



In the Pakistan Information Commission, Islamabad

Appeal No 1361-09/21

Umar Hanif Khichi

(Appellant)

Vs.

Ministry of Foreign Affairs

(Respondent)

ORDER

Date: December 15, 2021

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. The Appellant filed Appeal on September 27, 2021, to the Commission, stating that he had submitted information requests to Secretary, Ministry of Foreign Affairs on September 02, 2021 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 requested, to provide me the 03 Sets of Certified Copies of the following documents and my client is willing to Pay for the copies:

(a) Letter of M/o Foreign Affairs u.o. No: Con(II)-22/11/2010 Dated 03/03/2012;

(b) Verification Letter issued by Mr. Ghulam Mustafa Anjum, the then Dy. Director (Con I), M/o Foreign Affairs;

(c) Entry(ies) of the above referred letters in the Diary/Dispatch Register, i.e., mentioned in (a) and (b);

(d) Copy of the Record available in the M/o Foreign Affairs regarding GPAs on the basis of which the verification was done.”

B. Proceedings

3. Through a notice dated October 11, 2021, sent to Spokesperson / Public Information Officer, Ministry of Foreign Affairs 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 a letter vide No. Spk-1361-09/21 dated November 02, 2021 submitted its response which is as under:

“As almost 10 years have passed, the letter dated 03.03.2012 is not traceable and therefore it is, respectfully requested that the appeal may be dismissed under Section 12 as the Ministry does not hold the requested information or record.”

5. The Appeal was fixed for hearing on November 16, 2021 and both parties were informed through notices sent on November 04, 2021.
6. The Appellant attended the hearing, while no one appeared before the Commission to represent Respondent during the hearing held on November 16, 2021.

C. Discussion and Commission’s View on Relevant Issues

7. The commission has to decide that
 1. Whether the information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request?
 2. Whether the reasons submitted by the Respondent to refuse the provision of information to the appellant are enough to dismiss the appeal?
8. The information requested by the appellant belongs to the Section 5 (b) of the Right of Access to Information Act, 2017, hereafter referred to as the “Act”. Section 5(b) of the Act is as under:

“b) Statutes, statutory rules, regulations, bye-laws, orders and notifications, etc. Applicable to the public body disclosing the date of their respective commencement or effect.”
9. The Respondent in letter vide No. Spk-1361-09/21 dated November 02, 2021 have stated that *“As almost 10 years have passed, the letter dated 03.03.2012 is not traceable and therefore it is, respectfully requested that the appeal may be dismissed under Section 12 as the Ministry does not hold the requested information or record.”*
10. This Commission observes that mere stating the record is not traceable is not a justification, According to Section 4 (1) of the principal officer of each public body shall ensure that the record held by that body is properly maintained, so as to enable it to comply with its obligation under this Act.
11. Section 4(1) of the Act is as under:

“(1) Subject to the provisions of this Act and rules made there under, the principal officer of each public body shall ensure that the record held by that body is properly maintained, so as to enable it to comply with its obligation under this Act,”
12. Section 4(2) states:

“(2) Each public body shall bring its record management practices in line with the secretariat instruction, 2004 or any other instructions of the Federal Government.”
13. The Respondent has to determine and explain who is/was responsible for the indexing and maintenance of the record and what measures has been taken by the department for the reproduction of the requested documents.
14. 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.
15. 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”.

D. Order

16. Appeal is allowed. Spokesperson / Public Information Officer, Ministry of Foreign Affairs is directed to provide complete information mentioned in para 2 of this Order to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
17. The Respondent is directed to conduct enquiry to determine the responsibility for the misplacement of the requested records and submit compliance report to the commission within one month of the receipt of this Order.
18. The Respondent 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 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 within 30 days of the receipt of this Order.
19. 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.
20. Copies of this order be sent to Spokesperson / Public Information Officer, Ministry of Foreign Affairs and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: December 15, 2021

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