

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 766-12-2020

Hidayat Ullah Khan

Vs

Cantonment Board, Peshawar

Date: 18.2.2021

Fawad Malik: Information Commissioner

A. APPEAL:

1. The brief facts of the appeal are Mr. Hidayat Ullah Khan, appellant has filed his appeal before the Pakistan Information Commission, complaining therein that he is holding lease rights of the plot No. 19 survey No. 28/19 new Shami road, Peshawar Cantt, whereas the Cantonment Board, has constructed a complaint office across the road facing and overlooking his premises and violating the privacy. He further states that his request for information received in the office of the Cantonment Board on 11.11.2020 has not been responded by the designated officer as mandated under the Right of Access to Information Act 2017.
2. The appellant has requested the following information and record from the office of the Cantonment Board Peshawar:
 1. *“Sanctioned estimate of the Cantonment Board Peshawar former Complaint Office constructed across the road facing bungalow No.109 constructed on plot No.19 of Survey No.28/19. It is worthy to mention here that the plot where the said complaint office is constructed was meant for Park and tube well and is located on the junction of Shami road and Hassan Garhi road. For ready reference site plan of the very building is attached.*
 2. *The designation and name of the authority sanctioning the above cited work / project and of the authority sanctioning its detailed estimate.”*

B. PROCEEDINGS:

3. The Chief Executive Officer, Cantonment Board Peshawar vide notice dated 30.12.2020, 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 Cantonment Executive Officer, Cantonment Board Peshawar vide letter dated 08.01.2021 replied the notice as under;

“It is intimated that the work for construction of facilitation rooms at new Shami Road and Dabgari Garden, Peshawar Cantonment against an estimated cost of Rs.1.00(M) was proposed by then Cantonment Executive officer, Peshawar and approved by the than Director Military Lands and cantonments, Peshawar Region, Peshawar in the Budget Estimates for the year 2010-2011. A copy of the estimate is enclosed herewith”.

5. The reply of the respondent was shared with the appellant through information sharing letter dated 13.01.2021. The appellant has shown his dissatisfaction to the reply to the following effect;

“That under the above subject section of law I had requested you to furnish the name and designation of the authority sanctioning the execution of the work mentioned in my written request and the name and designation of the authority sanctioning its detailed estimate along with a copy of it. However, instead of furnishing the name of the authorities proposing and sanctioning afore said work, you have mentioned mere designation of the then incumbent officers/officials only. The detailed estimate too does not contain the drawing plans of the alleged facilitation centre as enjoined by building bye laws of Cantonment Board Peshawar.”

6. After dissatisfaction of the appellant the hearing date was fixed for 17/02/21 through the hearing notice sent on 20/01/21 and both parties were informed accordingly. At the time of hearing Mr. Hidayat Ullah Khan appeared in person whereas Mr. Abdur Rehman, Surveyor appeared to represent the public body before the Commission.

C. COMMISSION’S VIEW.

7. The appellant has asked for the furnishing of the designation and name of the authority sanctioning the execution of the project of complaint centre and its detailed estimate, constructed on the junction of Shami road and Hassan Garhi road, Peshawar Cantt. He has also complained that the said facilitation centre has been erected across the road facing and overlooking his premises and violating the privacy and further that the plot whereon the centre is established, was meant for park and tube well.
8. The respondent though have responded to the application of the appellant and provided some information but instead of furnishing the name of the authority have merely provided the designation of incumbent officer, who proposed and sanctioned the project. The respondent has also not provided the drawing plan of the said building. This information is the category of record that ought to have been disclosed proactively by the respondent. Section 5 of the Act solicits the category of information and record that should have been duly published including uploading over the internet, within six months of the commencement of the Act, by the principal officer of each public body.
9. 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 practise would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.
10. The complaint of the appellant regarding violation of his privacy and encroachment in the park area is beyond the scope of the Commission. This Commission is established to ensure that the people of the country have improved access to the record and information held by the public authorities to promote the participation of the people in public affairs and to ensure upholding of transparency and good governance in the working of the government. Probe and inquiry against the public body or surfacing the irregularities or malpractices in the working of the government does not fall under the domain of this forum therefore if any

irregularity is committed in the construction of the facility centre or the bye laws of the cantonment are violated, this Commission does not hold any powers to penetrate into, nor is it built-in in the functions of the Commission. Be that as it may but the expectations of the appellant to the extent of interference of the Commission in the irregularities are beyond the scope of the Commission. This Commission is constituted under the Right of Access to Information Act 2017, to facilitate the citizens to have access to the public record that however may be instrumental and useful to surface any irregularity or malpractice in the working system of the public body. . If the appellant has any objection or is not satisfied with the process, he may approach the relevant forum, if so advised, but this Commission is only meant for the provision of the information and record subject to reasonable restrictions mentioned in the Act.

11. The Commission has noticed that the respondent public body has not notified its designated officer as required u/s 9 of the Act.

D. ORDER.

12. The appeal is allowed. The Cantonment Executive Officer is directed to provide the appellant designation and name of the authority sanctioning the execution of the project of complaint centre and its detailed estimate forthwith but in any case not later than seven days of the receipt of this order.

He is further directed to make arrangement for the implementation of sections 5 & 9 of the Act, under intimation to this Commission by 31.3.2021.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner
Announced on : 23.2.2021