

APPEAL NO. 207-12/2019

Shahbaz Akmal Jandran

(Appellant)

Vs

Chief Election Commissioner of Pakistan

(Respondent)

Order


Date: March 05, 2020

Zahid Abdullah: Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated 19/08/2019, to the Commission, stating that he Submitted an information request to the Secretary, Election Commission of Pakistan dated 29/07/2019 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
  1. *“When ECP released assets details of Parliamentarians/Lawmakers under section 138 of the Elections Act 2017?”*
  2. *When ECP issued any notification or press release in this matter? Please provide copy of such notification or press release.*
  3. *Whether such notification or press release was uploaded on ECP's official website or not? If same was not uploaded on ECP's official website, then Please mention the reasons?*
  4. *How many copies of assets details have been published? Please provide details about Senate/NA/PA's separately.*
  5. *Whether number of copies printed by ECP, were enough for dissemination purpose?*
  6. *Who suggested/recommended the number of copies? Who finalized the printing order?*

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7. *How many copies of assets declarations have been sold-out by ECP? Please provide details along with names of purchasers.*
8. *How, ECP fixed the rates of assets declarations copies? Please provide the copy of such notification/decision.*
9. *How many copies of assets declaration have been distributed free of cost between Media persons belong to Federal Capital? Please provide the names of such media persons along with their organizations.*
10. *Who decided to distribute free of cost copies of assets details of lawmakers between media personals? Please provide the copy of such order if any.*
11. *Whether copies of assets details have been distributed free of cost between media person belong to Provincial Capitals, Karachi/Lahore/Peshawar/Quetta etc? If not then please mention the reasons.*
12. *Whether ECP does not want to disseminate assets declarations throughout the country?*
13. *How, ECP planned to disseminate the assets details of Parliamentarians throughout the country? How 220 Million people can know about the assets details of their representatives? Please provide details and copy of such plan.*
14. *Whether, ECP, uploaded details of assets declarations of lawmakers on its official website or not? If not then please mention the reasons.*
15. *How many written or verbal request for purchase of copies of assets declarations have been pending with ECP? Please provide details."*

### **B. Proceedings**

3. Through a notice dated 19/12/2019 sent to Secretary, Election Commission of Pakistan, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The notices were not responded by the respondent, therefore the appeal was fixed for hearing on 13/02/2020 through the hearing notice sent to Secretary, Election Commission of Pakistan on 17/01/2020 and both parties were informed accordingly.
5. No one appeared on behalf of the Respondent on the date of hearing on 13/02/2020.

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

6. The questions for the consideration of the commission are as under:
  - (a) What steps have been taken by the Respondent to ensure the implementation of the Right of Access to Information Act 2017, henceforth referred to as Act?
  - (b) Has the respondent designated Public Information Officer, and if not, who is responsible for responding to information requests?
  - (c) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?

- (d) Is requested information available with the public body? and
- (e) Can requested information be provided to the Appellant under the Act?
7. The Respondent has not designated Public Information Officer, (PIO) as required under Section 9 of the Act.
  8. Since the Respondent has not designated PIO, Secretary, Election Commission of Pakistan under provision of Section 9 is deemed to be a PIO and responsible to respond to information requests.
  9. The request for information sent by the Appellant to Secretary, Election Commission of Pakistan and subsequent notices have not been responded by the public body in accordance with the provisions of the Act.
  10. The commission notes with concern that the Respondent violated Sections 10 (1), 12, 13(1), 13 (2) and 14 of the Act.
  11. The requested information pertains to the key functions performed by the Respondent and is not covered under any of the exemption clauses of the Act. In fact, the requested information pertains to different categories of information under Section 5 of the Act and the Respondent is legally bound to proactively disclose such information and publish on its website under Section 5 and Section 8<sup>1</sup> of the Act.
  12. This commission is of the view that the willful delay or denial of the requested information causes undue cost to citizens and the commission. Citizens have to approach this commission for the exercise of their fundamental constitutional right of access to information which involves cost both in terms of money and time.
  13. Citizens of Pakistan through their elected representatives have included the provision <sup>2</sup>of imposing fine on public official who willfully delay or deny access to the requested information so that they do not have to pay the undue cost in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official.

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<sup>1</sup>Computerization and Voluntary Disclosure of record--- Each public body shall Endeavour to ensure within the time prescribes in section 5 and that all record accessible under this Act is computerized and is available online so that authorized access to such public records is facilitated.

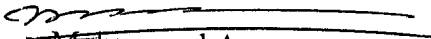
<sup>2</sup>Section 20 (f)

Impose on the official a fine equivalent to his salary for one day, for a maximum of a hundred days, who has acted willfully to obstruct any activity which is required to be undertaken by this act; including preventing or delaying the disclosure of information to an applicant

14. If the Respondent continues to violate provisions of the Act, the commission will have no option but to fulfill its legal obligation and offset this trend of raising cost in terms of time and money for citizens, the commission and the superior judiciary.

**Order**

15. The appeal is allowed. The Respondent is directed to provide the requested information to the Appellant at the earliest, but in any case, not later than 10 working days of the receipt of this order.
16. Furthermore, the Respondent is directed to implement Section 5 and Section 8 of the Right of Access to Information Act 2017 and submit the compliance report to the commission by 15/04/2020.
17. Copies of this order be sent to Chief Election Commissioner, Secretary, Election Commission of Pakistan and the Appellant for information and necessary action.

  
Mohammad Azam

Chief Information Commissioner



Fawad Malik

Information Commissioner



Zahid Abdullah

Information Commissioner

**Announced on:**

March 05, 2020

This order consists of 4 (four) pages, each page has been read and signed

  
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