

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO.386-6-2020

Ali Haider Javaid
Vs
Capital Development Authority, Islamabad

28.9.2020

Fawad Malik: Information Commissioner

A. APPEAL.

1. The brief facts of the appeal are that Mr. Ali Haider Javed, appellant filed an information request dated 15.4.2020 under the Right of Access to Information Act, 2017 before the Capital Development Authority (CDA), Islamabad, through Mrs. Rubina Javed for the provision of the following information.
 1. *“Maintenance record of my allotted house (house no. 270-E Street no. 11 Sector G-6/2).*
 2. *How much tender/quotations were granted to the said house since 2014 to 2019?*
 3. *How much was the quota/budget allocated for the maintenance of E-type house since the fiscal year 2014 to 2019 each?*
 4. *Information regarding the application having Dy. No. 1265 Dated: 08-03-2018.*
2. The DG, Directorate of General Services, CDA responded the application with the following remarks and closed the file on 17.4.2020.

“Respected citizen Renovation of two washrooms, pcc floor of back yard, replacement of kitchen line have been done while white wash for damaged portion due to sewerage lines was also offered by concerned enquiry officer/officials but you refused. Further it is also mentioned here that yesterday Dr. Asif sb (advisor of Wafaqi Mohtasib) has also issued direction regarding maintenance records. He directed that this office can not provide official records to you please.”
3. The appellant feeling aggrieved and dissatisfied with the response of the CDA has filed the appeal before the Pakistan Information Commission for the redress of his grievance under the Act.

B. PROCEEDINGS:

4. The Commission vide letter dated 17.6.2020, directed the Chairman, CDA to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the

Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.

5. The reply was not submitted hence the appeal was fixed for hearing before the Commission on 23.9.2020 and both the appellant as well as the respondent were informed accordingly vide notices dated 26.8.2020. No one represented the respondent public body at the time of hearing of appeal before the Commission.

C. COMMISSION'S VIEW:

6. The appellant in his request before the CDA has desired the record of maintenance and correlated thereto i.e. tenders, allocated budget etc, in respect of the house no. 270-E, street no. 11, sector G-6/2, allotted by the government. The public body although responded promptly to the information request but has withheld the information while referring the direction of the advisor to the Wafaqi Mohtasib, that the official record cannot be shared. It is worth to mention here that the appellant is claiming the information persuasive his right under Right of Access to Information Act 2017 and the domain of deciding the matters related to the information and record is not with the Wafaqi Mohtasib rather with the Pakistan Information Commission constituted for the purpose, under the Act. The concerned officer has erred while declining the request on the pretext of direction from Wafaqi Mohtasib, ignoring the fact that the application was specifically written under the RTI Act 2017 and it was to be treated and processed in accordance with the provisions of the Act. Instead of providing the requested information under the Act the respondent public body has turned down the request in an arbitrary manner without any plausible justification. Although the officer has not annexed the copy of the direction of the Mohtasib office, still the Commission holds that sort of direction is without jurisdiction, thus is null and void. The impugned decision dated 17.4.2020 by the public body is therefore not sustainable.
7. The applications filed before any public body under the Right of Access to Information Act 2017 are to be dealt with in accordance with the provisions of this Act read with 19.A of the Constitution of Pakistan. The provisions of RTI Act will have overriding effect notwithstanding any other law inconsistent therewith for its enforcement.
8. This right of access to the information and record, of the citizens through the RTI Act 2017 is crowned from Article 19.A of the Constitution of Pakistan. Right of access to the record and information in the matters of public importance is constitutional and statutory right of the citizens provided under the Constitution of Pakistan and the Right of Access to Information Act, respectively which cannot be denied or delayed at the whims of the government hierarchy.

9. The detail of the requested information reveals that it is sort of record which would be helpful in the implementation of the transparency and making the government more accountable to the citizens, the spirit of the enactment of the Act. The Act envisages proactive disclosure of the category of record mentioned in section 5 to be computerized and duly published including uploading over the internet, within six months of the commencement of the Act, by the Principal Officer of each public body. The mandatory provision of the Act has been violated by the respondent public body.
10. The participation of the citizens in the matter of public importance must be encouraged. Openness of the record will definitely bring the corruption level down which would help in improving and making the working of the institutions more transparent. It is right of the citizens to know that how many quotations were invited and what budget is allocated for the maintenance of the specific type of house.
11. It is matter of concern for the Commission that the CDA has till date not appointed the public information officer as mandated in section 9 of the Act despite the passage of about three years of the enactment of the Act.

D. ORDER:

12. The appeal is allowed. The decision dated 17.4.2020 passed by the DG, Directorate of general Services, CDA is set aside and he is directed to provide all the requested information and record to the appellant forthwith and in any case not later than seven days of the receipt of this order.
The Chairman, CDA is directed to make arrangement for the publication of the record and appointment of the designated officer in compliance of the Act.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 29.9.2020.

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