

Pakistan Information Commission

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In The Pakistan Information Commission, Islamabad

Appeal No 667-10/20

Shazia Mehboob

Vs.

Higher Education Commission

Through its Public Information Officer

ORDER

Date: November 18, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 08-10-2020, to the Commission, stating that she submitted an information request to the Chairman, Higher Education Commission dated September 21, 2020 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 - Certified copy of total number of universities registered with Higher Education Commission (HEC). [separate name list of public & private universities with their cities]
 - Certified copy of universities names having vacant posts of vice chancellors. [separate list public & private universities with their city names]
 - Certified copy of the universities names with a separate list of vacant posts of Professors, Assistant Professors and Lectures in the public sector. [Separate details of public & private universities with separate list of P, AP, L]
 - Certified copy of the universities with vacant posts of Professors, Assistant Professors and Lectures in private sector. [public & private universities with separate list of P, AP, L]
 - Certified name list jobless PhDs with their university of study?
 - Certified copy of the total amount the HEC has spent on PhDs under its different projects to improve the quality of higher education in the country. [Separate details under different project]
 - Certified copy of details of the PhDs currently studying abroad on HEC scholarship.

B. Proceedings

3. Through a notice dated October 16, 2020 sent to Ayesha Ikram, Director (Publications) / Public Information Officer 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 date was fixed for November 12, 2020 through the hearing notice sent on November 02, 2020 and both parties were informed accordingly.
5. No one appeared on behalf of the Respondent on the date of hearing on November 12, 2020.

C. Discussion and Commission's View on Relevant Issues

6. The questions for the consideration of the commission are as under:
 - (a) Should a citizen have access to requested information in accordance with the provisions of the Right of Access to Information Act 2017, hereafter referred as Act?
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
7. The requested information should not only be made available to the Appellant as a constitutional right of access to information in matters of public importance under Article 19-A of the Constitution of Islamic Republic of Pakistan but also as a statutory right under different provisions of the Right of Access to Information Act 2017. The Preamble of the Act states:

“Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.
8. The public body is legally obligated to proactively disclose through its web site the requested information under provisions of Section 5 of the Right of Access to Information Act 2017.
 - a) *“Description of the public body’s organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;*

- b) *Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect;*
- c) *The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body*
- (g) *Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget;”*

9. The requested information is declared public records under following sub-sections of Section 6 of the Act which are as under:

- (b) “Transactions involving acquisition and disposal of property and expenditures are undertaken by a public body in the performance of its duties and functions;
- (c) Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body;
- (d) Final orders and decisions, including decisions relating to members of public;”.

10. This commission has observed through its different orders that the implementation of Section 5 of the Act can only be ensured if federal public bodies continuously juxtapose categories of information enlisted in section 5 with the information provided on the web sites. In this regard, all federal public bodies are required to use Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017 to ensure proactive disclosure of information. This template can be retrieved from the web site of the commission www.rti.gov.pk In this template, the Pakistan Information Commission has explained as to how each category of information is to be proactively disclosed through web sites.

11. This commission has also observed through its different orders that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be ‘accessible’ for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of ‘accessible’ in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure

accessibility of web sites to the special needs of persons with disabilities and it is as under:

“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

12. The public bodies should ensure incorporation of web accessibility standards in the design of their web sites. ‘Web accessibility checklist’ can be retrieved from the web site of the commission www.rti.gov.pk

A quick reference guide for WCAG2.1 is available at this link: <http://www.w3.org/WAI/WCAG21/quickref/>

13. In the instant appeal, Public Information Officer, (PIO), designated under Section 9 of the Act 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”

- v. Failure 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.
14. The PIO not only delayed and denied access to the requested information, the PIO also failed to comply with the duly sent notices of the commission.
 15. Had the Respondent gone through the Act after receiving request for information of the citizen and notices 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.
 16. This commission is of the view that the wilful 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.
 17. Citizens of Pakistan through their elected representatives have included the provision of imposing fine on public official who wilfully 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.
 18. The commission has no option but to fulfil its legal obligation and offset this trend of raising cost in terms of time and money for citizens, the commission and the superior judiciary.
 19. 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.

D. Order

20. The appeal is allowed. The Respondent is directed to provide the Appellant Certified information about the total number of universities registered with Higher Education Commission (HEC). [separate list of public & private universities with their cities]. Certified information about universities having vacant posts of vice chancellors. [separate list public & private universities with their city names]. Certified information about universities names with a separate list of vacant posts of Professors, Assistant Professors and Lectures in the public sector. [Separate details of public & private universities with separate list of P, AP, L]. Certified information about universities with vacant posts of Professors, Assistant Professors and Lectures in private sector. [public & private universities with separate list of P, AP, L]. Certified information about list of jobless PhDs with their university of study, if maintained by the Respondent. Certified information about the total amount the HEC has spent on PhDs under its different projects to improve the quality of higher education in the country. [Separate details

under different project]. Certified information about details of the PhDs currently studying abroad on HEC scholarship.

21. The information mentioned in para 20 be provided, with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
22. The respondent is directed to put contact details of its designated Public Information Officer on its web site as required under Section 5 (1) (h) of the Act and submit notification to this effect to this commission within 10 working days of the receipt of this Order.
23. The Respondent is directed to proactively publish through its web site all categories of information as required under Section 5 of the Act 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 23/12/2020.
24. 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 23/12/2020.
25. Copies of this order be sent to Public Information Officer, Higher Education Commission and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
November 18, 2020

This order consists of 6 (six) pages, each page has been read and signed