

Pakistan Information Commission

Government of Pakistan

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In the Pakistan Information Commission, Islamabad

Appeal No 1315-09/21

Shahnaz Begum

(Appellant)

Vs.

Ministry of State and Frontier Regions

(Respondent)

ORDER

Date: November 02, 2021

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on September 06, 2021 to the Commission, stating that she had submitted information requests to the Secretary, Ministry of States and Frontier Regions on July 13, 2020, under the Right of Access to Information Act 2017 but did not receive any response from the public body.

2. The information sought by the Appellant is as follows:

“It is submitted that the applicant was retrenched from her service as Deputy Director Community Development Unit Afghan Commissionerat Peshawar KP, vide order No-11891-97 dated 1-1-2021. Stating that due to abolished of post by UNHCR. (In fact the post is not abolished) Sir I made appeals to Secretary SAFRON as well as Chief Commissioner Afghan Refugees Islam Abad but no action was taken in the matter (copies attached). The Afghan Commissionerat authorities were of the view that UNHCR is the funding body has abolished the post? Section officer (RWM) of SAFRON also replied me on my appeal that your post was retrenched from contractual Services due to Budget constrain. (Copy attached) On this reply by SAFRON I made another request for the Review to Secretary SAFRON on 13-7-2021. (Copy attached) In reply of my review application, SAFRON requested Chief Commissioner Afghan Refugees (CCAR) for their comments and send me only the copy of that letter on 4-8-2021. (Copy attached) Sir, after all these correspondences I request the concerned departments i.e. SAFRON, CCAR, CAR KP to intimate me the UNHCR correspondence made with CAR that my post has been retrenched by name and according to FIRST come LAST go policy but till date they did not furnished the requirements or not satisfied my needs. Now I compiled to request your good self that CAR may be approached to send me the PPA (project Partnership Agreement) 2021 correspondence in which UNHCR has made the decision to abolish my post by name, that the Shahnaz Begum post is retrenched in the budget 2021.

B. Proceedings

3. Through a notice dated September 15, 2021, sent to Public Information Officer, (PIO), the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide

reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.

4. The Respondent through another notice dated September 29, 2021 was directed that the above-mentioned appeal is pending decision before this Commission. The text of the notice is as under:

“In pursuance of the Standard Operating Procedures issued by the Government of Pakistan for the Covid-19 and to ensure public safety, the personal appearance before the Commission at the time of hearing, is condoned for the time being. Therefore, you are directed to submit your written reply and arguments to Pakistan Information Commission within fifteen days of the receipt of this notice.

Copies of the supporting documents may be annexed with the written arguments. If the written arguments are not submitted within 15 days, the appeal will be decided Ex Parte in the light of the record available on file and the Right of Access to Information Act 2017”

C. Issues

5. The instant appeal has brought to the fore following issue:
 - (a) Can the certified copies of correspondence pertaining to the PPA (project Partnership Agreement) 2021 in which UNHCR has made the decision to abolish the post by name, and that the Shahnaz Begum post is retrenched in the budget 2021?
 - (b) Has the Respondent carried out its obligations under the Right of Access to Information Act 2017, henceforth referred to as Act?

D. Discussion and Commission’s View on Relevant Issues

6. This commission is of the view that the Appellant has the right to know whether or not the post she worked on has been abolished/retrenched in budget 2021. The certified copies of the correspondence pertaining to the PPA (project Partnership Agreement) 2021 in which UNHCR has made the decision to abolish the post will reveal the facts. Therefore, the disclosure of certified copies of the correspondence pertaining to the PPA (project Partnership Agreement) 2021 between UNHCR and Commissionerate Afghan Refugees to abolish the post is in public interest.
7. This commission has noted that the Respondent has not taken steps for the implementation of the Act.
8. In the instant appeal, Secretary, Ministry of States and Frontier Regions, 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 has 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.”
9. Secretary, Ministry of States and Frontier Regions 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.
 10. Secretary, Ministry of States and Frontier Regions 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.
 11. 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 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.
 12. 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

13. The Appeal is allowed. Secretary, Ministry of States and Frontier Regions is directed to share with the Appellant certified copies of the correspondence pertaining to the PPA (project Partnership Agreement) 2021 between UNHCR and Commissionerate Afghan Refugees to abolish the post as requested in para 2 of this Order at the earliest but not later than 10 working days of the receipt of this Order with intimation to this commission.
14. 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.

15. 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.
16. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:
November 02, 2021
This order consists of 4 (four) pages, each page has been read and signed