



**In the Pakistan Information Commission, Islamabad**

**Appeal No E96-03/21**

**Farhat Shah**

(Appellant)

Vs.

**Cantonment Board Nowshera**

(Respondent)

**ORDER**

**Date:** July 14, 2021

**Zahid Abdullah:** Information Commissioner

**A. The Appeal**

1. The Appellant filed Appeal on March 18, 2021, to the Commission, stating that he had submitted information requests to Cantonment Board Officer, Nowshera on March 09, 2021 under the Right of Access to Information Act 2017.

**1.1 Grounds of Appeal:**

No response from the public body.

**1.2 Requested Information:**

1. Total number of Mandars, Gurdwaras and Churches, names and locations of all places of worship located in the jurisdiction of Cantonment Board, Nowshera.
2. Information about the places of worship of the minorities in the jurisdiction of Cantonment Board, Nowshera that were constructed before and after partition. (Names and location of these places of worship).
3. Information about minority places of worship that do not exist at present; either because they have been demolished, reasons for their demolition and under which law or court order these places of worship were demolished.
4. Information about places of worship that have been replaced with commercial plot, commercial plaza or a house. Under which law or notification such houses or commercial plazas have been built? Location of all such houses and commercial plazas.
5. Information and location of land/commercial plots, houses and places of worship belonging to Okaaf situated in the jurisdiction of Cantonment Board, Nowshera.
6. Information and location of land/commercial plots, houses and places of worship belonging to MEO situated in the jurisdiction of Cantonment Board, Nowshera.
7. There are commercial plazas built on the places of worship in the jurisdiction of Cantonment Board Nowshera as property number 759 survey number 269/227, property number 812, 13 survey number 269/70 reveal. Under what court order or notification these commercial plazas have been built.
8. Information about advertisements issued to newspapers and TV channels from 2011 to 2021, name of the newspaper, advertisement and what was the advertisement about.

## **B. Proceedings**

3. Through a notice dated March 31, 2021, sent to Cantonment Executive Officer, Cantonment Board Nowshera 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. Another notice was sent on May 28, 2021.
5. Through a letter dated June 07, 2021, the Respondent submitted the following:  
*“2. It is submitted that the applicant visited this office on 25/03/2020 and asked for various data / information including property No.749 situated at Moti Bazar Nowshera Cantt. He was briefed by officials of this office and given information to the maximum extent. However, his request regarding provision of building plan, title documents of the said property cannot entertained for the reason that the applicant has no relevance to it nor having any attorney in the said property, for it being related to the privacy of concerned persons having legal / lawful authority.*  
  
*3. It is further submitted that the applicant demanded decades old data for the period even when Right to Information Act was not promulgated by the Government. In this connection the motive behind application was further investigated locally and it was reported that it is a dispute between the two persons (probably journalists) in which one of them is the applicant and who for his personal issue is using the Government offices for his own interests. Hence, compliance report is submitted, please”*.
6. The response was shared with the Appellant on June 14, 2021. Through an E-mail dated July 05, 2021, the Appellant shared with the commission that he was dissatisfied with the response of the Respondent and that the requested information was not provided to him.

## **C. Issues**

7. The instant appeal has brought to the fore following issues:
  - (a) Does the Right of Access to Information Act 2017, henceforth referred to as Act, require an applicant to establish ‘locus standi’ for exercising constitutional right of access to information?
  - (b) does the Act have retrospective effect?
  - (c) Can the requested information/documents be shared with the Appellant under the provisions of the Act?

## **D. Discussion and Commission’s View on Relevant Issues**

8. This commission holds that a citizen is not required to establish ‘locus standi’ to exercise the constitutional right of access to information. In fact, Section 11 (5) of the Act specifically mentions that an applicant is not required to provide reasons for seeking information from a public body.
9. This commission is of the view that instead of investigating “motive behind application”, the Respondent, Cantonment Board, Nowshera should have juxtaposed items of the requested information with the provisions of the Act and provided information to the applicant if so, warranted by the provisions of the Act.

10. The Respondent submitted that “the applicant demanded decades old data for the period even when Right to Information Act was not promulgated”. This implies that citizens have access to only those records created after the enactment of the Act.
11. This commission holds that citizens can exercise their right of access to information held by public bodies, no matter when the record/information was created, provided it is public information under the Act. Furthermore, Section 5 pertaining to proactive disclosure of information dictates that all records available with public bodies, irrespective of its date of creation, should be made available through their web site.
12. This commission is of the view that the requested information about “Total number of Mandars, Gurdwaras and Churches, names and locations of all places of worship located in the jurisdiction of Cantonment Board, Nowshera is available with the public body and the same should have been provided to the Appellant. Similarly, information about the places of worship of the minorities, along with names and their locations, in the jurisdiction of Cantonment Board, Nowshera that were constructed before and after partition is available with the public body and should have been provided to the Appellant.
13. This commission holds that if any place of worship is to be demolished, its demolition is carried out under laws of the land, otherwise such demolition is illegal. As such, the disclosure of the requested information about the minority places of worship which do not exist anymore and the reasons for their demolition is in public interest. Therefore, the Respondent, Cantonment Board, Nowshera should provide the requested information about the reasons in the shape of notification and court orders which led to the demolition of these places of worship.
14. This commission also holds that public interest trumps privacy of those who now own commercial plots, commercial plazas and houses on lands that were previously the places of worship. This commission holds that if places of worship have been replaced with commercial plot, commercial plaza or a house, it must have been done in a legal manner and under the relevant laws of the land. As such, citizen has the right to know which places of worship have been replaced with commercial plots, commercial plazas and houses.
15. This commission maintains that Information and location of land/commercial plots, houses and places of worship belonging to Okaaf situated in the jurisdiction of Cantonment Board, Nowshera is public information and there is no legal justification for withholding this information from the citizen. Similarly, Information and location of land/commercial plots, houses and places of worship belonging to MEO situated in the jurisdiction of Cantonment Board, Nowshera is public information and there is no legal justification for withholding this information from the citizen.
16. This commission maintains that disclosure of the requested information will help achieve the stated objectives of Act enunciated in its Preamble which are as under:
  - a. Making government more accountable to citizens’;
  - b. Greater level of participation of citizens in the affairs of the government’;
  - c. ‘Reducing corruption and inefficiency’;
  - d. Promoting sound economic growth’; and
  - e. Promoting good governance and respect for human rights.

#### **E. Order**

17. Appeal is allowed. Cantonment Executive Officer, Cantonment Board Nowshera is directed to provide complete information mentioned in para 2 of this Order to the

Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.

18. Cantonment Executive Officer, Cantonment Board Nowshera is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put contact details of PIO on its web site 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.
19. Cantonment Executive Officer, Cantonment Board Nowshera 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](http://www.rti.gov.pk). The compliance report be submitted to this commission within 30 days of the receipt of this Order.
20. Copies of this order be sent to Cantonment Executive Officer, Cantonment Board Nowshera and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on:

July 14, 2021

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