



In the Pakistan Information Commission, Islamabad

Appeal No 960-03/21

Yasir Mehmood Awan

(Appellant)

Vs.

Directorate General Civil Defence

(Respondent)

ORDER

Date: May 31, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated March 20, 2021, to the Commission, stating that he Submitted an information request to the Director General, Directorate General of Civil Defence dated 04-03-2021 under the Right of Access to Information Act 2017 but did not received the requested information from the public body.

2. The information sought by the Appellant is as follows:

“The undersigned needs his personal file in Directorate General Civil Defence for personal record. Therefore, it is requested to please issue orders for furnishing the attested copy of complete personal file to the undersigned.”

B. Proceedings

3. Through a notice dated March 31, 2021, sent to Director General, Directorate General Civil Defence, the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.

4. On April 13, 2021 the commission sent another notice to the Respondent but no response was submitted to this commission. Through this notice, the Commission directed the public body to “submit your written reply and arguments to Pakistan Information Commission within fifteen days of the receipt of this notice. Copies of the supporting documents may be annexed with the written arguments”. The Commission also stated through this notice that If the written arguments are not submitted within 15 working days, “the appeal will be decided Ex Parte in the light of the record available on file and the Right of Access to Information Act 2017”.

5. The Respondent did not respond to the notices of the commission.

C. Discussion and Commission's View on Relevant Issues

6. This commission holds that record generated during the course of service of an employee and placed on personal file of the employee is public record which should be made available to the employee concerned on his or her request.
7. This commission maintains that Annual Confidential Report, (ACR) cannot be treated as a secret document to the extent of its availability to the employee concerned after the enactment of the Right of Access to Information Act 2017. There is no absolute exemption from disclosure to any document in its entirety. Furthermore, public bodies cannot classify documents arbitrarily. If a document or a part of it is to be classified, the method of its classification is mentioned in Section 7 (f) of the Act.
8. The government employees have every right to see remarks recorded about their performance by their seniors as part of their official responsibilities. Section 24A (1) of the General Clauses Act 1897 requires civil servants to exercise their powers "reasonably, fairly, justly, and for the advancement of the purposes of the enactment".
9. What is the harm in disclosing ACR to the employee concerned if 'reasonable', 'fair' and 'just' reasons have been recorded in the ACR by a relevant senior? On the other hand, how can government employees improve their performance if they do not know questions raised about their performance?
10. As the country graduates from post-colonial era where secrecy has been a norm and provision of information an exception after the insertion of Article 19-A into the Constitution and the enactment of the Right of Access to Information Act 2017, civil servants are expected to ensure that transparency becomes a norm and secrecy an exception, and that too on justifiable legal grounds. This commission holds that there are no justifiable grounds of withholding access to their own ACR from the employees.
11. This commission is of the view that in order to promote good governance, transparency and managing the performance of its human resources, the federal government should follow the suit of Khyber Pakhtunkhwa government which has amended the performance evaluation rules, and has re-categorised the 'confidential' category of the Performance Evaluation Report, paving ways for the officers to see the assessment report to be written by their superiors about their performance.
12. This commission take strong exception to the fact that the Respondent, Directorate General of Civil Defence, not only failed to respond to the information request of the citizen, but it also failed to respond to the duly sent notices of this commission. If directions of this commission in Section D of this Order are not followed within the stipulated time-frame, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

13. Appeal is allowed. the Director General, Directorate General of Civil Defence is directed to provide the Appellant certified copies of all records available on his personal file within 7 working days of the receipt of this Order, with intimation to this office.
14. 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 within 30 days of the receipt of this Order.

15. Copies of this order be sent to the Director General, Directorate General of Civil Defence and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

May 31, 2021

This order consists of 3 (three) pages, each page has been read and signed