

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1114-05/21

Ch. Muhammad Saeed

(Appellant)

Vs.

National Accountability Bureau

(Respondent)

Order

Date: October 12, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated June 01, 2021, to the Commission, stating that he submitted an information request to the Director General, National Accountability Bureau, Punjab on May 18, 2021 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.
2. The Appellant requested access to the record submitted by National Engineering Services of Pakistan, National Logistic Cell and City District Government, Lahore to NAB in pursuance of his application, Reference No. 1(9)HQ/1087NAB-P, dated April 28, 2014. He also sought access to the findings of enquiry report pertaining to this matter.

B. Proceedings

3. Through a notice dated June 14, 2021 sent to the Director (Media) / Public Information Officer, National Accountability Bureau (NAB) called upon the Respondent to submit reasons for not providing the requested information.
4. The Respondent did not respond to the notice of the commission.
5. The Appeal was fixed for hearing on August 19, 2021 and both parties were informed through notices sent on July 12, 2021.
6. The appeal was again fixed for hearing on September 23, 2021 and both parties were again informed through notices sent on September 06, 2021

7. The respondent did not attend the hearings.

C. Issues

8. The question before this commission is whether a citizen has the right of access to the findings of enquiry held against public bodies on his application and the records retrieved by the Respondent during the proceedings of the enquiry?

D. Discussion and Commission's View on Relevant Issues

9. The commission is of the view that enjoyment of fundamental freedoms and the exercise of fundamental human rights is dependent on our ability to exercise the right to information. Our constitutional right of access to justice is also dependent on the exercise of our constitutional right to information.

10. This commission has already held through its different Orders that information pertaining to finalised enquiry reports is public information. As such, this information is not only to be provided to citizens when requested but public bodies are obligated to proactively publish through their web sites all finalised enquiry reports as required under Section 5 (1) (i) of the Act.

11. The right of access to information in matters of public importance is not absolute right. However, the right of access to information in matters of public importance can only be restricted, as Article 19-A dictates, through "reasonable restrictions imposed by law".

12. This commission holds that information/records can only be exempted by following process laid down under the Right of Access to Information Act, 2017. Furthermore, this commission also maintains that the Act does not provide absolute and blanket exemption to any record.

13. Section 7 (f) allows a Minister-in-charge to classify a record which is as under:

"Records declared as classified by the Minister-in-charge of the Federal Government Provided that the Minister-in-Charge of the Federal Government shall 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;"

14. This commission also maintains that proactive disclosure or otherwise of all kinds of reports held by federal public bodies should be determined under Section 5 (1) (i), Section 7 (f), Section 16 (1) (i) and Section 16 (1) (k) of the Act.

15. While all federal public bodies are required to proactively publish all finalised reports and the records retrieved during the process of the enquiry, some of these reports, or, some parts thereof may be exempted from disclosure on legitimate security or other concerns.

D. Order

16. The appeal is allowed. The Public Information Officer is directed to provide copies of the record submitted by National Engineering Services of Pakistan, National Logistic Cell and City District Government, Lahore to NAB in pursuance of his application, Reference No. 1(9)HQ/1087NAB-P, dated April 28, 2014, after deducting any record, or, parts thereof which hit exceptions mentioned in Sections 16 of the Act, along with the cover letter stating that these are copies of the records as received by the Respondent. The PIO is also directed to share with the Appellant certified copy of the final enquiry report pertaining to this matter after deducting any record or, parts thereof which hit exceptions mentioned in Section 16 of the Act. This information be provided to the Appellant, with intimation to this commission, at the earliest, but in any case, not later than 10 working days of the receipt of this Order.
17. Copies of the Order be sent to the Appellant and the Respondent.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

October 12, 2020

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