



In The Pakistan Information Commission, Islamabad

Appeal No 755-12/20

Dewan Adnan Amlak

(Appellant)

Vs.

Pakistan Railways

Through its Public Information Officer

(Respondent)

ORDER

Date: February 02, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 16-10-2020, to the Commission, stating that *"I filed an application to Divisional Superintendent (DS) Lahore Division Pakistan Railways, on 17-11-2020 (copy attached) seeking requisite information/details about development work done at "Haveli Wasawewala Railway Station", since last 7 years (from 2013 to 2020)*
2. *That, the Divisional Superintendent Lahore Division Pakistan Railways is not willing to respond to my application, hence this appeal.*

In the light of above-mentioned submissions, your honour is humbly prayed to order DS Pakistan Railways Lahore Division to provide me requisite information according to the contents of my original application dated 17.11.2020."

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

"Details of development work/project if done any, at Haveli Wasawewala Railway Station, Haveli Lakha, District Okara during the last 7 years (from 2013 to 2020) whether executed fully or currently being executed, including title of the project, date of commencement, current status and total cost of the project."

B. Proceedings

3. Through a notice dated December 18, 2020 sent to Chief Personnel Officer, Pakistan Railways called upon the Respondent to submit reasons for not providing the requested information.

4. The Respondent was issued another notice on January 04, 2021. The text of the notice is as under:

"In pursuance of the Standard Operating Procedures issued by the Government of Pakistan for the Covid-19 and to ensure public safety, the personal appearance before the Commission at the time of hearing, is condoned for the time being. Therefore, you are directed to submit your written reply and arguments to Pakistan Information Commission within fifteen days of the receipt of this notice.

Copies of the supporting documents may be annexed with the written arguments. If the written arguments are not submitted within 15 days, the appeal will be decided Ex Parte

in the light of the record available on file and the Right of Access to Information Act 2017”

C. Discussion and Commission’s View on Relevant Issues

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

(a) Should a citizen have access to requested information in accordance with the provisions of the Right of Access to Information Act 2017, hereafter referred as Act?

(b) Did the Respondent follow procedure laid down in the Act in responding to the request of the citizen?

6. 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) g) of the Act which is as under:

“Detailed budget of the public body; including proposed and actual expenditures, original or revised revenue targets, actual revenue, receipts, revision in the approved budget and the supplementary budget;”

7. The requested information is also public information under Section 6 (b) (c) and (d) of the Act which are as under:

“Transactions involving acquisition and disposal of property and expenditures are undertaken by a public body in the performance of its duties and functions;

Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body;

Final orders and decisions, including decisions relating to members of public;”

8. *Federal public bodies need 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”.

9. *The fact that requested information is not available in public domain and that the citizen has exercised the right of access to information also highlights that the citizens want to have improved access to records held by public bodies for following purposes enunciated in the Preamble of the Act:*

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.

10. In the instant appeal, Public Information Officer, (PIO) failed to perform following obligations under the Act.
 - I. *Failure to provide “written acknowledgement in response to” a request for information filed by citizen as required by Section 10 (1) of the Act.*
 - II. *Failure to follow procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act which is as under:*

“(2) *The designated official shall process the request and by notice in writing inform the applicant that---*

 - a) *A request has been acknowledged and the applicant is entitled to receive the information or record, subject to the payment of the prescribed fee. On payment of the fee the designated official shall provide the requested record, or*
 - b) *The request has been rejected-*
 - i. *On the basis that it does not comply with the provisions of this act and the rules made there under but only after requisite assistance has been offered to the applicant as mentioned in sub-section (2) of section 10;*
 - ii. *On the basis that the information is already available in a generally accessible form in which case the notice shall indicate to the applicant the place from where the information may be found;*
 - iii. *On the basis that it is incorrect, because it relates to information which is substantially the same information that has already has been provided to the same applicant during last six months; or*
 - iv. *In whole or in part, on the basis that the information is exempt subject to section 7 or section 16, in which the notice shall specify the exact exception, relied upon and specifying details regarding the right of the applicant to appeal against this decision”*
11. The Respondent also failed in adhering to the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.
12. The PIO not only delayed and denied access to the requested information, the PIO also failed to comply with the duly sent notices of the commission.
13. The fact that the Respondent has caused delay in providing to the requested information to the Appellant highlights following two issues:
 - (A) That the Respondent has violated timeline mentioned in the Act to provide the requested information to the Appellant; and
 - (B) That had the Respondent implemented provisions of this Act, including, but not limited to Section 4 and 5 of the Act, the unwarranted delay in providing the requested information to the Applicant could have been avoided.
14. 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.
15. 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.

16. 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.
17. This commission is of the view that the wilful delay or denial of the requested information causes undue cost to citizens and the commission. Citizens have to approach this commission for the exercise of their fundamental constitutional right of access to information which involves cost both in terms of money and time.
18. Citizens of Pakistan through their elected representatives have included the provision of imposing fine on public official who wilfully delay or deny access to the requested information so that they do not have to pay the undue cost in terms of time and money in exercising their right of access to information because of the dereliction of the duty of a public official.
19. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

20. Appeal is allowed. The Public Information Officer, **Pakistan Railways** is directed to provide *“Details of development work/project if done any, at Haveli Wasawewala Railway Station, Haveli Lakha, District Okara during the last 7 years (from 2013 to 2020) whether executed fully or currently being executed, including title of the project, date of commencement, current status and total cost of the project.”*
21. *The information mentioned in para 20 be provided to the Appellant at the earliest but not later than 10 working days of the receipt of this Order.*
22. 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 07/03/2021.
23. 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 07/03/2021.
24. Copies of this order be sent to The Public Information Officer, Pakistan Railways and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

February 03, 2021

This order consists of 05 (five) pages, each page has been read and signed