

Pakistan Information Commission

Government of Pakistan

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In The Pakistan Information Commission, Islamabad

Appeal No 731-11/20

Moon Haroon

(Appellant)

Vs.

Airport Security Force

Through its Director General

(Respondent)

ORDER

Date: March 01, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 23-11-2020, to the Commission, stating that he submitted an information request to Public Information Officer, Airport Security Force on November 11, 2020 under the Right of Access to Information Act 2017 but did not received any response from the public body.
2. The information sought by the Appellant is as follows:
 - “1. How many candidates applied for posts of Corporal and ASI on Minority Quota?
 2. Name of candidates who are currently working on position of ASI and Corporal on Minority Quota.
 3. List of selected candidates against Minority Quota on the Position of ASI and Corporal Advertised in the above cited subject.”

B. Proceedings

3. Through a notice dated December 11, 2020, sent to Director General, Airport Security Force, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent through a letter video 725-LC/2021 dated February 02, 2021 submitted response, which is as under,

“It is submitted that Airports Security Force has been constituted under Section 3 of ASF Act 1975 to safeguard civil aviation/Government installations and passengers etc and officers and members are subjected to Pakistan Army Act 1952, for ensuring effective national security of men and material within limit of airports and matter connected thereto.

AS such, requisite information related to Airports Security Force, being Federal Force and subject to Pakistan Army Act 1952, are concerned to National Security and restricted/excluded under Section 7 of Right of Access to Information Act 2017.”

5. The Appeal was fixed for hearing on February 25, 2021 and both parties were informed according through a notice sent on February 01, 2021.
6. The Respondent did not attend the meeting.

C. Discussion and Commission's View on Relevant Issues

6. 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?
7. The requested information about the amount of sewage, created, treated or sent untreated to sea from DHA and also information on DHA sewage treatments plants and their functionality pertains to the core functions performed by DHA. This information should not only have been made available to the citizen on his request but it should have been published on the web site of DHA for all its residents.
8. The commission finds it unfortunate that such critical information as amount of sewage, created, treated or sent untreated to sea from DHA and information on DHA sewage treatments plants and their functionality is withheld from citizens. This commission is of the view that access to information about amount of sewage, created, treated or sent untreated to sea from DHA and information on DHA sewage treatments plants and their functionality is key to the realisation of fundamental rights of citizens such as right to health and right to clean drinking water.
9. In the instant appeal, the head of public body, deemed to be Public Information Officer, (PIO), as required under Section 9 of the Act when a PIO is not designated by the head of a public body, 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 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”
 - v. Failure in following 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.
10. 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.
 11. 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.
 12. 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.
 13. 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.
 14. The commission has no option but to fulfil its legal obligation and offset this trend of raising cost in terms of time and money for citizens, the commission and the superior judiciary.
 15. 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

16. The appeal is allowed. Administrator, Defence Housing Authority is directed to provide the following requested information to the Appellant, with intimation to this commission within 7 working days of the receipt of this Order:

“1. How many sewage treatment plants are held by DHA. Kindly give the capacity (MGD) of each sewage treatment plant. Also please mention their status-working or non-working.

2. What is total sewage produce in DHA (MGD).

3. How much of this sewage (MGD) is treated in these plants.

4. How exactly is the treated water coming after treatment consumed by DHA. Please mention if it is sent to sea.

5. How much of untreated sewage (MGD) is sent out to sea and from what locations”.

17. The Respondent is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification to this effect on its web site as required under Section 5 (1) (b) of the Act, put name, designation and contact details of the PIO on its web sites as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
18. 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 30/03/2021.
19. Copies of this order be sent to Administrator, Defence Housing Authority and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

March 01, 2021

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