

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 263-1-2020

Anique Salman Malik

Vs

- 1. Capital Development Authority, Islamabad. (Respondent No. 1)**
- 2. Metropolitan Corporation, Islamabad. (Respondent No. 2)**

Date : 14.9.2020.

Fawad Malik : Information Commissioner.

A. APPEAL:

1. The brief facts of the appeal are that Mr. Anique Salman Malik, appellant through applications dated 29.10.2019, addressed to Capital Development Authority (CDA)(respondent No. 1) and Metropolitan Corporation, Islamabad(respondent No. 2) sought certain information relating to the public documents under section 11 of the Right of Access to Information Act 2017 read with Article 19-A of the Constitution of Pakistan. The text of the information requested by the Appellant from each of the respondent No. 1& 2 is reproduced as under;

Capital Development Authority

- i. The revised Master Plan of Islamabad;*
- ii. The Scheme approved by CDA (if any) for the development of Sector G-14/4;*
- iii. All approvals (including conditional approvals) given by CDA for the development of Sector G-14/4;*
- iv. Any instrument(s)/agreement(s) with respect to Sector G-14/4 whereby CDA has ever divested the responsibility for provision of municipal service(s), including in particular provision of water supply, to FGEHG/FGEHA;*
- v. Confirmation as to whether control of Sector G-14/4 was ever handed back to CDA for maintenance after the completion of the approved development scheme (if any).*

Metropolitan Corporation

- i. Any agreement(s)/instrument(s) vesting the authority in FGEHF/FGEHA to discharge municipal services in Sector G-14/4 and Sector G-13;*
 - ii. Any agreement(s)/instrument(s) divesting from MCI the obligation and responsibility to supply water in Sector G-14/4;*
 - iii. Any agreement(s)/instrument(s) divesting from MCI the obligation and responsibility to supply water in Sector G-13;*
 - iv. Information and statistical data relating to source(s) of water supply from which water is provided in Sector G-14/4 and G-13;*
 - v. Information relating to source(s) of water supply from which water is supplied to other developed Sectors in Zone-I Islamabad, including in particular Sectors F-6, G-6;*
 - vi. The identity and number of developed Sectors in Zone-I, Islamabad where no direct (door to door) water pipe network has been laid;*
 - vii. Copies of any contract(s)/agreement(s) for the provision of water supply in Sectors G-14/4 and G-13 including any instructions issued to such contractor(s) regarding rates at which water is to be supplied;*
 - viii. Statistical data regarding the amount of water supplied to Islamabad from dams from 2015 till date; and*
 - ix. Statistical data regarding the amount of water supplied to each developed Sector (including Sector G-14/4 and G-13) in Islamabad annually.*
2. The appellant being aggrieved of both 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 by filing appeal for the enforcement of his rights.

B. PROCEEDINGS:

3. The Commission vide notice dated 12.2.2020 directed the Mayor of Islamabad 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 respondent were informed accordingly vide notices dated 27.2.2020. No one appeared at the time of hearing to represent the public body, however through letter dated 5.3.2020 Deputy Director Revenue, Metropolitan Corporation informed that the information asked for relates to Water Supply, Housing Societies and formations of Engineering wing, CDA, hence the notice dated 17.3.2020 was issued to the Chairman, Capital Development Authority, respondent no. 1 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.
5. The hearings before the Commission remained under pause during the outbreak of pandemic Covid 19. In pursuance to the Standard Operating Procedures issued by the government, the personal hearing before the Commission was condoned and the respondent no. 1 vide notice dated 26.6.2020 was directed to submit the written arguments in the office of the Commission within fifteen days.
6. The written arguments as directed were not submitted hence the appeal was again fixed for hearing before the Commission on 2.9.2020 and the parties in the appeal were informed accordingly vide notices dated 13.8.2020.
7. On 2.9.2020 Mr. Naveed Anjum, Assistant Director appeared on behalf of Metropolitan Corporation however no one appeared to represent the CDA nor was the reply submitted on their behalf.

C. COMMISSION'S VIEW:

8. The appellant, a resident of Sector G-14/4, suffering due to the lack of appropriate provision of municipal services along with a host of other civic issues prevalent in the sector has sought information related to the said issues. In this connection he requested for information mentioned in para 1 of this order, addressed to the

chairman Capital Development Authority and Mayor of the Metropolitan Corporation, Islamabad. Both the respondents failed to meet the statutory requirements mentioned in section 13 of the Act. The applications were not acknowledged; the requested information was neither provided nor denied as mandated in the Act.

9. In reply to the notice dated 12.2.2020 the Metropolitan Corporation has apprised the Commission that the requested information does not pertain to Directorate of Revenue rather is a concern of Water Supply, Housing Societies and Formations of Engineering wing of CDA.
10. CDA is a statutory body established in terms of the CDA Ordinance, 1960 and acting as a local authority operating to the extent of Islamabad Capital Authority. It is undeniably a public body in terms of section 2(ix) and its Chairman, in the absence of the designated officer, is the Principal Officer in terms of Section 2(viii) of the Act.
11. The requested information *prima facie* is the category of record that ought to have been duly published including uploading over the internet, within six months of the commencement of the Act, by the Principal Officer of the public body.
12. 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.
13. 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.
14. It is worth to note that the time frame specifically mentioned in the Act has significance in the implementation of the Act. The wilful delay or obstruction in the delivery of the information and record

has been made liable to imposition of fine by the legislators. The Chairman, CDA is responsible for the delay caused in the delivery of the requested information that amounts to the infringement of the fundamental rights, and is liable to imposition of fine under section 20(f) of the Act. He has overlooked and ignored the notices of the Commission and has failed to submit the reply as directed. The Commission reserves the power to impose fine but this time only warning is issued to remain careful in future.

D. ORDER:

15. The appeal is allowed. The Chairman Capital Development Authority 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 Chairman is also 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 five paged, each page has been read and signed.

