

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 833-01-2021

Ali Afzal

Vs

Federal Employees Co-operative Housing Society

Date: 15.3.2021

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Ali Afzal filed the appeal under the Right of Access to Information Act, 2017 before the Pakistan Information Commission complaining therein that the requested information has not been provided within the period mandated in the Act.
2. The application addressed to the Secretary, Federal Employees Co-operative Housing Society details the following information:-
 - i. *Earlier, I was informed that total development charges are Rs. 404000/- which I have already paid, now the record submitted in response my information request, the society has mentioned Development Charges Rs604,445/-.*
Provide the copy of the relevant rules/laws on basis of which the society management has increased the development charges.
 - ii. *Provide the relevant laws/rules on basis of which the society management has imposed surcharges on all of its members/plot owners.*
 - iii. *Current status of the NOC issued by the Capital Development Authority.*

B. PROCEEDINGS

3. The Secretary, Federal Employees Co-operative Housing Society vide letter dated 13.01.2021, 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 reply was not submitted therefore the appeal was fixed for hearing before the Commission on 24.2.2021 and both the appellant as well as the respondent were informed accordingly. At the time of hearing no one represented the public body.

C. COMMISSION'S VIEW

5. 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 time frame 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 wilfully avoiding the proceedings before the Commission and that the public body has nothing in the sleeves to submit in the defence. 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.

6. The perusal of the application reveals that the appellant has requested the copy of rules and regulations that were followed for increasing the amount of development charges and imposed surcharge on the members/plot owners by the society management. He has further asked for the provision of information regarding the current status of NOC issued by the Capital Development Authority. These are the category of information that should have been disclosed proactively by the public body as required under section 5 of the Act.
7. Right of access to the record and information in the matters of public importance is constitutional and statutory right of the citizens provided under the Constitution of Pakistan and the Right of Access to Information Act, respectively which cannot be denied or delayed at the whims of the government hierarchy. This right is further fortified when the appellant himself is one of the effected of the hike in the development and surcharge charges. To enjoy the protection of law and to be treated in accordance with law is the inalienable right of every citizen. It would be anomalous to suggest that a victim of illegal action has to go without redress. On the other hand the public functionaries are like public trust and are supposed to regulate the affairs in fair and transparent manner therefore the appellant has the superior right to have the information for his secured interest.
8. The procedure for the acceptance and refusal of the application for information is provided in section 13 of the Act. It is mandatory for the designated officer appointed by the public body to acknowledge the application before processing. If the applicant is entitled for the provision of the information than the same should be provided within the period mentioned in section 14 and in case the request merits rejection then to inform the applicant the reasons under which it is rejected in accordance with the provisions of the Act.

D. ORDER

9. The appeal is allowed. The Secretary, Federal Employees Co-operative Housing Society is directed to provide the appellant the requested information detailed in his application, forthwith but not later than seven days of the receipt of this order.

The Secretary is further directed to ensure the publication of the category of information and record as mandated in section 5 of the Act, within one month of the receipt of this order under intimation to the Commission.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 16.3.2021

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