

**Pakistan Information Commission**  
**Government of Pakistan**

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**Appeal No. 935-03/2021**

**Sarwar Kamal**

**Vs**

**National Highway Authority**

**Date of Hearing: 07.10.2021**

**Fawad Malik: Information Commissioner**

**APPEAL**

1. Mr. Sarwar Kamal, a resident of village Jughour Dawashish Tehsil and District, Chitral filed an application to the Director Regulations, National Highway Authority requesting therein compensation for the damage caused to his property due to the construction of road. He has invoked the Right of Access to Information Act, 2017 for seeking the stance of National Highway Authority pertaining to demand of compensation.
2. The application was not responded by respondent organization therefore appeal is filed before the Pakistan Information Commission.

**PROCEEDINGS**

3. The notice of the commission was responded by the designated officer NHA-HQ vide letter dated 22<sup>nd</sup> June, 2021. The contents of the reply are reproduced as under:

- 1) *“That applicant filed an application to Mr. Riaz Ahmed Abid director (Regulation) as he stated in his application instead of this office.*
- 2) *Those applications of Sarwar Kamal received under right of information Act through subject notice received vide dated 18.6.2021.*
- 3) *That land acquisition matter is purely domain of the LAC/District Collector concerned, and he pay the compensation of acquired land after fulfilment of all Coddle formalities through award u/s 11 of LAA 1894.*

- 4) *That applicant did not mention any identification of land khasra Number, copy of Fard and location, Mouza / Patwar circle Tehsil and District. That without clear information / identification of land the case cannot be processed.*”
4. Mr. Hamad Arif Khan, Advocate appeared on behalf of the respondent organization during the course of hearing. He has argued and objected that the request of the appellant for the compensation is beyond the jurisdiction of this Commission as the compensation sought does not fall within the scope of the RTI Act of 2017.

#### COMMISSION’S VIEW

5. That the appellant in his request has asked as to whether his demand for compensation is genuine and based on merit. The organization in its reply has maintained that the land acquisition matter is purely domain of the concerned LAC/District Collector, and he pay the compensation of acquired land after fulfilment of all codal formalities through award u/s 11 of LAA 1894. The learned counsel on behalf of the respondent organization has objected that the appeal before the Commission is not maintainable as the request is not covered under the Right of Access to the information Act, 2017.
6. The commission is mindful that the access to information is a fundamental right provided to the citizens under the Constitution of Islamic Republic of Pakistan. Further, the protection of the private property of the citizens is responsibility of the state. Article 8 of the Constitution of Pakistan states that the laws inconsistent with or in derogation of fundamental rights are void. Keeping in view the fundamental rights provided in the Constitution the appellant couldn’t be stripped out merely on the point of technicality that the application is not properly drafted. The fundamental rights couldn’t be denied or turned down due to ignorance of the applicants qua the relevant law on the subject. Even otherwise the designated official of the public bodies is assigned the function to assist the applicant who is facing problems in describing information sought in sufficient detail to enable public body to locate the information. The designated officer in this case hasn’t fulfilled his mandatory responsibility. The applicant couldn’t be deprived of his fundamental rights therefore Commission is of the view that provision of substantial justices is also the duty of Commission.
7. The appellant although has not specifically expressed the information/record in his request but after going through the appeal and the contents of the file it presumed that the appellant is seeking information/record pertaining to the compensation awarded to the effected of the constructions of the roads. The RTI law is considered as the key to all rights and for that end the appellant

require the relevant information/record to avail his legal remedies before the forum of competent jurisdiction. The contracts and agreements are the public record as defined in the Act.

**ORDER**

8. The appeal is allowed. The Designated Officer/Deputy Director (Land)-1, National Highway Authority, Islamabad is directed to provide the appellant all the relevant record including copy of the contract, all final inspection reports and law/ rules related to the compensation awarded to the effectees, pertaining to the construction of road (N-45), forthwith, but in any case not later than ten days of the receipt of this order.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 11.10.2021

Certified that this order consists of three (3) pages, each page has been read and signed.