



In the Pakistan Information Commission, Islamabad

Appeal No 892-02/21

Zahid Hussain Wasim

(Appellant)

Vs.

Pakistan Engineering Council

(Respondent)

Order

Date: August 31, 2021

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, date January 30, 2021, to the Commission, stating that he Submitted an information request to the Pakistan Engineering Council dated January 04, 2021 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.
2. The information sought by the Appellant is as under:

“That, M/s EPCS (Private) Limited, Lahore is registered in Pakistan Engineering Council (PEC) as consultant and having license no. PEC/Consult/1953. Applicant request all copies of documents subject to qualifications and experience that was submitted by the functionaries of M/s EPCS (Private) Limited, Lahore to PEC at the time of registration and renewal of License.”

B. Proceedings

3. This commission through a notice dated February 17, 2021 sent to the Chairman, Pakistan Engineering Council called upon the Respondent to submit reasons for not providing the requested information.
4. Through another notice dated April 26, 2021 the Respondent was directed to submit written arguments before May 13, 2021 otherwise, the appeal will be decided Ex Parte in the light of the record available on the file and the Right of Access to Information Act, 2017.
5. The Respondent through a letter vide. No. PEC/Legal/Misc/84 dated May 06, 2021 requested to provide copy of the appeal and information request.
6. Copies of the appeal and information request filed by the appellant were shared with the Respondent on May 20, 2021 with the directions to submit response in writing within 7 working days.

7. The Respondent through a letter vide No. PEC/Legal/Misc./97 dated June 04, 2021 submitted response which is as under:

"In this regard, it is to state that the applicant has failed to disclose in his application dated 4th & 30th January, 2021 that for what reason he is required to have access of the desired record relating to the company M/s. EPCS (Private) Limited, Lahore. Neither, he has mentioned in his reference that what are his concerns, so that he is required the information about the above company.

In this regard, it would apropos to refer Section 6 & 7 of the Right of Access to Information Act, 2017. Section 6 clarifies the definition of public record which is as follow: "6. Declaration of public record.- Subject to the provisions of section 7, the following record of all public bodies is hereby declared to be the public record, namely:

(a) policies and guidelines;

(b) transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties and functions;

(c) information regarding grant of licences, allotments and other benefits, privileges, contracts and agreements made by a public body;

(d) final orders and decisions, including decisions relating to members of public; and

(e) any other record which may be notified by the Minister-in-charge of the Federal Government as public record for the purpose of this Act."

While Section 7 of the Act ibid clarifies the record which are excluded to be declared as public record:

7. Exclusion of certain record. -

(a) noting on the files, subject to a final decision by the public body;

(b) minutes of meetings, subject to a final decision by the public body;

(c) any intermediary opinion or recommendation subject to a final decision by the public body;

(d) record of the banking companies and financial institutions relating to the accounts of their customers;

(e) record relating to defence forces, defence installations or connected therewith and ancillary to defence and national security excluding all commercial and welfare activities;

(f) record declared as classified by the Minister-in-charge of the Federal Government:

Provided that the Minister in-charge of the Federal Government will have to record reasons as to why the harm from disclosure of information outweighs public interest, and further that information pertaining to allegation of corruption and violation of human rights shall not be excluded;

(g) record relating to the personal privacy of any individual; and

(h) record of private documents furnished to a public body either on an express implied condition that information contained in any such documents shall not be disclosed to a third party."

Section 7(h) of the Act clearly restricts the Council to disclose the information and in the documents furnished by a private entity to a third party, hence the same was not passed on to the applicant. PEC being the regulator of Profession of Engineering itself securitize all the documents furnished by company(s) at the time of registration or renewal without passing the same through the filter set out by the Council. It is not possible for any company

to acquire desired status unless or until all information viz: documents attached in support thereof are found true and genuine.

For the reason as narrated above, the application, being devoid of merit and without substance was not entertained, as the applicant desired to have access to the record of private company furnished to a public institution.”

8. The appeal was fixed for hearing on July 06, 2021 and both parties were informed through notices sent on June 09, 2021.
9. Engr. Dr. Shahjhan Khalil, Deputy Registrar, Pakistan Engineering Council, attended the hearing held on July 06, 2021 and committed to provide the requested information after getting approval from the board within one week.
10. Despite the passage of more than one month this commission did not receive any response/information from the Respondent.

C. Discussion and Commission’s View on Relevant Issues

11. The commission has to decide that whether the citizen has the right to access the documents submitted by the license holders to the public bodies and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred as Act.
12. The information / documents requested by the appellants is public documents under Section 5 (1) (e) of the Right of Access to Information Act, 2017 which is as under:

“The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body”
13. This commission observes that is a matter of public importance as on the basis of experience and qualification the licence holders avail different projects that are directly related to the public matters and the citizen have the right to check the experience and qualification of the companies who are executing government projects.
14. The Respondent in its response dated June 04, 2021 stated that the appellant did not mention that what are his concerns, and for what reasons he requires the information about the company. According to Section 11 (5) of the Act, the appellant can not be asked for the reasons to avail any public document from public bodies.

Section 11 (5) is as under:

“(5) In no case shall an applicant be required to provide reasons for his request.”
15. According to Section 14 of the Act, the public body shall be required to response to a request as soon as possible and in any case within ten working days of receipt of the request, however, in the instant appeal despite the commitment before the commission to provide the requested information to the appellant, the public body neither provided requested documents to the appellant nor submitted any response to the commission.
16. This commission has observed that the public bodies are reluctant to share the basic information to the citizen which should be available on their website under the Section 5 of the Act, the citizens have to approach the commission for information due to the the

wilful delay or denial by the public which causes undue cost to citizens and the commission.

17. According to Section 9 of the Act, each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent; but the Respondent has not so far nominated any official to deal with the information request of the citizen.
18. According to Section 19 (d) of the Act, this commission is bound to make sure the all information determined in Section 5 of the Act available on the website of the public bodies. In this regard, the Pakistan Information Commission has developed a template to ensure proactive disclosure of information. The template is available on the website of this commission i.e. www.rti.gov.pk
19. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

20. The appeal is allowed. The Chairman, Pakistan Engineering Council is directed to provide the information requested in Para 2 with intimation to this office, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
21. The Respondent is also directed to designate Public Information Officer as required under Section 9 of the Act and upload its notification along with the name, designation and contact details on its website as required under Section 5 (1) (b) and (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
22. The public body is also 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 by September 27, 2021.
23. Copies of this order be sent to the Chairman, Pakistan Engineering Council and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:
August 31, 2021

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