

**Pakistan Information Commission
Government of Pakistan**

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In The Pakistan Information Commission, Islamabad

Appeal No E003-11/20

Nadeem Umer

(Appellant)

Vs.

Pakistan Telecommunication Authority
Through its Public Information Officer

(Respondent)

ORDER

Date: January 01, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated November 02, 2020, to the Commission, stating that he submitted an information request to the Pakistan Telecommunication Authority through Pakistan Citizen Portal on October 10, 2020 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:
 1. "Total number of complaints received against TikTok application (province and district wise break-up).
 2. Copies of the letters/emails sent to the TikTok App management in this regard.
 3. Copies of the letter(s)/email(s) received from the TikTok App Management.
 4. Copies of the notes and minutes of meeting in which it was decided to ban the TikTok Application".

B. Proceedings

3. Through a notice dated November 04, 2020 sent to Khalid Sultan Raja, Director (Govt. & External Affairs) / Public Information Officer, Pakistan Telecommunication Authority the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent through a letter vide No. PTA/G&EA/614/2018 dated 16th November, 2020 stated that *that upon receipt of a complaint from Citizen Portal, the complainant was advised to submit a request under the relevant provision of the Right of Access to Information Act, 2017 (the "Act") (copy attached) on the ground that section 11 of the*

said Act provides that subject to the provision of the Act and the rules made thereunder a citizen of the Islamic Republic of Pakistan may make a request to public body through a designated official. In this regard a designated official under section 9 has already been nominated.

In accordance with section 11 of the Act, requirement for making a request to public body has been provided. However, despite advising the complainant for making request in accordance with the provision of the Act, the complaint has preferred to file an appeal under section 17 of the Act which is devoid of merit. Under the Act, the appeal may be filed against decision, whereas in the instant matter no decision has been passed or made thereof.

In view of the above, the appellant may be asked to submit a request in accordance with section 11 of the Right of Access to Information Act, 2017.

5. The response was shared with the Appellant on November 19, 2020.
6. The Appellant submitted a rejoinder and stated that “*the public body in its response has admitted that they have received information request through Pakistan Citizen Portal but they prefer to drop it as it is not received through post.*”

It is humbly stated that Pakistan Citizen Portal has provided the option of Right to Information in the Human Rights category, the purpose of this adding this option is defiantly to facilitate the citizen to have access to the information through this portal. If information request fulfils all other legal requirements like name, contact number, postal address etc, then why the public body is not bound to provide the information under the law. Even, filling information request through portal also confirms that the appellant is Citizen of Pakistan.

The Honorable Commission is requested to decide the appeal as per law.”

7. On December 08, 2020, the commission issued another notice, duly shared with the Respondent, text of which is as under:

“This is with reference to your letter vide No. PTA/G&EA/614/2018 dated November 16, 2020. Section 11 (2) clearly states that a citizen can file a request for information “in any manner”. Furthermore, PM Portal has provided a facility to citizens to file information requests under the Act. It is clear from the plain reading of the response of the public body that it received request for information forwarded by PM Portal.

The Respondent has raised the point that the Appellant could not file appeal to this commission as the request for information was not directly filed to the designated officer. As to what has to be done if a request for information is received by an officer other than the designated officer under the Act, Rule 6 of the Right of Access to Information Act 2019 comes into play which is as under:

*“6. **Transfer of application.** — (1) Any officer of a public body other than the designated officer who receives an application for access to information shall transfer the application to the designated officer under intimation to the applicant.*

(2) *The designated officer shall acknowledge receipt of a transferred application immediately after its receipt and process the same under the Act”.*

You are directed to respond to the request for information of the applicant within 10 working days of the receipt of this notice”.

8. The Respondent on 22nd December, 2020 submitted response and stated that “It is submitted, point wise response to the information requested by the complainant is as under:

Sr. No.	Requested Information	PTA’s Response
1	Total number of complaints received against TikTok Applications. (Province and District Wise Breakup)	The requested information is attached as Annex-A
2	Copies of the letter(s)/ email (s) sent to the TikTok App Management in this regard.	Requested record/information is regretted by invoking section 7(e) of Right of Access to Information Act 2017.
3	Copies of the letter(S)/ email(s) received from the TikTok App Management.	
4	Copies of the notes and minutes of meeting in which it was decided to ban the TikTok Applications.	Order of the Authority issued through email dated 9th October 2020 is attached as Annex-B

C. Discussion and Commission’s View on Relevant Issues

9. The questions for the consideration of the commission are as under:

(a) What are modes of filing request for information under the Right of Access to Information Act 2017, henceforth referred to as Act?

(B) Does a request for information filed through Prime Minister Portal constitute request for information under Act?

(C) What is the responsibility of an officer, other than a designated official under the Act, in handling the request for information? and

(D) does the communication between the Respondent PTA and the company managing Tiktok application pertaining to the possible imposition of ban on its application can have any adverse impact on national security or commercial interests?

