

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

**APPEAL NO. 419-7-2020**

**Mohammad Farhan Tariq Khan**

**Vs**

**1. Registrar, Cooperative Societies, Islamabad Capital Territory, Islamabad**

**2. Jammu & Kashmir Cooperative Housing Society, Islamabad**

18.11.2020

Fawad Malik : Information Commissioner

**A. APPEAL:**

1. The brief facts of the appeal are that Mr. Muhammad Farhan Tariq, appellant has filed appeal before the Pakistan Information Commission alleging therein that his application dated 20.6.2020 wherein information concerning Jammu & Kashmir cooperative Housing Society Zone-II, Islamabad, Respondent No.2 was requested, has not been responded by the Registrar Co-operative Housing Societies Islamabad, Respondent No. 1.
2. The appellant in his request addressed to the Registrar, Cooperative Housing Societies, Islamabad, Respondent No. 1 states that the layout plan for 3325 kanals of Jammu & Kashmir Housing Society Zone-II, Islamabad, Respondent No. 2 has been submitted with the CDA but so far NOC has not been issued. He has sought the detail of ownership of plots in the Jammu & Kashmir Housing Society Zone-II that has been transferred in Sector F-16 without securing NOC and likewise the detail of ownership of plots, transferred by the Society in its Zone iv during the period from August 2019 till date. The appellant has further desired, whether any new plan has been submitted by the society?

**B. PROCEEDINGS:**

3. The Registrar, Cooperative Housing Societies, Islamabad vide letter dated 21.7.2020, was directed 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.

4. The written reply was not submitted therefore, the appeal was fixed for hearing before the Commission on 16.09.2020 and both the parties were informed accordingly.
5. On 16.09.2020, Mr. Naseem Ahmad Shah, Advocate appeared on behalf of the Registrar, Cooperative Housing Societies. He informed that the custody of the requested record is not available with the Registrar rather is in the custody of the Management Committee of Jammu & Kashmir Housing Society, Islamabad hence the appeal was fixed for hearing on 30.09.2020 and the Management Committee of the housing society was informed accordingly through notice dated 16.9.2020.
6. That on 30.09.2020 Mr. Sheikh Junaid, Legal Advisor of Jammu & Kashmir Housing Society appeared before the Commission and submitted written reply on behalf of the Society. He sought time to prepare the brief therefore the appeal was adjourned for 07.10.2020. On 07.10.2020, Mr. Sheikh Junaid Advocate alongwith Mr. Syed Haseeb Raza, Advocate appeared and requested for further time to prepare the brief therefore the appeal was adjourned to 14.10.2020 and the Counsel was informed that no further adjournment will be granted. On 14.10.2020, Mr. Tanveer Ahmed Advocate appeared on behalf of Counsel and sought further adjournment as the learned senior council is busy before the Islamabad High Court therefore the appeal was adjourned to 21.10.2020 as final opportunity. On 21.10.2020, Mr. Muhammad Ali Advocate appeared on behalf of the Council and informed that the learned senior counsel is indisposed as such the appeal may be adjourned for some other date. The appeal was again fixed for hearing for 18.11.2020 with direction to the respondent no. 2 to produce the Bye Laws of the society before the Commission at the time of arguments. On 18.11.2020 Mr. Abdul Jabbar Advocate appeared on behalf of the society and again requested for adjournment as the learned senior counsel is indisposed, however he produced the Bye Laws of the society. Keeping in view the evasive and non-cooperative behaviour of the learned counsel on behalf of respondent no. 2 the appeal was reserved for orders in the light of the Act on the basis of the appeal, the reply submitted by the society and record available on the file. The written reply submitted by the Jammu & Kashmir Housing Society is reproduced as under;

1. *That the appellant has no locus standi to file the instant appeal against the answering respondent as the affair of Society are governed under Cooperative Societies Act, 1925 and Rules / Bye-Laws made there-under. A non-member has no concern whatsoever with the record of Society.*
2. *That record asked for relates to internal business of Society and the information about the holding of members cannot be given to a third person.*

