

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1032-05-2021

Yasir Mehmood Awan

Vs

Directorate General Civil Defence

Date: 11.6.2021

Fawad Malik: Information Commissioner

A. APPEAL.

1. Mr. Yasir Mehmood Awan, Administrative Officer, FCCTS, Abbottabad has filed the appeal dated 17.5.2021 before the Pakistan Information Commission complaining therein that his four applications under the Right of Access to Information Act, 2017 addressed to the Director General, Directorate General Civil Defence, Islamabad has not been entertained by the department. He has prayed for the registration of case against the Director General and provision of the requested information mentioned in the respective applications.
2. The requested information in the respective applications addressed to the Director General, Directorate General Civil Defence, Islamabad are as follows:

a. Application dated 21.4.2021:

“That Directorate General Civil Defence, Islamabad promoted Mr. Muhammad Tahir Shah (Late), Mr. Muhammad Saeed Ahmed as Assistant Director (A&C) and Assistant Director (B&A) respectively in June, 2020 under some special promotion rules/policy of Directorate General Civil Defence, Islamabad.

The undersigned requests to furnish the photocopy of said Promotion Rules/Policy, Minutes of Meeting etc under the Right of Access to Information Act, 2017.”

b. Application dated 21.4.2021:

With due respect it is submitted that the undersigned has information whereas there has been excessive use of nepotism and favouritism abusing the authority in recruitment of Federal Civil Defence Training School, Faisalabad in Year 2011-12. Being responsible citizen of Pakistan and part of the Directorate General Civil Defence, Islamabad under Right of Access to Information Act, 2017, the following record of the mentioned officials is desired by the undersigned to be furnished on the below mentioned address:

<i>Sr#</i>	<i>Name</i>	<i>Record of under mentioned Officials/Officers</i>
1	<i>Muhammad Ibrahim (Cook)</i>	<i>Photocopies of Joining Reports, Office Orders, 1st Salary Slips</i>
2	<i>Asif Khan (Frash)</i>	
3	<i>Khan Badshah (Superintendent)</i>	
4	<i>Farman Aslam (LDC)</i>	
5	<i>Maizullah Khan (Drill Instructor)</i>	
6	<i>Muhammad Luqman (Cinema Operator)</i>	
7	<i>Tahir Iqbal (Driver)</i>	
8	<i>Ashar Abbas (Demonstrator)</i>	
9	<i>Aamir Mumtaz (Naib Qasid)</i>	
10	<i>Muhammad Zaman (Instructor BS 16)</i>	
11	<i>Capt(Retd) Rai Nazir Ahmad Kharal (Late) (Platoon Commander BS 16)</i>	

c. Application dated 27.4.2021:

The undersigned requests to furnish the record of promoted employees as:

<i>Sr#</i>	<i>Initial Appointment</i>	<i>Promoted to</i>	<i>Desired Documents</i>
1	<i>Class fours Including Drivers, Naib Qasids, Chowkidars, Dispatch Riders etc</i>	<i>LDC</i>	<i>Qualification, Certificates of Matric, Initial Appointment Letters, Promotion Policy, Any Advertisement</i>

d. Application dated 27.4.2021:

The undersigned requests and desire the following record to be furnished;

1. *Application for PHD Studies in University of Technology, PETRONAS, Malaysia.*
2. *Acceptance Letter from University.*
3. *Application of Mrs. Saba Ayub to DG, Civil Defence, Approval, Office Orders.*
4. *Office orders of Ex-Pakistan Leave/NOC of Mrs. Saba Ayub.*
5. *Leave rules for granting Ex-Pakistan Leave more than two years.*

B. PROCEEDINGS.

3. The notice of the Commission is responded by Director (Admn & Coord) vide letter dated 26.4.2021 as follows:
 2. *In this connection, it is respectfully stated on behalf of the Directorate General Civil Defence on the subject matter for your kind consideration as under:*
 - 2.1 *that despite being an attached department of the Ministry of Interior. Federal Civil Defence Department is not a Public Service Organization. The Department is working under Civil Defence Act 1952 to stay as a war oriented organization having classified records/Information.*
 - 2.2 *that Civil Defence is ancillary to the National Defence of the country as it is the only organization in the civil sector that has war oriented assignments and thus entitled to be kept out of the purview of above Act.*
 3. *It is worth to mention that the information being sought, interalia, also pertain to the matters which at the most have either been decided at the level of Honourable Federal Ombudsman or subjudice.*
 4. *Thus the management has reasons to believe that applications are malafide besides being liable to over ruled in circumstances.*
 5. *This issues with the approval of Director General Civil Defence.*

C. ISSUES.

4. Out of the divergent pleadings for the denial of information/record by the respondent following issues arises to be determined by the Commission:
 - a. Whether the respondent is a “public body” within the meaning of Section 2(ix) of the Right of Access to Information Act 2017?
 - b. Whether the requested information/record is encompassed within the definition of “public record” as defined in the Act?
 - c. Whether more than one application can be impugned through a single appeal?

