

Pakistan Information Commission

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In the Pakistan Information Commission, Islamabad

Appeal No 360-03/20

Naveed Ahmed

(Appellant)

Vs.

Benazir Income Support Program

(Respondent)

Through its Public Information Officer

Order

Date: January 08, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 19-03-2020, to the Commission, stated that “Appellant has been approaching to the Secretary and Chairperson of Benazir Income Support Program (BISP) which is body corporate functioning under Federal Government for the last six months for provision of the requisite information and record under Article 19-A of the Constitution read with the provisions of the Right of Access to Information Act, 2017 since March 2019 but all in vain;

2) That the copy of application along with copy of reminder is appended as Annexure "A";

3) That the copies of post office receipts are appended as annexure "B".

In the circumstances mentioned above it is respectfully prayed that this honourable Commission while accepting- the instant appeal issue necessary direction regarding provision of the certified copies of the requisite information documents given in detail in the accompanying application (Annexure-A) and the BISP management may also be directed to strictly, in order to ensure accountability and transparency comply the provisions of the Right of Access to Information Act, 2017, the law of Land, International Protocol and the Constitution, in the interest of Justice.”

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

- a) The details of employees those who got terminated/suspended or inquiries are pending due to their financial embezzlement and the details of recoveries deposited in the public exchequers;
- b) The details and approval of information given on web site in compliance of the provisions of the Right of Access to *Information Act, 2017*;
- c) The name, address and contact Nos of the ‘Designated Information Officer’ as required by the Right of Access to *Information Act, 2017*;
- d) The details / Certified copies of report of last 10-years’ filed in parliament showing the performance of BISP U/S 17 of BISP Act;
- e) Certified copies Notifications for the formation of ‘Management’ comprising of Secretary, Administrative and Technical Staff and COUNCIL as required under Section 2 (H) read with Section 10 and Section 8 of BISP Act respectively;
- f) Certified Copies of Advertisements in national dailies as required by PPRA Rules of last 10-years with summary and the approval / recommendations of the Competent Authority regarding appointment of all Director Generals (HR, Admn, F & A, I A, CI, CCT, NSER, Legal etc) and Directors along with the details of their skills, education, capability, degrees, experience and knowledge in the following format:-

S.No	Name	Designation	skill	education	Verification of degree & Certificate	Relevant experience	Date of joining	Date of Advertisement	Date of Interview, panelists, minutes of meeting and details of notification
1.									

- g) Certified copies of formation of ‘Department Selection Committee’ along with its ToRs;
- h) Copies of SoP, Criteria, Rules & Regulation Followed in the appointment of all the Director Generals (HR, Admn, F & A, I A, CI, CCT, NSER, Legal etc), Directors, Senior Officers, Legal Advisors and Consultants because apparently it seems that the same are made on political influence, nepotism and cronyism as till date the general public has straightaway been denied their basic fundamental right to participate in the competitive process, resultantly, incompetent, unskilled, inexperienced persons are appointed;

