounts Officer (AAO) in Ministry of Foreign Affairs, Government of Pakistan (Your Good Office vide No. No. Rules-1/1/2019 (Misc) dated*

*April 17, 2019 sated that these information's may be acquired from FPSC, whereas FPSC stance is that Service Rules are in domain of concerned Ministry so may be acquired from Ministry).*

4. *Grade Wise Sanctioned and working Strength of Foreign Service of Pakistan (FSP) (Ministry Vide Letter No. Rules-1/1/2018 (Misc) Dated January 04, 2019 Provided Only Overall Sanctioned Strength)”.*

3. The Respondent in its response to the applicant stated that “the Ministry of Foreign Affairs is a sensitive organization of the Government of Pakistan. The information that you have requested is confidential in nature and vulnerable to exploitation. All the information regarding this Ministry that is meant for public consumption is available at the following official website of the ministry; <http://mofa.gov.pk/>”

## **B. Proceedings**

4. Through a notice dated 23-07-2020 sent to the designated Public Information Officer, Spokesperson, the Ministry of Foreign Affairs, the Commission called upon the Respondent to submit reasons for not providing the requested information.
5. The Respondent did not respond to the notice and the hearing date was fixed for 27-08-2020 through the hearing notice sent on 11-08-2020 and both parties were informed accordingly.
6. No one appeared on behalf of the Respondent on the date of hearing on 27-08-2020

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

7. The questions for the consideration of the commission are as under:
- (a) Did the Respondent decide on the request for information of the citizen under the provisions of the Act, hereafter referred as Act?
  - (b) Should a citizen have access to requested information in accordance with the provisions of the Right of Access to Information Act 2017?
8. In its response to the Appellant, the Respondent maintained that “the Ministry of Foreign Affairs is a sensitive organization of the Government of Pakistan. The information that you have requested is confidential in nature and vulnerable to exploitation. All the information regarding this Ministry that is meant for public consumption is available at the following official website of the ministry; <http://mofa.gov.pk/>”
9. The Respondent has not referred to any of the provisions of the Act while deciding whether the requested information is exempted from disclosure or should it be provided to the Appellant. After the enactment of the Right of Access to Information Act 2017, all such decisions are to be taken in accordance with the provisions of the Act.
10. The assertion of the Respondent that “The information that you have requested is confidential in nature and vulnerable to exploitation” is of subjective nature. Similarly, the assertion that “All the information regarding this Ministry that is meant for public

consumption is available” at the web site of the ministry is not grounded in the provisions of the Act.

11. The Act does not allow Citizens’ constitutional right of access to information in matters of public importance to the subjective assertions of public officials. That is why the elective representatives of the citizens of Pakistan have spelled out through various provisions of the Act as to what is ‘information’; what are ‘records’; what information has to be proactively published through web sites; what information is to be provided under citizens’ requests and what information is to be exempted from disclosure after cogent reasoning.
12. The information is defined as “information based on records” under Section 2 (v) of the Act. The Respondent should have juxtaposed the requested information with the categories of information to be proactively disclosed under Section 5 of the Act. If the Respondent had determined that the requested information falls within the categories of information to be proactively disclosed through its web site, it should have informed the Appellant that the requested information has already been proactively disclosed, mentioning the link from where it could be retrieved.
13. Had the Respondent determine that the requested information fell under Section 6 of the Act, it should have provided the requested information to the Appellant within the time-framework provided under Section 14 of the Act which is as under:

“14 Time-limit of responding---

  - (1) Subject to the provisions of this Act, a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request
  - (2) The periods stipulated in sub-section (1) may be extended by maximum of further ten working days, where is necessary when the request requires a search through a large number of records or records located in different offices or consultation is required with third parties or other public bodies.
  - (3) Information needed to protect life and liberty of any individual shall be provided within three working days”.
14. It should be noted that information provided under Section 6 of the Act needs to be certified as required by the following Section 13 (3) of the Act:

“Where information or a record is provided in accordance with clause (a) of sub-section (2), it shall be accompanied by a certificate which may be affixed to the information or record at the foot thereof, or as appropriate, to the effect that the information is correct or, as the case may be, copy is a true copy of the original records and such certificate shall be dated and signed by the designated official”.
15. Instead of declining access to the requested information through subjective assertion, the Respondent was required to refer to Section 7, Section 16 and Section 17 (4) of the Act.

16. The requested information should not only be made available to the Appellant as a constitutional right of access to information in matters of public importance under Article 19-A of the Constitution of Islamic Republic of Pakistan but also as a statutory right under different provisions of the Right of Access to Information Act 2017. The Preamble of the Act states:
- “Whereas 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 and 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”. The requested information belongs to the category of information which public bodies are legally bound to proactively disclose, through their web sites, under Section 5 (1) (i) of the Act.
17. The requested information belongs to the category of information which public bodies are legally bound to proactively disclose, through their web sites, under Section 5 (1), (b), (e) and (i) of the Act.
18. While the Respondent has failed to provide any cogent arguments 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 the Respondent Ministry of Foreign Affairs is properly staffed to carry out its functions and responsibilities, to give just one example.
19. 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 Respondent is legally obligated to proactively share this information through its web site to ensure greater public participation in its functioning.

#### **D. Order**

20. The appeal is allowed. The Respondent is directed to provide certified copy of Foreign Service of Pakistan (FSP) Pay, Allowances Leave Rules (Amended up to date-2020) total Sanctioned and Vacant Post of Assistant Accounts Officer (AAO), eligibility Criteria, Service Rules and Service Structure for Assistant Accounts Officer (AAO) and total number of sanctioned posts of the ministry for each grade and total number of filled posts in each grade.
21. The information mentioned in para 20 be provided to the Appellant within 10 working days of the receipt of this Order with intimation to the commission.
22. The Respondent is directed to put contact details of the designated Public Information Officer on its web site as required under Section 5 (1) (h) of the Act and submit compliance report to this commission within 10 working days of the receipt of this Order.

23. 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 22/10/2020.
24. Copies of this order be sent to Public Information Officer, Spokesperson, Ministry of Foreign Affairs and the Appellant for information and necessary action.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on:  
September 22, 2020

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