

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 733-11-2020

Nadeem Umer

Vs

Excise and taxation Department, Islamabad

Date: 11.2.2021

Fawad Malik: Information Commissioner

A. APPEAL.

1. Mr. Nadeem Umer has filed his appeal before the Pakistan Information Commission alleging therein that his request for information filed under the right of Right of Access to Information Act 2017 in the office of the Director, Excise and Taxation Department, Islamabad Capital Territory has not been responded with in the stipulated frame of time provided in the Act.
2. The detail of the requested information is reproduced as under;
 1. *List of the departmental inquiries conducted from 1st Jan 2015 to date, along with the details of complaint/allegation, name of accused officials and their designation.*
 2. *Provide the name and designation of each inquiry committee members.*
 3. *Certified copy of each inquiry report.*
 4. *Details about the implementation on the recommendation of each inquiry committee.*
 5. *List of the pending (on-going) inquiries that are initiated against the officers/officials of excise department along with the date on which the inquiry was initiated, list of each inquiry committee members from Jan 2010 to date.*
 6. *Details about the time period given in the rules/ regulation to conclude any departmental inquiry.*
 7. *What action has been taken against the officers/officials/members of the inquiry committee who are failed to conclude the inquiries within the stipulated time period given in the rules/regulations/laws.*
 8. *Copy of the relevant rules/ regulation regarding the departmental inquiries.*

B. PROCEEDINGS.

3. The Commission after taking the cognizance of the appeal issued notice dated 2.12.2020 to the respondent for filing of the reply. The reply was not submitted

therefore the notice was followed by the hearing notice 13.1.2021 and the appeal was set down for arguments on 3.2.2021, under intimation to the parties. No one represented the respondent public body at the time of hearing. The appeal was adjourned to 10.2.2021 but no one appeared to represent the public body.

C. COMMISSION'S VIEW.

4. While dealing with the matters related to information and record sought by the citizens under the Act 2017, the public bodies are under obligation to respond the applications as mandated in the Act. In the case in hand the respondent has not acknowledged the application, information is not provided to the applicant in the stipulated frame of time and the notices of the Commission are waived. The reply is not submitted and the hearing before the Commission was not represented by the public body. It is presumed that the respondent public body is willfully avoiding the proceedings before the Commission and that the public body has nothing in the sleeves to submit in the defense. In such like circumstances the Commission is left with no option but to decide the appeal ex parte after going through the file in light of the Act.
5. The bare reading of the requested information depicts that the appellant has sought information regarding the departmental inquiries in the respondent public body. He has requested the list of departmental inquiries, names of the complainants, names of the officials and their designation against whom the complaints are made, names and designations of the inquiry committee, inquiry reports, details of on-going inquiries etc. from the office of the Director of the public body. The requested material can be split into two parts firstly info vis-à-vis the concluded inquiries and secondly the info vis-à-vis the pending or on-going inquiries.
 - a. So far as the inquiries that have been finalized and concluded are the category of info that ought to have been published by the public body including uploading over the internet to ensure its accessibility as required under section 5 of the Act. All sort of info regarding the concluded inquiries are the public record within the meanings of the Act and is open for sharing.
 - b. On the other hand the on-going inquiries that are not finalized are the category of info that does not fall entirely within the sphere of the public record. The names of official/officers and their designation, against whom the inquiry is not finalized are exempted because its disclosure would involve invasion of their privacy. Until the charge is proved against an employee, he cannot be considered guilty and impulsive disclosure of information can be fatal for his person.
6. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic

Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.

7. It is noticed that the Excise and Taxation Islamabad, has not notified the designated officer as mandated in section 9 of the Act.

D. ORDER.

8. The appeal is partly allowed. The Director, Excise and Taxation Department, Islamabad Capital Territory is directed to provide the appellant all the requested information except at the Sr. No. 5 of the application dated 7.11.2020, forthwith, but not later than seven days of the receipt of this order.

The Copy of this order be sent to the Director General, Excise and Taxation, for making arrangement for the implementation of sections 5 & 9 of the Act, within one month under intimation to the Commission by 31.3.2021.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner
Announced on

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