

## **Pakistan Information Commission**

### **Government of Pakistan**

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  @PkInfoComm



### **In The Pakistan Information Commission, Islamabad**

**Appeal No 825-01/21**

**Nadia Omar Hayat Malik**

Through Jamal and Jamal – Advocates & Legal Consultants

(Appellant)

Vs.

**Pakistan International Airlines**

Through Public Information Officer

(Respondent)

### **ORDER**

**Date:** February 22, 2021

**Zahid Abdullah:** Information Commissioner

#### **A. The Appeal**

1. The Appellant Nadia Omar Hayat Malik through Jamal and Jamal – Advocates & Legal Consultants filed an information request to the General Manager, Pakistan International Airlines, under the Right of Access to Information Act 2017 on December 07, 2020 seeking following information:  
*“All PIA’s policy pertaining to pension, provident fund and insurance of its late employees.”*
2. The Appellant on January 05, 2021 through its council filed appeal with this commission when the requested information was not provided by the Respondents.

#### **B. Proceedings**

3. Through a notice dated January 14, 2021 sent to Muhammad Mashood Tajwar, General Manager Public Affairs, Pakistan International Airlines, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Appeal was fixed for hearing on February 11, 2021 and both parties were informed accordingly through notice sent on February 01, 2021.
5. No one appeared before the commission on the date of hearing.

#### **C. Discussion and Commission’s View on Relevant Issues**

6. Each time a citizen seeks information from a public body and each time a federal public body fails to provide requested information to an Appellant, as is the case in the instant Appeal, the significance of the purposes of enactment of the Right of Access to Information Act 2017, enunciated in its Preamble are further highlighted and these are as under:
  - a. *Making government more accountable to citizens’;*

- b. *Greater level of participation of citizens in the affairs of the government’;*
  - c. *‘Reducing corruption and inefficiency’;*
  - d. *Promoting sound economic growth’; and*
  - e. *Promoting good governance and respect for human rights.*
7. This commission takes strong exception to the fact that such critical information of public importance as policies of PIA about pension, provident fund and insurance of its late employees has not been provided to the Appellant.
  8. Article 19-A of the Constitution states that citizens of Pakistan shall have access to information in matters of public importance and that this right of access to information can only be restricted through reasonable restrictions imposed by law. This commission is of the view that the requested information pertains to a matter of public importance.
  9. This commission provided ample opportunities to the Respondent, through duly sent notices to respond to the duly filed request for information of the citizen.
  10. 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) b), () c and (d) of the Act which is as under:
 

*“Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. applicable to the public body disclosing the date of their respective commencement or effect*

*Substantive or procedural rules of the general application evolved or adopted by the public body, including any manual or policies by its employees*

*Relevant facts and background information relating to important policies and decisions which have been adopted, along with a statement of policies adopted by the public body and the criteria, standards or guidelines upon which discretionary powers are exercised by it;”.*
  11. The requested information is also public information under Section 6 (a) (c) and (d) of the Act which are as under:
 

*“Policies and guidelines;*

*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; and”.*
  12. 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”*

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.

21. 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**

22. The appeal is allowed. Public Information Officer, Pakistan International Airlines is directed to provide the following requested information to the Applicant, with intimation to this commission, within 10 working days of the receipt of this Order:

*“All PIA’s policy pertaining to pension, provident fund and insurance of its late employees.”.*

23. 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](http://www.rti.gov.pk). The compliance report be submitted to this commission by 19/03/2021.
24. 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](http://www.rti.gov.pk). The compliance report be submitted to this commission by 19/03/2021.
25. Copies of this order be sent to Public Information Officer, Pakistan International Airlines and the Appellant for information and necessary action.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on:  
February 22, 2021

This order consists of 4 (four) pages, each page has been read and signed