- i) Certified copies and total numbers of Consultants along with their education, working experience, expertise, criteria and their procedure of appointment working since long and certified copies of approval of such appointments from ministry of law, finance and other relevant ministries;
- j) Copies of notifications and official orders regarding appointments of all Director Generals (HR, Admn, F & A, I A, CI, CCT, NSER, Legal etc), Directors, Senior Officers, Legal Advisors and Consultants since its establishment of BISP;
- k) Certified copies of office order, notifications along with the comprehensive list of all senior officials BPS 16-20 serving in BISP on deputation or contract bases, their Education/degree, Skills and Experience to see whether they qualify for job they are performing in BISP;
- l) The 10-years details of salaries, T A DA, perks, privileges or any other amounts withdrawn by Director Generals (HR, Admn, F & A, I A, CI, CCT, NSER, Legal etc), Directors, Senior Officers, Legal Advisors and Consultants;
- m) Certified copies of criteria, recruitment steps and procedure approved by Board for making such appointments;
- n) Certified copies of notification regarding delegation of powers by BoD to Secretary BISP empowering him to make such appointments without following codel formalities along with minutes, in violation of statute of BISP;
- o) Copies of formation of 'Department Selection Committee / Selection Committee' for the said posts;
- p) Certified copies of details of inquiries, investigations on embezzlements, fraud and corruption from 2010 till date;
- q) The date, nature of offence, total embezzled amounts and total number of cases pending in FIA and police stations from 2010 till date;
- r) The details of unregistered cases of embezzlements, fraud and corruption and total amounts from 2010 till date;
- s) The details of total recovered and embezzled amount from 2010 till date;
- t) The details and advertisements for hiring of Banks for disbursement of amounts to beneficiaries as PPRA Rules since 2010 and their selection Criteria, Approval of Contracts from ministry of law and other bodies;
- u) The details of the imposition/recovery of penalty as per the contracts whereby banks were bound to report the entry to BISP failing which they were liable to be imposed penalty of 1 to 5% from 2010 till date;

- v) The details of complaint to be lodged before SBP regarding imposition of such penalty and cancelation of the licenses of such banks who have caused financial loss of trillions of rupees to the public exchequers from 2010 till date;
- w) 05-years details of usage of official vehicles along with SoP / policy ensuring the same shall not be misused keeping in view the directive of PM in true letter and spirits;
- x) Copies of the 05-Years declarations of assets held, acquired and liabilities of employees working in BISP under Rule 12 of the Govt Servants (Conduct) Rules, 1964 the Govt Servants (Efficiency and Discipline) Rules, 1973, as well as administrative instructions issued by the Govt from time to time;
- y) Copy of agenda regarding the placement of declarations of assets as required to be placed before the BISP boards for doing further needful in compliance with a judgment of the Supreme Court. Under Rule 12 of the Govt Servants (Conduct) Rules, 1964, every servant is required, at the time of entering a Govt service, to make a declaration of all immovable and movable properties, including shares, certificates, securities, insurance policies and jewelry having a total value of Rs 50,000 or more belonging to or held by him/her or a member of his/her family;
- z) Certified copy of Notifications and profile of BOARD of members of BISP along with their procedure for their appointment.”

B. Proceedings

3. Through a notice dated 01-07-2020 sent to the Chairman, Benazir Income Support Program, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The respondent in response to the notice of the commission, submitted response stating that
 - “1. That the respondent i.e. BISP received an application for provision of information under the Right of Access to Information Act, 2017 read with Article 19-A of the Constitution of Pakistan, 1973 through an email dated 04.03.2020, whereby, the appellant had requested for provision of number of documents/ record pertaining to answering respondent Since 2010.
 2. That the designated information officer of BISP appointed under the Right of Access to Information Act, 2017 vide an email dated 13.03.2020 asked the appellant to meet him in his office on 19.03.2020 at 1500 to 1530 hours (Annex-I).
 3. That a meeting was held with the appellant in office of the designated official on afore referred date and time, wherein, the Director (Legal) BISP and Legal Advisor (BISP) were also present.
 4. That designated information officer with the assistance of legal advisor and Director (Legal) discussed the request of appellant in detail and he was informed that most of the record documents were exempted under the Act *ibid*, while some of the documents

were already available on the official website of BISP. The appellant insisted to provide all the documents including exempted documents. The meeting was concluded with the remarks that the appellant shall provide supportive documents/laws/ rules to substantiate his claim and he assured that he would file a revised questionnaire/request. On the same day, the designated information officer vide an email dated 19.05.2020 requested him to furnish agreed documents along with revised questionnaire (Annex-II).

5. That thereafter, the appellant submitted a revised application vide his email dated 21.03.2020, wherein he emphasized on the earlier application besides some additional documents / information was also sought and he did not append any law rules for provision of exempted information which he agreed to share in the meeting held on 19.03.2020 (Annex-III).