3. *That the subject record falls within Section 8(h) of Freedom Information Ordinance, 2002.*
4. *That the record asked for does not come within ambit of public record under Section 7(b) & (c) as well as 2 (h) of the said Ordinance.*
5. *That a Cooperative Society is not established by or under Federal Law but the same is registered under the law which position is distinct from the former.*

**C. COMMISSION'S VIEW:**

7. The behaviour of the society/respondent no. 2 towards the Commission and implementation of the Act is evident from the reply submitted before the Commission. The notice to the respondents for the hearing of appeal was issued by the Pakistan Information Commission constituted under the Right of Access to Information Act 2017, whereas the reply by the Jammu & Kashmir Housing Society is filed with reference to the Freedom Information Ordinance 2002, a repealed ordinance. The reply therefore is irrelevant and misleading.
8. The objection raised by the society in its reply that the appellant has no *locus standi*, smacks ignorance of the public body towards the enactment of the Right of Access to Information Act 2017. The Act defines an applicant to be a "citizen" of Pakistan and in no case he is required to provide the reasons for filing the request for any information from any federal public body, permissible under the Act. It is immaterial whether the appellant is a member or resident of the society, he/she can ask for the public record held by the public body under his fundamental and statutory rights guaranteed under Art.19.A of the Constitution of Pakistan and Right of Access to Information Act 2017, respectively being a citizen of the country therefore the issue of *locus standi* does not come in the way of the appellant or in aid of the respondent. This right cannot be denied, delayed or refused in the matters of public interest at the whims of the public functionaries, arbitrarily. This objection does not disentitle the appellant from desiring the requested record.
9. The detail of the record desired by the appellant is the category of information that ought to have been displayed by the public body proactively on its notice board and uploading over the internet on the website of the society to ensure its access to the public at large in proof of maintaining transparency in the working of the society affairs. The appellant has desired the number of plots that has been transferred or sold, in statistical form, before the issuance of the NOC by the society. He has not asked for the list or names of the individuals in whose favour the said plots have been transferred, nor that is accessible

under the Act, therefore there exist no apprehension of affecting the privacy of any third person. The Commission is of the considered view that the provision of the number of plots transferred or sold by the society in statistical form does not affect the privacy of any individual.

10. The Jammu & Kashmir Housing Society is operating within the area of Islamabad and according to the Bye Laws of the society; it is registered with the Registrar Cooperative, Islamabad Capital Territory under the Cooperative Societies Act, 1925. The society is a public body within the meanings of the Act.
11. Transparency in the working of the public bodies is the essence for the enactment of the Act, 2017. Its spirit is to ensure the transparency and that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making them 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 working of the public bodies.
12. While dealing with the matters related to the information and record sought by the citizens under the Act 2017, the public bodies are under obligation to respond the applications as mandated in the Act. The reply is not submitted accurately in accordance with the RTI Act 2017 and the hearing before the Commission has been deliberately avoided by the society despite several opportunities provided by the Commission in the interest of justice. It is presumed that the respondent society is wilfully sidestepping to delay the proceedings before the Commission and that the society has nothing in the sleeves to offer in the defence. In such like circumstances the Commission is left with no option but to decide the appeal after going through the file, the reply submitted by the society and in light of the Act.
13. Both the respondents have not notified their respective designated officers so far as required under section 9 of the Act.

**D: ORDER:**

14. The appeal is allowed. The Management Committee, Jammu & Kashmir Housing Society, Islamabad is directed to provide the appellants all the requested information mentioned in his application in statistical form forthwith but not later than seven days of the receipt of this order.

The Registrar, Cooperative Societies, Islamabad Capital Territory, Islamabad and Management Committee Jammu & Kashmir Cooperative Housing Society, Islamabad are directed to take measures for the proactive disclosure of all the information and record mentioned in section 5 and notify the designated officer under section 9 of the Act.

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 23.11.2020

Certified that this order consists of 5(five) pages, each page has been read and signed.