

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 672-10-2020

Col. (R) Iftikhar Ur Rehman

Vs

Pakistan Poverty Alleviation Fund

Date: 21.12.2020

Fawad Malik: Information Commissioner

A. APPEAL:

1. The brief facts of the appeal are that Col.(R) Iftikhar Ur Rehman, CEO of Community Uplift Program (CUP), Pakistan, an NGO registered with Security Exchange Commission of Pakistan under the Companies Ordinance, has filed his appeal before the Pakistan Information Commission complaining therein that Pakistan Poverty Alleviation Fund (PPAF) has not responded to his request for information as mandated under the Right of Access to Information Act 2017.
2. The appellant as a citizen through email dated 21.9.2020 has requested the following information from Mr Amir Naeem, Group Head, Financial and Corporate Affairs, Pakistan Poverty Alleviation Fund;
 1. *What is the gross monthly remuneration of Mr. Qazi Azmat Isa, CEO of PPAF since 2013 upto the August 2020 and in additions his perks and privileges?*
 2. *Likewise what is the gross monthly remunerations of Amir Naeem group head financial management and corporate affairs PPAF and in additions his perks and privileges.*
 3. *And what is the gross monthly remuneration of Ms. Saima Liaqat Ali Khan group head, and in additions her perks and privileges.*

B. PROCEEDINGS:

3. The Chief Executive Officer/ Executive Director, Pakistan Poverty Alleviation Fund vide notice dated 21.10.2020, was directed to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early

as possible and in any case not later than ten working days of the receipt of the request.

4. The Chief Executive Officer, Pakistan Poverty Alleviation Fund vide letter dated 9.11.2020 replied the notice as under;

“With reference to your letter Ref No: Appeal 672-10/20 dated 21st October 2020 received by our office on 3rd November 2020, please note that, without prejudice to and without comment on the applicability of the Right of Access to Information Act, 2017 (hereinafter referred to as “the Act”) to Pakistan Poverty Alleviation Fund (PPAF), a company registered under section 42 of the Companies Ordinance, 1984 (now Companies Act, 2017), the requested information is exempt from disclosure as it falls within the scope of Section 16(i)(v) of the Act.

Please also note that a Writ Petition No. 2469/2020 is pending adjudication before the Honourable Islamabad High Court, Islamabad. Therefore the matter is also sub-judice.”

5. The reply of the respondent was shared with the appellant through information sharing letter dated 18.11.2020. The appellant has shown his dissatisfaction to the reply to the following effect;

.....The exemption for disclosure of information sought by PPAF under section 16(i)(v) of the RTI Act 2017 is not valid. In fact, there is no Section 16(i)(v) in the RTI Act!!! There is however Section 16(b)(v) which is reproduced below:

16(b) information may be exempt if its disclosure is likely to-

(v) harm the security of building, a vehicle, a system; any property or computer system, including or a communication.

C. COMMISSION’S VIEW:

6. Keeping in sight the contents of the application, the reply submitted by the public body, the rejoinder and the Act 2017, the Commission has reached the decision after threadbare study of the file. The issues before the Commission to determine are (i) whether the Pakistan Poverty Alleviation Fund is a public body under the Act 2017 and (ii) whether the requested information is exempted from disclosure as claimed by the respondent in its reply?
7. At the first instance the Commission will determine the issue no. (i), as to whether the respondent is a public body within the meanings of the Act. The non-government organizations which directly or indirectly receives or has received public funds, subsidy, tax exemption, piece of land or any other benefit involving public funds and any other non-government organization or body registered under any law for the time being in force falls within the definition of public body as described in section 2(ix)(h) of the Act. Pakistan Poverty Alleviation Fund is a company registered under section 42 of the Companies Ordinance, 1984 (now Companies Act, 2017) therefore is encompassed within the meanings of the public body defined in the Act.

8. The appellant in his request for information has sought the details of the gross remunerations and the perks and privileges received by Mr. Qazi Azmat Isa, the CEO, Mr. Amir Naeem, the group head financial management and corporate affairs and Ms. Saima Liaqat Ali Khan, the group head of the Pakistan Poverty Alleviation Fund, a public body. The remunerations, perks and privileges of the officers and employees are the categories of record that ought to have been disclosed by the principal officer of each public body, within six months of the commencement of the Act 2017, duly publishing including uploading over the internet as mentioned in section 5(a), but this mandatory provision of the Act has been overlooked by the respondent public body. The record sought by the appellant is public record within the meanings of the Act which cannot be withheld or denied, being the fundamental right of the citizens.
9. The Right of Access to Information Act, 2017 gives effect to the fundamental right of access to information, as guaranteed under Article 19A of the Constitution of Pakistan and international law. This right cannot be denied or delayed under the excuse of pendency of the writ petition unless the matter of access to information is directly and substantially *sub-judice* before the Honourable High Court. The mere pendency of the writ petition between the parties does not bar the provision of information under the Act unless specifically barred. The exemption claimed by the respondent in its reply is not valid.
10. The respondent has so far not notified the designated officer as mandated in section 9 of the Act.

D. ORDER:

11. The appeal is allowed. The Chief Executive Officer is directed to provide the appellant the requested information forthwith but not later than seven days of the receipt of this order. He is further directed to make arrangements for the implementation of sections 5 & 9 of the Act.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Certified this order consists of three (3) pages, each page has been read and signed.