

Pakistan Information Commission
Government of Pakistan
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In the Pakistan Information Commission, Islamabad

Appeal No 1072-05/21

Murtaza Hashim

(Appellant)

Vs.

Secretariat, Senate of Pakistan

Through its Public Information Officer

(Respondent)

ORDER

Date: July 05, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on April 26, 2021, to the Commission, stating that he had submitted information requests to the Public Information Officer, (PIO), Senate of Pakistan on March 28, 2021 under the Right of Access to Information Act 2017 but did not receive any response from the public body.

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

“Job Description (JD), Administrative and Financial Powers of Section Officer (BPS-17) in Senate of Pakistan, Senate Secretariat, Islamabad. Gross and Net Salary paid to Section Officer (BPS- 17) in of Senate of Pakistan, Senate Secretariat, Islamabad. When Senate of Pakistan, Senate Secretariat Islamabad starts recruitment process against the post of Section Officer (BPS-17). Proposed syllabus for recruitment of Section Officer (BPS-17) in Senate of Pakistan, Senate Secretariat, Islamabad. Service structure for the post of Section Officer (BPS-17) in Senate of Pakistan, Senate Secretariat, Islamabad”.

B. Proceedings

3. Through a notice dated June 03, 2021, sent to PIO, Senate of Pakistan, 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. Through a letter dated June 21, 2021, the PIO submitted the response and its text is as under:

“I am directed to refer to Appeal No. 1072-05/2021 dated 03rd June, 2021, and to state that in terms of Rule 52 of the Rules of Procedure and Conduct of Business in the Senate, 2012, read with Section 7(f) of the Right of Access to Information Act, 2017, the Chairman Senate is authorized to declare any or all record of the Senate Secretariat as classified. Therefore, the requisite information being classified in nature cannot be provided in terms of Section 7(f) of the Right of Access to Information Act, 2017”.

The PIO also shared with the commission an Order passed by Honourable Chairman, Senate of Pakistan and its text is as under:

“Secretariats of the Parliament, Senate and National Assembly, are Constitutional bodies. Constituted under Article 87(1) of the Constitution of the Islamic Republic of Pakistan, 1973, these Secretariats, their employees and terms & conditions of their services carry a Constitutional cover. Work of Parliament is not only extremely significant but also highly sensitive. In view of this, the Senate made a special provision for the Senate Secretariat in its Rules of Procedure and Conduct of Business in the Senate, 2012. Rule 52 of the ibid Rules provides that questions relating to the Secretariat of the Senate may be asked of the Chairman by means of a private communication and not otherwise or in the House. Intent of the legislature is worth noting that public disclosure of information related to Senate Secretariat is not allowed even for the legislators in the House. Furthermore, in terms of Section 6 of the Rights of Access to Information Act, 2017, information regarding the Senate Secretariat employees cannot be termed as 'public record'. Perusal of Rule 52 of the Rules of Procedure and Conduct of Business in the Senate, 2012, as quoted above, read with Section 7(f) of the Right of Access to Information Act, 2017, reveals that the Chairman Senate is authorized to declare any or all record of the Senate Secretariat as classified. In view of Constitutional sanctity provided to the Senate Secretariat, sensitive nature of work performed by its employees, special provision for the Secretariat in Senate's Rules of Procedure and Conduct of Business, taking note of Section 6 of the Rights of Access to Information Act, 2017, and also taking into account that I hereby declare the record of Senate Secretariat employees, their sanctioned strength and related numbers, their perks and privileges, incumbency/vacancy position and all other related and ancillary matters as classified. Service Rules and Service Act are public documents and hence available on Senate website”.

C. Issues

5. The instant appeal has brought to the fore following issues:

(a) Can the requested information about job *Description (JD), Administrative and Financial Powers, Gross and Net Salary, recruitment process, syllabus for recruitment of Section Officer (BPS-17) in Senate Secretariat* be exempted under the provisions of the *Right of Access to Information Act, 2017, henceforth referred to as Act?*

(b) *Does the harm from the disclosure of the requested information outweigh public interest? and*

(c) *Is there any Act or any Rules that override the provisions of this Act?*

D. Discussion and Commission's View on Relevant Issues

6. This commission holds that the requested information about job Description (JD), Administrative and Financial Powers, Gross and Net Salary, recruitment process, syllabus for recruitment of Section Officer (BPS-17) in Senate Secretariat is public

information under Section 5 (1) (a) and Section 6 (c) of the Act. Hence, this information should have been provided to the appellant on the request.

7. This commission is of the view that the requested information about job Description (JD), Administrative and Financial Powers, Gross and Net Salary, recruitment process, syllabus for recruitment of Section Officer (BPS-17) in Senate Secretariat cannot be exempted under Section 7 (f) of the Act. Under this Section, the information can only be exempted from disclosure when it is established through recorded reasons that the harm from disclosure of information outweighs public interest.
8. The Honourable Chairman, Senate of Pakistan has restricted the disclosure of requested information on the ground of 'sensitive nature of work' performed by the employees of the Senate Secretariat. This commission is of the view that exempting the requested information on the ground of 'sensitive nature of work performed by the employees of the Senate Secretariat does not meet the threshold of harm from disclosure outweighing public interest. The Appellant has not sought access to any sensitive information/records. The Appellant has sought information about job Description (JD), Administrative and Financial Powers, Gross and Net Salary, recruitment process, syllabus for recruitment of Section Officer (BPS-17) which is a matter of public importance.
9. This commission is of the view that right of access to information in matters of public importance can only be restricted on reasonable grounds supported by law. This commission holds that only provisions of this Act can restrict disclosure of any information. That is why the citizens of Pakistan through their elected representatives have provided overriding effect to this Act through insertion of Section 25 which is as under:

“Act to override other laws--- The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force”.
10. This commission is of the view that the disclosure of the requested information will not only strengthen the Senate Secretariat as an institution but will also help achieve stated objectives of the 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.
11. This commission notes with concern that the Senate Secretariat has neither implemented nor approach Islamabad High Court to set aside earlier Orders of the commission in Appeal No. 051/06/19, Mukhtar Ahmed Ali Vs. Senate Secretariat and Appeal No. 632-09/20, Taimoor Khan Vs NA Secretariat and Senate Secretariat.

E. Order

12. Appeal is allowed. The Public Information Officer, Secretariat, Senate of Pakistan is directed to provide 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.
13. 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.

14. Copies of this order be sent to The Public Information Officer, Secretariat, Senate of Pakistan and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

July 06, 2021

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