

Pakistan Information Commission



1st Floor, National Arcade, 4-A Plaza

F-8 Markaz, Islamabad

Website: www.rti.gov.pk

Phone: 051-9261014

Email: appeals@rti.gov.pk

  @PkInfoComm



In the Pakistan Information Commission, Islamabad

Appeal No 458-08/20

Pervez Said

Vs.

Cantonment Board Clifton

Through its Chief Executive Officer

Order

Date: November 24, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 29-07-2020, to the Commission, stating that he Submitted an information request to the Chief Executive Officer of Cantonment Board Clifton dated 06-07-2020 under the Right of Access to Information Act 2017.

2. The information sought by the Appellant is as follows:

“i) What is the reasoning behind SEPA's failure to conduct a review of CBC's proposed project, as it is required to do under the law?

ii) What is the reasoning behind SEPA'S failure to meet the requirement of seeking public participation in its review of the CBC project, as it is required to do under the law?

ii) What measures, if any, has CBC taken to ensure that the proposed project shall be open to all citizens, in line with the pronouncements of the Honourable superior Courts that have pronounced that the right to open access to public spaces is a fundamental right?

iv) What steps, if any, has CBC taken to ensure that the proposed project does not adversely impact the environment, including the sea and coastline, flora and fauna and human health?”

B. Proceedings

3. Through a notice dated 07-08-2020 sent to the Chief Executive Officer, Cantonment Board Clifton, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent did not respond to the notice and the hearing was fixed for 01-10-2020 through the hearing notice sent on 03-09-2020 and both parties were informed accordingly.
5. Mr. Irshad Muhammad, Chief Engineer, Cantonment Board Clifton appeared before the commission and provided the requested information to the commission.
6. The information was shared with the appellant on 8-10-2020.
7. In response to the information shared by the commission, the applicant sent a rejoinder and stated that he seeks the following information from CBC;

“Why has an EIA or SEA not been conducted for the proposed development project along the stretch of Seaview Beach Karachi?”

C. Discussion and Commission’s View on Relevant Issues

8. The questions for the consideration of the commission are as under:
 - (A) Does a follow-up query based on information provided during the process of an appeal constitute a request for information?
 - (B) Has the Respondent taken steps to ensure implementation of the right of access to Information Act 2017, henceforth referred to as Act?
 - (C) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
9. The Respondent neither provide the requested information to the Appellant when request for information was filed to the public body nor responded to the notice of the commission.
10. The Respondent only provided the requested information once hearing notice was issued and the hearing was held.
11. Federal public bodies are expected to provide requested information to the applicants when they file requests for information if it is public information. The intervention of this commission is not desirable as it involves both time and public funds.
12. The Respondent public body has not taken steps to ensure implementation of the Act. As such, some of the documents pertaining to the requested information should have already been on its web site, had the Respondent implemented Section 5 of the Act in an accessible manner for all citizens, including those with different disabilities.

13. The Respondent has not designated Public Information Officer as required under Section 9 of the Act.

“Section 10 (1) of the Act fixes responsibility on the designated Public Information Officer, (PIO) to ensure that “requests are dealt with promoting full compliance by the public body of its obligation under this Act”.

15. In the instant appeal, the head of public body, deemed to be Public Information Officer, (PIO), as required under Section 9 of the Act when a PIO is not designated by the head of a public body, failed to perform following obligations under the Act.

- I. Failure to provide “written acknowledgement in response to” a request for information filed by citizen as required by Section 10 (1) of the Act.
- II. Failure to follow procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act which is as under:

“(2) The designated official shall process the request and by notice in writing inform the applicant that,

- a) A request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of the prescribed fee. On payment of the fee the designated official shall provide the requested record, or
- b) The request has been rejected-
 - i. On the basis that it does not comply with the provisions of this act and the rules made there under but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;
 - ii. On the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;
 - iii. On the basis that it is incorrect, because it relates to information which is substantially the same information that has already has been provided to the same applicant during last six months; or
 - iv. In whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which the notice shall specify the exact exception, relied upon and specifying details regarding the right of the applicant to appeal against this decision”

16. The commission also notes the failure on the part of the Respondent in following the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.

17. The PIO not only failed to respond to the request for information filed by the Appellant, the PIO also failed to comply with the duly sent notice of the commission.

18. Had the Respondent gone through the Act after receiving request for information of the citizen and notice of this commission, clearly referencing the Act, it would have saved time and resources of this Commission. It also demonstrates that the Respondent has not taken any steps for the implementation of the Act. It demonstrates that the powers vested in officers are not being exercised “reasonably, fairly, justly, and for the advancement of the purposes of the enactment” as required under Section 24A (1) of the General Clauses Act 1897.
19. This commission is of the view that the wellfurl 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.
20. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.
21. This commission holds that follow-up queries based on information provided during the process of an appeal do not constitute request for information. In the instant appeal, the follow-up query “*“Why has an EIA or SEA not been conducted for the proposed development project along the stretch of Seaview Beach Karachi?”*” cannot be processed as part of this appeal as it is not part of the original request for information.

D. Order

22. The appeal is disposed of to the extent of requested information as Cantonment Board Clifton has provided the requested information to the Appellant whereas the follow-up query based on information provided by the Respondent “*Why has an EIA or SEA not been conducted for the proposed development project along the stretch of Seaview Beach Karachi?*” cannot be processed as part of this appeal as it is not part of the original request for information.
23. The Respondent is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the contact details of the PIO on its web sites as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
24. The Respondent is directed to take immediate steps to proactively share through the web site all categories of information mentioned in Section 5 of the Right of Access to Information Act 2017 and submit the compliance report to the commission in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017’. This template is available under ‘Information Desk’ category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission by 27/12/2020.
25. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to

this effect using 'Web accessibility checklist'. This checklist is available under 'Information Desk' category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission by 27/12/2020.

26. Copies of this order be sent to the Chief Executive Officer, Cantonment Board Clifton and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
November 24, 2020

This order consists of 5 (five) pages, each page has been read and signed