



**In The Pakistan Information Commission, Islamabad**

**Appeal No E125-07/21**

**Sadia Bashir**

(Appellant)

Vs.

**Capital Development Authority**

(Respondent)

**Order**

**Date:** August 24, 2021

**Zahid Abdullah:** Information Commissioner

**A. The Appeal**

1. The Appellant through online Appeal Management System filed Appeal on July 03, 2021, to the Commission, stating that:  
*“CDA has sealed two shops operating illegally on residential street 14, G-8/1 dated April 2021. Building Plot 63 and Building Plot 64 (seal orders attached). These shops are reopened and CDA is not responding to requests or documentation whether the shops have reopened legally or are they as CDA has determined illegal.”*
2. The appellant sent information request to the Chairman, Capital Development Authority on April 20, 2021.

**B. Proceedings:**

3. Through a notice dated June 08, 2021, sent to Syed Safdar Ali Shah, Secretary CDA Board, Capital Development Authority, the Commission called upon the Respondent to submit reasons for not providing the requested information.
4. The appeal was fixed for hearing on August 12, 2021 and both parties were informed through notices sent on August 02, 2021.
5. Mr. Misbah Ul Mustafa, Counsel Capital Development Authority and Appellant Sadia Bashir attended the hearing held on August 12, 2021.
6. The Respondent through a letter vide No. CDA/DD BCS-II-(23)/8/I&T Centre/G-6/1/2021/602 dated August 12, 2021 submitted response which is as under:

*“The applicant has requested for following information, which is provided as under*

<b>SR. No.</b>	<b>Question / Information Requested</b>	<b>Reply / Information</b>
1.	<i>Whether any permission was sought from the competent authority to dig l occupy the public place (footpath) by the Toyota Islamabad Motors or otherwise?</i>	<i>No. CDA has not given any kind of permission to carry out any activity on CDA land.</i>

		<i>In this regard, notice has already been issued to the violators.</i>
2.	<i>Whether the completion certificate of the building has been issued by the CDA for the Plot no.7, G-6/1/1 or otherwise?</i>	<i>CDA has not issued completion certificate against building on plot.no.7, G-6/1/1, Islamabad.</i>
3.	<i>Whether CDA will initiate action to retrieve the public place (footpath) for public use or otherwise?</i>	<i>The owner/occupant has been issued notice against the violations adjacent to building on CDA land, after expiry of notices, the case shall be referred to Enforcement Directorate to carry out the required action as per rules.</i>

7. Response submitted by the public body was shared with the appellant on August 13, 2021.

**C. Issues:**

8. This Appeal has brought to the fore following issues:

(a) Did the Respondent, CDA follow procedure in responding to the information request filed under the Right of Access to Information Act 2017, henceforth referred to as Act?

(b) What action is to be taken if the issue of maladministration comes before this commission during the proceedings on the Appeal?

(c) Has the Respondent carried out its obligations under the Act with regard to the proactive disclosure of information as required under Section 5 of the Act?

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

9. In the instant appeal, the Chairman, CDA, 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.
10. The Respondent also failed in adhering to 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.
  11. The Chairman, CDA, has neither designated Public Information Officer, as required under the Right of Access to Information Act 2017 nor ensured implementation of Section 5 of the Act.
  12. The instant Appeal has also highlighted the sorry state of affairs with regard to the disposal of complaints of citizens. The Appellant filed request for information with the Respondent, CDA on April 20, 2021 seeking information as to whether shops in *Building Plot 63 and Building Plot 64 sealed by CDA* were opened legally or illegally.
  13. As the record on the file suggests, CDA took action on the complaint of the citizen on the day hearing on this issue was held on August 12, 2021. From April 20, 2021 to August 12, 2021, CDA did nothing on the complaint of the citizen and on the date of hearing sent letter to Assistant Commissioner for the registration of the FIR. The fact that the officers concerned took more than three months to take action on the complaint of the citizen demonstrates dereliction of duty on the part of the concerned citizens.
  14. This commission through its Orders in Appeal No 324-02/2020, in the case of Parsa Vs. Capital Development Authority, issued on August 27, 2020 and Appeal No. 322-02/2020, in the case of Fiza Mazhar Vs Capital Development Authority, issued on January 01, 2021, issued specific directions “to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification 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 reports to the commission within 10 working days of the receipt of these Orders.
  15. The Respondent, CDA has demonstrated utter disregard to the Orders of this commission. If directions of the commission in this Order are not followed, it will invoke Section 20 (f) of the Right of Access to Information Act 2017.

#### **E. Order**

16. The appeal is disposed of to the extent of providing the information as the Respondent has provided the requested information.
17. The Chairman, CDA is directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put the notification 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 reports to the commission within 3 working days of the receipt of this Order.

18. Copies of this order be sent to Chairman, CDA and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on: August 24, 2021

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