10. Section 11 (2) of the Act states as to how a citizen can submit a request for information to a federal public body under the Act which is as under:

“A request under sub-section (1) shall in writing and made in any manner in which the public body has the facilities to receive it, including in person, by email, fax, online or e-mail”

11. Section 11 (2) clearly states that a citizen can file a request for information “in any manner”. Furthermore, PM Portal has provided a facility to citizens to file information requests under the Act. It is clear from the plain reading of the response of the public body that it received request for information forwarded by PM Portal.
12. The response of the public body in the instant appeal clearly establishes the fact that the request for information was received by an officer of the Respondent public body.
13. The Respondent has raised the point that the Appellant could not file appeal to this commission as the request for information was not directly filed to the designated officer. As to what has to be done if a request for information is received by an officer other than the designated officer under the Act, Rule 6 of the Right of Access to Information Act 2019 comes into play which is as under:

“6. **Transfer of application.** — (1) Any officer of a public body other than the designated officer who receives an application for access to information shall transfer the application to the designated officer under intimation to the applicant.

(2) The designated officer shall acknowledge receipt of a transferred application immediately after its receipt and process the same under the Act”.

14. In the instant appeal, the request for information reached the designated officer, Director (Govt. & External Affairs), under the Act. As such, the designated official under the Act should have processed it as a request for information and should have either provided the requested information to the applicant or provided reasons to the applicant as to why the requested information could not be provided to the applicant under the specific provisions of the Act.
15. The Respondent regretted to share “Copies of the letter(s)/ email (s) sent to the TikTok App Management” citing section 7 (e) of the Act which is as under:

“Records relating to defense forces, defence installations or connected therewith and ancillary to defence a national security excluding all commercials and welfare activities”
16. This commission is of the view that Section 7 (e) relates to records pertaining to the defence forces of the country. Furthermore, disclosure of “Copies of the letter(s)/ email (s) between the Respondent and the company managing TikTok application is not likely to adversely impact national security of the country nor the commercial activities of the company which manages TikTok application.

17. The Appellant requested access to “Copies of the notes and minutes of meeting in which it was decided to ban the TikTok Applications”. However, the Respondent has shared ‘Order of the Authority issued through email dated 9th October 2020’.
18. Even plain reading of Section 7 (a) and (b) suggests that ‘noting on the files’ and ‘minutes of the meeting’ are given qualified and not absolute exclusion from disclosure. Exclusion of ‘noting on the file’ and ‘minutes of the meetings’ is subject to a final decision. As such, ‘noting on the file’ and ‘minutes of the meeting’ cannot be shared during the deliberative process. The disclosure of ‘minutes of meetings’ and ‘noting on the file’ during the deliberative process is protected to ensure that outside influence does not create hindrances in the deliberative process.
19. However, once a public body has taken a final decision, as is the case in the instant appeal, noting on the files and minutes of the meetings cannot be treated as excluded records. ‘Noting on the file’ and ‘minutes of the meeting’, once final decision has been taken, reflect the quality of input by different officers which become basis for the final decision. Therefore, citizens of Pakistan have the right to have access to ‘noting on the files’ and ‘minutes of the meetings’ which led to the imposition of ban on Tiktok application so that they can judge for themselves the input provided by officers involved which led to the ban through the final order.
20. The requested information belongs to the category of information which public bodies are legally bound to proactively disclose, through their web sites, under Section 5 (1) d, of the Act which is as under:

“Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it”
21. The requested information is also public information under Section 6 (d) of the Act which is as under:

“(d) Final orders and decisions, including decisions relating to members of public; and”
22. It is pertinent here to understand the wisdom of the citizens of Pakistan, expressed through their chosen representatives, and, reflected in the Preamble of the Act which 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”.

23. It would be stating the obvious to mention that the citizens want to have improved access to records held by public bodies for following purposes:
- Making government more accountable to citizens’
 - Greater level of participation of citizens in the affairs of the government’
 - Reducing corruption and inefficiency’
 - Promoting sound economic growth’; and
 - Promoting good governance and respect for human rights.
24. This commission is of the view that the disclosure of ‘file notings’ and ‘minutes of the meetings pertaining to the imposition of ban on Tiktok application will contribute to Making government more accountable to citizens, Greater level of participation of citizens in the affairs of the government, reducing corruption and inefficiency, promoting sound economic growth’ and Promoting good governance and respect for human rights in the country.
25. 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.
26. 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.
27. 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.

D. Order

28. The appeal is allowed. The Public Information Officer, Pakistan Telecommunication Authority, (PTA) is directed to provide the Appellant following requested information:
- “1. Total number of complaints received against TikTok application (province and district wise break-up).
 - 2. Copies of the letters/emails sent to the TikTok App management in this regard.
 - 3. Copies of the letter(s)/email(s) received from the TikTok App Management.
 - 4. Copies of the notes and minutes of meeting in which it was decided to ban the TikTok Application”.

29. The information mentioned in para 28 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.
30. The Respondent is directed to put the notification of the designation of PIO under Section 9 of the Act 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 site 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.
31. 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 05/02/2021.
32. 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 05/02/2021.
30. Copies of this order be sent to Chairman, PTA, PIO, PTA and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
January 01, 2021

This order consists of 07 (seven) pages, each page has been read and signed.