6. That in the meantime, due to the special administrative arrangements notified by the Federal Government in view of the Covid-19 pandemic, BISP has been working on limited strength essentially required for the execution of Ehsaas Emergency Cash programme. During the said period, over 15 employees of BISP working at BISP HQs Islamabad have been detected Covid-19 positive and accordingly other office activities remained stalled. Therefore, it was not possible to entertain the request to the appellant at that point in time. The appellant was informed vide an email dated 31.03.2020 that the work on provision of information / document, requested by appellant, may be deferred till the return of normal staff in BISP (Annex-IV). May it kindly be noted that BISP is still working with skeleton staff. A circular dated 05.07.2020 to this effect is enclosed herewith as Annex-V.

7. That the appellant at the same time preferred an appeal before the honorable Information Commission on 16.03.2020. The appellant is simultaneously approaching two different fora at the same time which is not permissible under the law. Therefore, the instant appeal is liable to be dismissed being pre-mature. It is reiterated here respectfully that the appellant although had agreed to furnish revised application along with other documents / law/rules in a meeting held on 19.03.2020, however till date he has not fulfilled his obligations.

8. That the instant appeal amounts to abuse of process of law and is liable to be dismissed forthwith.

In view of the above submissions, it is most respectfully prayed that this honorable Commission may very graciously be pleased to dismiss the appeal being pre-mature and devoid of merits”

5. The response of the Respondent was shared with the appellant on July 17, 2020.
6. The Appellant submitted his response to the information shared with him on July 25, 2020 through an email stated that

“the appellant is absolutely not satisfied with the response and on the beaurocraitic and stubborn attitude of respondents BISP on the following grounds:-

a. that in response BISP instead of realising to fulfil constitutional obligation and laws related to provision of required information they are hiding the same from public that create doubts on the criminal intent of the BISP ... due to this soon appellant will file a complaint in NAB as well

b. That to hoodwink this August forum responses have not been filed by authorised and designated person as required by law hence the same is unauthorized.

c. The dir legal Mr touqeer is also one of the person whose record is sought by the appellant in this case and on his request revised application has also been filed.

d. that board as not authorised anyone to file such response

e. the person who signed the reply is interested person

IT IS THEREFORE requested that the appeal of appellant may kindly be fixed for final hearing and decision in the interest of justice.”

7. The hearing of the appeal was fixed for September 24, 2020 and through the hearing notice sent on September 03, 2020 both parties were informed accordingly.
8. No one appeared on behalf of the Respondent and appellant on the date of hearing on September 24, 2020.
9. The appeal was again fixed for hearing on October 08, 2020 and both parties were informed accordingly through a notice sent on September 22, 2020.
10. Hearing of the appeal was adjourned for October 29, 2020 on request of the Respondent.
11. Syed Tauqeer Hussain, Director, Benazir Income Support Program and Chaudhary Shafiq Ur Rehman, Legal Advisor, Benazir Income Support Program attended the hearing held on October 29, 2020 and submitted the copy of the information that is already shared with the appellant. The Respondent briefed the commission that the information requested in each para of the information request has been provided.
12. The Appellant through an email dated November 02, 2020 again expressed his dissatisfaction over the response of the Respondent and stated that *“It is again reiterated that BISP management after one and half years provided the 5% of information through Annexure I to X whereas all the data they still hold, skreeniong, covering up with ulterior motives. The dates of termination of employees shows that BISP only recently started proceedings against the employees but this info also has not been provided as required rather like a unprofessional org they are covering up the things. In annexure i, ii and iii BISP that too after the the application of the appellant notified Mr Fasih as FP rather Info Officer and other information again suppressed so much so the appellant also filed complaint before NAB and it has also been proceeded.*

Annexure iv the infor again not provided as required by the appellant in application.

