

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1318-09/21

Muhammad Waseem Elahi

(Appellant)

Vs.

Wafaqi Mohtasib (Ombudsman)'s Secretariate

(Respondent)

Order

Date: October 27, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant through email filed an appeal, dated September 08, 2021, to the Commission, stating that he submitted an information request to Wafaqi Mohtasib (Ombudsman)'s Secretariate on August 10, 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:

“Kindly confirm/advise that whether someone can represent the complainant in front of advisor of Wafaqi Mohtasib through Authority letter when complainant himself/herself gives authority to that person. In either case, please inform with relevant rules of Wafaqi Mohtasib.”

B. Proceedings

3. Through a notice dated September 15, 2021 sent to the Director General, Wafaqi Mohtasib (Ombudsman)'s Secretariat the commission called upon the Respondent to submit reasons for not providing the requested information.

4. The Respondent through a letter vide No. 3(251) A-II/2017 dated September 22, 2021 submitted response which is as under:

“It is submitted that the requested information is available on WMS Website www.mohtasib.gov.pk. However, it is pertinent to mention that procedure and evidence for making a complaint to Wafaqi Mohtasib is given in Article 10 of P.O. No. 1 of 1983, which is reproduced as under:

Article 10 Sub Article (1) & (6) of P.O. No. 1 of 1983.

Procedure and evidence.....(1) A complaint shall be made on solemn affirmation or oath and in writing addressed to the Mohtasib by the person aggrieved or, in the case of his death, by his legal representative and may be lodged in person at the office or handed over to the Mohtasib in person or sent by any other means of communication to the office.

(6) A person shall be entitled to appear in person or be represented before the Mohtasib.

Moreover this procedure is also given in Regulation 3 of the WMS (Investigation & Disposal

2. of Complaints) Regulations 2013, which is also reproduced below: Presentation of Complaints: (1) A complaint written in English or Urdu or any regional language may be presented at the Head Office or any of the Regional Office by the complainant personally or through his representatives or may be sent by post, courier service, fax, email, online or any other means of communication....

3. The complainant being a law knowing person should had to consult the relevant law and regulations, which are also available on Wafaqi Mohtasib Website before making any quarry or complaint. Since the required information is already available which can be accessed by any person from anywhere through the website of the Wafaqi Mohtasib Secretariat, hence, the complainant has no locus standi to file this complaint with Pakistan Information Commission. 4. In light of the above submission, the complaint of the complainant may graciously be dismissed.”

5. Response submitted by the public body was shared with the appellant on September 24, 2021.

6. The appellant through a letter dated October 06, 2021 submitted rejoinder to the response of the public body which is as under:

“Refer to your letter dated September 24, 2021 received to undersigned on 2021 along with copy of (response of the Respondent) October 04. se letter No 3(251) A-11/2017 dated 22nd September, 2021.

It is to mention that an Advisor of Wafaqi Mohtasib Secretariat during a hearing said that a complainant cannot be represented by someone else on his/her behalf; therefore, need arouse to seek this information in writing

Cited Article 10 Sub Article (1) & (6) of P.O. No. 1 of 1983 and Regulation 3 of WMS (Investigation & Disposal of Complaints) Regulations 2013 should be in the knowledge memory of the dealing 'Advisor' as well.

An Advisor of WMS blatantly mentioned in his findings that complainant attended the hearing whereas complainant was represented He was deliberately annoying and avoiding the representative due to unknown reasons.

It would be appropriate to request information regarding code of conduct, aptitude test, entry test skill test regarding Establishment of the Office of Wafaqi Mohtasib (Ombudsman) Order 1953 Wafagi Mohtasib (Ombudsman)'s Investigation and Disposal of Complaints Regulations 2013 that whether an Advisor has command on these legal framework which are very basic to deal with complaint/complainants.

In last it is being anticipated that this information should be mentioned in FAQ (<https://mohtasib.gov.pk/Detail/YmZhYzY4ODKININKMC00ZWNILWI4YJAIYVIYzJmZjl kYjc2>) section on Wafaqi Mohtasib's website for the ease of Complainant / Representative / Advisor etc.”

C. Issues

7. The instant appeal has brought to the fore following issue:
Has the requested information been provided to the Appellant in accordance with the requirements of the Right of Access to Information Act, henceforth referred to as Act?

D. Commission's View on Relevant Issues

8. This commission is of the view that the requested information has been provided to the Appellant. Furthermore, the requested information is available on the web site of the Respondent as well.

9. This commission also holds that subsequent issues raised by the Appellant are neither part of the original request for information nor can be treated as request for information under the Act.
10. This commission has observed that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 of the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.
11. This commission maintains that the information proactively published under Section 5 of the Right of Access to Information Act 2017 should be 'accessible' for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of 'accessible' in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:

“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

E. Order

12. Appeal is dismissed as the requested information has been provided to the Appellant.
13. The Respondent is directed to proactively publish all categories of information through its web site as required under Section 5 of the Act 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 at the earliest but not later than 10 working days of the receipt of this Order.
14. The Respondent is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using 'Web accessibility checklist'. This checklist 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 at the earliest but not later than 10 working days of the receipt of this Order.
15. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: October 28, 2021

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