

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 687-11-2020

Pervez Said

Vs

Federal Board of Revenue

Date: 03/03/2021

Fawad Malik: Information Commissioner

A. APPEAL.

1. Mr. Pervez Said, Chief Executive Officer, Public Interest Law Association of Pakistan feeling aggrieved has filed appeal dated 22.10.2020 before the Pakistan Information Commission. His grievance is that he has not been provided the information by the Federal Board of Revenue, within the stipulated period provided in the Right of Access to Information Act 2017.
2. The appellant addressed his application dated 18.9.2020 to the Chairman, Federal Board of Revenue, Islamabad for the provision of the following information;
 - i) *What specific action is the FBR taking against filers who under-report their income for the tax-evasion purposes, especially those who would fall within the large tax-payer category?*
 - ii) *How is the FBR monitoring non-filers and what action is taken against them?*
 - iii) *What action is the FBR taking to expand the tax-payer net for optimal contribution to the national exchequer?*

B. PROCEEDINGS.

3. On the intervention of the Commission the designated officer of the FBR filed the reply. The same is reproduced as under;

“I am directed to refer to your letter dated 02nd November, 2020 in an Appeal No. 687-11/20 on the subject and to say that no such application as claimed by the applicant has been received in this office till date. However, perusal of the appended application reveals that the applicant has requested for the information that Section 216(2) of the Income Tax Ordinance, 2001 specifically prohibits from disclosure. Besides, any violation of section 216 of the Income Tax Ordinance, 2001 attracts the penal provisions of section 198 of the Ordinance, 2001 which states that any disclosure made in violation of section 216 is an offence punishable on conviction with a fine of not less than Rs 500,000 or imprisonment for a term not exceeding one year or both, whereas, Section 16(1)(b)(i) of the

Right of Access to Information Act, 2017 provides that information will be exempt from disclosure if it is likely to result in the commission of an offence.”

4. The appellant feeling not satisfied has filed the rejoinder to the reply submitted by the public body.

C. COMMISSION’S VIEW.

5. The appellant has requested information vis-à-vis the action taken by the FBR against non-filers and the filers who under-report their income for tax evasion. He also seeks information regarding the steps undertaken to expand the tax-payer net for optimal contribution of revenue. The public body in the reply has denied the information while referring section 216(2) of the Income Tax Ordinance, 2001 and section 16(1)(b)(i) of the Right of Access to Information Act 2017.

6. Section 216(2) of the Income Tax Ordinance, 2001 reads as under;

“Notwithstanding anything contained in the Qanun-e-Shahadat, 1984 (P.O. Order No. 10 of 1984), or any other law for the time being in force, no court or authority shall be, save as provided in this Ordinance, entitled to require any public servant to produce before it any return, accounts, or documents contained in, or forming a part of the records relating to any proceedings under this Ordinance, or any records of the Income Tax Department generally, or any part thereof, or to give evidence before it in respect thereof.”

The information requested by the appellant has nothing whatsoever to do with the production of any return, accounts or documents contained in, or forming part of the record relating to any proceedings under the Ordinance, or any record of the Income Tax Department, or to give evidence before it in respect thereof, relating to public servant. The appellant has desired info regarding the steps taken by the FBR towards the monitoring and enforcement of Tax payments by the individuals and companies to reach the optimal level. The reply of the FBR therefore is not proper and appropriate. The Commission is of the considered view that the information desired by the appellant is the category of record that ought to have been published proactively by the public body including uploading over the internet as mandated in section 5 of the Act.

7. The exemption under section 16(1)(b)(i) of the Act, claimed by the public body has no nexus with the requested info as it does not fall within the ambit of section 216(2) of the Income Tax Ordinance, 2001 nor the disclosure would constitute an offence.
8. The appellant has based his request on the news article published in the Express Tribune, titled “ Two-Third of Pakistan’s Filers Declare Just Rs41,000 Monthly Income”. It is a matter of public importance for the reason that the article highlighted that for the year 2018 tax year two out of three income tax filers declared a monthly income of around Rs. 41000/- and consequently pay no tax. It further states that out of 2.5 million tax filers, 2.4 million are the individuals while only 43,191 are companies and 62,950 are the associations. The statistics surface significant loss to the national exchequer and the citizens would like to know whether any specific action is initiated or planed by the FBR,

to curb the satire. Article 19A of the Constitution of Pakistan and the Act 2017, empowers the citizens to seek information in all matters of public importance.

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 practice would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.

D. ORDER.

10. The appeal is allowed. The Public Information Officer, Federal Board of Revenue, is directed to provide the appellant all the requested information forthwith but not later than ten days of the receipt of this order.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner
Announced on 3.3.2021

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