- d. Whether the requested information/record is exempted from disclosure or is a matter of public importance?

D. COMMISSION'S VIEW.

5. Issue a & d.

At the first instance it is imperative for the Commission to determine whether the Director General Civil Defence is a public body within the meanings of the Act or is exempted from disclosure as claimed by the respondent. The respondent has though argued the organization out of the purview of the Act partaking war oriented assignments but didn't mentioned the relevant provision of the Right of Access to Information Act, 2017 that comes in aid to liberate it from disclosure of information. The respondent is also not specific with reference to the Civil Defence Act, 1952 that oust the organization from the purview of the public body. Mere reference of the Act without outlining the reason cannot be considered valid for accepting the respondent's point of view. The Commission is of the considered view that the Director General Civil Defence is an attached department of the Ministry of Interior and is a public body as defined under section 2(ix)(a) of the Act.

Issue b.

In the first application the appellant has asked for the copies of Promotion Rules/Policy and Minutes of Meeting etc that were adopted while promoting Mr. Muhammad Tahir Shah (Late) and Mr. Muhammad Saeed Ahmed as Assistant Director (A&C) and Assistant Director (B&A) respectively in June, 2020.

In the second application the appellant has alleged excessive use of nepotism and favouritism by the authority in the recruitment of employees in Federal Civil Defence Training School, Faisalabad in the year 2011-12. He has asked for the copies of Joining Reports, Office Orders and 1st Salary Slips of the employees.

In the third application the appellant has asked for the qualification, certificates of matric, initial appointment letters, promotion policy and advertisement if any of Class four including drivers, naib qasids, chowkidars and dispatch riders etc. who were promoted to LDC.

In the fourth application the appellant has asked for record pertaining to Mrs Saba Ayub. It has been highlighted that she was awarded Ex-Pakistan leave for more than two years with pay in violation of Ex-Pakistan Leave Rules. In this connection the appellant has desired the provision of the application for PHD studies in University of Technology, Malaysia, acceptance letter, approval by DG/NOC and Ex-Pakistan Leave Rules.

Mr. Yasir Mehmood Awan, Administrative Officer of the department has raised the matters of excessive use of nepotism and favouritism and misuse of authority in the matters of appointment and promotion in the department. Appellant, part of the organization has desired the provision of the documents and record in connection with the allegations levelled in his applications under the Right of Access to Information Act, 2017. The respondent public body has denied the provision of the requested information claiming it as classified and exempted from disclosure. The reply of the public body is illogical and against the law on the subject *inter alia* for the following reasons:

- The information and record sought by the appellant is the category that ought to have been published proactively by each public body. Section 5 of the Act mandates the publication of orders, notifications and contracts of employment including uploading over the internet to ensure its availability.
- Article 19A of the Constitution of Pakistan guarantees the citizens access to the information in all matters of public importance.
- 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, nepotism, favoritism and misuse of authority.
- This Commission is constituted for the very purpose of providing the citizens the right of access to the information and record held by the federal public bodies. On the other hand the honorable Federal Ombudsman's jurisdiction is to address the malpractices in the federal departments. The information provided through this Commission may be instrumental and helpful before the Ombudsman but under no stretch of imagination it can be presumed that cognizance by this Commission will be considered as interference or may prejudice the proceedings before any other forum. The reply submitted by the respondent public body does not carry weight hence discarded.
- The public body has claimed the requested information to have been classified but failed to show any document in support of the claim as required under section 7(f) of the Act.

Issue c.

The appellant has impugned the four applications dated 21.4.2021, 27.4.2021 and 3.5.2021 through single appeal dated 17.5.2021. It is not barred under the Act and

the appeal is filed within the limitation provided in the Act. Even if the appellant had chosen to file separate appeals the Commission would have clubbed all the appeals together for a consolidated order.

6. It is noticed by the Commission that the respondent public body has not notified the designated officer so far in violation of mandatory provision of section 9 of the Act.

E. ORDER.

The appeal is allowed. The Director General, Directorate General Civil Defence, Islamabad is directed to provide the appellant certified copies all the information/record sought by him in his four applications dated 21.4.2021, 27.4.2021 and 3.5.2021, forthwith but in any case not later than seven days of the receipt of this order.

He is further directed to implement mandatory sections 5 and 9 of the Act in letter and spirit, under intimation to this Commission by or before July 23, 2021.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 14.6.2021

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