

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 266-02-2020

Ayaz Syed
Vs
Ministry of Water Resources

Date: 22.7.2020

Fawad Malik: Information Commissioner

A. APPEAL:

1. The brief facts of the appeal are that Mr. Ayaz Syed (Appellant), filed his application for information under the Right of Access to Information Act 2017, before the Federal Secretary, Ministry of Water Resources, invoking his fundamental right under Article 19-A , Constitution of Pakistan. In his application dated 3.7.2019 the following information was sought;

- *What is the total amount received in the amount of Chief Justice Dam Fund till 1st June 2019.*

2. The appellant being aggrieved of the respondents failure to comply with its statutory duty under RTI Act, constituting breach of the fundamental right of the appellant as enshrined in article 19-A of the Constitution of Pakistan, knocked the Pakistan Information Commission for the enforcement of his rights.

B. PROCEEDINGS:

3. The Commission vide notice dated 12.2.2020 directed the respondent to provide reasons in writing within seven days as to why the requested information has not been provided to the applicant as under section 14 of the Act each public body is bound to respond to a request as soon as possible and in any case within ten days of the receipt of the request.

4. The notice remained unheeded therefore the appeal was fixed for hearing before the Commission on 11.3.2020 and both the appellant as well as the public body were informed accordingly vide notices dated 27.2.2020.

5. At the time of hearing Mr. Sajeel Saeed, Deputy Secretary appeared before the Commission to represent the respondent public body. He undertook to provide the requested information to the appellant by or before 18.3.2020 hence on his assurance the appeal was adjourned till the said date. On 18.3.2020 neither the requested information was provided nor did anybody appeared to represent the public body.

6. After the Corona outbreak pause, the appeal was again fixed for hearing on 2.9.2020 through hearing notice dated 13.8.2020. No one appeared on behalf of the public body at the time of hearing to apprise the Commission regarding the latest after 11.3.2020.

C. COMMISSION'S VIEW:

7. The amount received in the Chief Justice and Prime Minister of Pakistan fund for the construction of Diamer Bhasha and Mohmand Dams is deposited by the citizens on the call of the than Chief Justice of Pakistan. It is contribution by the citizens for the construction of the Dams in Pakistan therefore they reserve the right to question the details of the amount so contributed by them. The appellant has invoked his constitutional and statutory rights provided under the Constitution of Pakistan and the RTI Act 2017 respectively, for seeking the requested information.

8. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practise would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.

9. The statistical detail of the Dam fund is available on the website link supremecourt.gov.pk/dam-fund-statistics of the Honourable Supreme Court of Pakistan. The complete detail including Account Name, Account Number, Total Amount deposited along with the details of the investment of funds is reflected on the linkage.

10. Where the public record is available with more than one ministries/public bodies, each of them holding the record is under obligation to upload over its website in a manner provided in the Act. It was needed for the Ministry of Water Resources to make public the statistical details of the Dam fund record as it is mandatory for the public bodies to publish including uploading over the internet and computerization for the voluntary disclosure of the categories of record and information mentioned in section 5, within six months of the commencement of the Act.

11. Mr. Sajeel Saeed, deputy secretary represented the public body before the Commission on 11.3.2020 and undertook to provide the requested information on or before 18.3.2020 but absented himself on the next dates of hearing i.e. 18.3.2020 & 2.9.2020, despite the service of notice. The conduct of the officer amounts to wilful and deliberate obstruction in the working of the Commission besides preventing and delaying the disclosure of the information, warranting imposition of fine under section 20(f) of the RTI Act 2017. The officer is responsible for the delay caused in the provision of the requested information within time as the factor of time limit is very important in the Act and the Commission reserves the powers to impose the fine. However the Commission taking a lenient view is warning the responsible to be careful in future.

12. The respondent public body has not notified the designated officer so far, in violation of section 9 of the Act. In the absence of the designated officer the principal officer shall be considered as the designated officer.

13. The procedure for the acceptance and refusal of the application for information is provided in section 13 of the Act. It is mandatory for the designated officer appointed by the public body to acknowledge the application before processing. If the applicant is entitled for the provision of the information than the same should be provided within the period mentioned in section 14 and in case the request merits rejection then to inform the applicant the reasons under which it is rejected in accordance with the provisions of the Act.

D. ORDER:

The appeal is allowed. The respondent is directed to provide the appellant the requested information forthwith but in any case not later than seven days of the receipt of this order.

The Secretary, Ministry of Water Resources is directed to take immediate steps to notify the designated officer of the Public Body as mentioned in section 9, and proactively share all categories of information mentioned in section 5 of the RTI Act 2017.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 14.9.2020.

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