Annexure v the infor again not provided as required by the appellant in application and no record is appended to establish the same

Annexure vi the infor again not provided as required by the appellant in application no copies of advertisement has been provided and no record is Appended to establish the same

Annexure vii the infor again not provided as required by the appellant in application and no record is appended to establish the same

Annexure viii the infor again not provided as required by the appellant in application, there is no mention of perks benefits withdrawn and no record is appended to establish the same

Annexure ix the infor again not provided as required by the appellant in application and no record is appended to establish the same

Annexure x the infor again not provided as required by the appellant in application and no record is appended to establish the same.

The appellant paid numerous visits to BISP but they linger on one pretext or the other without any justification and they have provided only 5% of information that most of which is available on google rest they are hiding

The appeal of undersigned is pending since long and BISP as an organization miserably failed to honor the provisions of law, the Govt policy regarding transparency, accountability and responsiveness. BISP after meaningful intervention of this Honorable Commission halfheartedly provided just 5% information if this commission will keep the said info in juxtaposition with what the appellant asked BISP to provide it will bound to say that BISP have provided meare a vague, extraneous, inadequate and irrelevant information just gag the petitioner which has established that they are acting, behaving and function like a mafia. Likewise, in WP No 1730 of 2020 the senior management is also seeking hide and seek games even with apex court's resulting ex parte proceedings as cases are finally fixed for 20-10-2020 in IHC.

it is also pertinent to mention here that Mr Fasiullah says that the policy of management of bisp is to linger on and keep on delaying the matter or provide vague information and take adjournments etc ...that show the unprofessional and red tapism of this org "Just yesterday, the executive council of the Pakistan Federal Union of Journalists has issued a declaration expressing their concern over the denial of the basic right of access to information and freedom of press."

It is therefore, once again requested that BISP management be made to provide all the requisite information and the delinquent officials be taken to task by explicitly directing the competent authorities to incorporate the findings of this commission in their ACRs in the interest of justice as they are wasting the precious time of this august forum. The undersigned is not satisfied as no information is provided.

It is therefore requested that BISP management are neither attending the hearings since long and those who come after hearing time and date of hearings are directly questioned by the appellant in this appeal and they are interested party and even the Info Officer appointed after the application of the appellant never attend the hearing that shows BISP management is non serious therefore the chairperson be summoned in person by fixing this appeal for final arguments and decision as per law as the appellant going pillar to post for redressal for the requisite info.”

C. Discussion and Commission’s View on Relevant Issues

13. The questions for the consideration of the commission are as under:
 - (A) Can an official represent a public body in the hearing if the requested information pertains to the official under the Right of Access to Information Act 2017, henceforth referred to as Act?
 - (B) Has the Respondent taken steps to ensure implementation of the Act?
 - (C) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?
14. This commission is of the view that there is no legal provision in the Act which bars official from representing a public body in the hearing even if the requested information pertains to the official. The Act requires designation of Public Information Officer under Section 9 of the Act to deal with information requests. In case a public body fails to notify a PIO, it is responsibility of the head of the public body to provide citizens the requested information under Section 9 of the Act.
15. The Respondent public body has provided some but not all of the requested information to the citizen.
16. 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.

D. Order

17. The appeal is allowed. Public Information Officer, Benazir Income Support Program, (BISP) is directed to provide the remaining requested information about the consultants i.e., education, working experience, expertise, criteria and their procedure of appointment, duration of their services at PISP and certified copies of approval of such appointments from the relevant ministries, ensuring that their personal information such as phone numbers, addresses is not disclosed. The remaining requested information in para 1 about perks and privileges of the officers be provided to the appellant. The requested information about the profiles of board members also be provided to the appellant.
18. The information mentioned in para 17 be provided to the Appellant within 10 working days of the receipt of this Order with intimation to the Commission.

19. 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.
20. 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 12/02/2021.
21. 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 12/02/2021.
22. Copies of this order be sent to Chairman and Secretary, BISP and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
January 08, 2021

This order consists of 9 (nine) pages, each page has been read and signed