

**Pakistan Information Commission
Government of Pakistan**

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In The Pakistan Information Commission, Islamabad

Appeal No 554-09/20

Taimoor Khan

(Appellant)

Vs.

Pakistan Environmental Protection Agency
Through its Director General

(Respondent)

ORDER

Date: December 14, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated September 10, 2020, to the Commission, stating that he submitted an information request to the Director General, Pakistan Environmental Protection Agency dated August 12, 2020 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 1. Total sanction strength of the department.
 2. List of the officials hired on contract. Daily wages, or for project since Jan 2016 till date along with the certified copy of their selection criteria, their monthly salary, and current status of the job.
 3. List of the all Pak-EPA employees along with their full name, date of appointment, domicial and mode of appointment.
 4. Certified copies of BO/NIS forms for current budget for FY-2020-21 submitted to finance division.

B. Proceedings

3. Through a notice dated September 22, 2020 sent to Ms. Farzana Altaf Shah, Director General, Pakistan Environmental Protection Agency, 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 October 15, 2020 through the hearing notice sent on October 02, 2020 and both parties were informed accordingly.
5. Mr. Aamir Abbas, Deputy Director (Legal), Pakistan Environmental Protection Agency appeared before the commission and requested time for the provision of the requested information.
6. The Respondent on 19th October 2020 shared the requested information with the commission. The same was shared with the appellant on October 28, 2020.
7. The applicant submitted a rejoinder to the information shared by the respondent, and stated that *“Pakistan Environmental Protection Agency have not answered the following information*
 1. *List of the officials hired on contract. Daily wages, or for project since Jan 2016 till date along with the certified copy of their selection criteria, their monthly salary, and current status of the job.*
 2. *List of the all Pak-EPA employees along with their full name, date of appointment, domicile and mode of appointment.*

The public body in its reply have stated that personal file data could not be provided.

It is stated that the name, designation, current status of the job etc is not personal data, infact this information should be available on the website under the Section 5 of the right of access to information Act 2017”
8. Through a notice dated November 18, 2020 the Respondent was directed to respond to the commission with reference to Section 5(1) of the right of access to information act 2017, within 5 working day as to why the requested information who should have been on the website of the EPA cannot be provided to the appellant.
9. The Respondent did not respond to the notice.

C. Discussion and Commission’s View on Relevant Issues

10. The questions for the consideration of the commission are as under:
 - (a) How should records/information pertaining to matters of public interest be made available to an applicant if parts of requested records or information fall within the scope of exemptions under the Right of Access to Information Act 2017, hereafter referred as Act? and
 - (b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
11. 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”.

12. The public body is legally obligated to proactively disclose through its web site the requested information about the salary offered to the employees of the public body and the duties assigned to them under following sub-sections 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.*
 - e) *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*
13. The requested information is declared public records under Section 6 (c) which is as under:
 - c) *“Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body”.*
14. This commission is of the view that a public body cannot deny access to records/information because parts of records/information of the requested information fall within the scope of exceptions mentioned in Section 16 of the Act. Under Section 16 (1) (i) of the Act, federal public bodies are required to sever part/information which comes within the scope of the exceptions and the rest should be made available to the applicants.
15. In the instant appeal, the requested information can be shared with the Appellant without compromising legitimate privacy interests of the employees. While providing the requested information, personal information such as health condition, bank account numbers, phone numbers, addresses and CNICs details can be withheld.
16. The fact that the Respondent has caused delay in providing to the requested information to the Appellant highlights following two issues:
 - (A) That the Respondent has violated timeline mentioned in the Act to provide the requested information to the Appellant; and
 - (B) That had the Respondent implemented provisions of this Act, including, but not limited to Section 4 and 5 of the Act, the unwarranted delay in providing the requested information to the Applicant could have been avoided.

17. This commission has held through its different detailed judgements that federal public bodies are not giving primacy to proactive disclosure of information through their web sites and that proactive disclosure of information is not given serious consideration it deserves.
18. This commission has also established through its different Orders that not only information is to be made available to citizens as required under Section 5 of the Act but it has to be made available on the web sites in a manner that it is accessible for all citizens, including those with different disabilities by incorporating web accessibility standards in the design and development of web site.
19. 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.
20. 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.
21. 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.
22. 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.
23. 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

24. The appeal is allowed. Director General, Pakistan Environmental Protection Agency is directed to provide information about its total sanction strength, list of the officials hired on contract, Daily wages, or for project since Jan 2016 till date along with the certified copy of their selection criteria, their monthly salary, and current status of the job, list of the all Pak-EPA employees along with their full name, date of appointment, domicile and mode of appointment and certified copies of BO/NIS forms for current budget for FY-2020-21 submitted to finance division.
25. The information mentioned in para 24 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.
26. The Respondent is directed to ensure that any information of personal nature like health condition, bank account numbers, personal communication, CNIC details, phone numbers and residential addresses of citizens is not made public while implementing directions of the commission in para 24 of this Order.
27. The Respondent is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification to this effect on its web site as required under Section 5 (1) (b) of the

Act, put name, designation and 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.

28. 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 07/01/2021.
29. 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 07/01/2021.
30. Copies of this order be sent to Director General, Pakistan Environmental Protection Agency and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
December 14, 2020

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