

**IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD**

APPEAL NO. E-183-11-2021

Engineer Muhammad Jahanzeb

Versus

Directorate General of Special Education

Date of Hearing: 29-12-2021

Fawad Malik: Information Commissioner

**A. APPEAL**

1. Mr. Muhammad Jahanzeb, preferred his appeal dated November 06, 2021 before the Pakistan Commission on access to information, Islamabad. He alleged that the request for information has not been responded by the Directorate General, Special Education, Islamabad within the frame of time stipulated under the Right of Access to Information Act, 2017.
2. Through an information request dated 01-10-2021 addressed to the Director General, Directorate General of Special Education, Islamabad, as no Public Information Officer has been designated by the public body ;he has desired the attested copies of information and record at the address provided in the application. The request is detailed below :
  - i. *“The number of various posts along with their Designation & pay scale sanctioned at each institution/ subsidiary office of DGSE (list of institutions attached at Annex-B) may kindly be provided in tabular form.*
  - ii. *A copy of all Recruitment Rules notified from time to time for these posts referred above vide S.R.O no: 337(1)/2001; 311(1)/2005; 373(1)/2008 & 1025(1)/2008 may kindly be provided*
  - iii. *The details about the number, pay scales and cadre of allottees of DGSE Villas/ Houses (Cat-II) may kindly be provided in tabular form (specimen attached at Annex-A).*
  - iv. *The legal document against which several National Special Education Centre under DGSE have been affiliated with the Federal Board of Intermediate & Secondary Education.*
  - v. *The legal framework that may be in the form of any O.M, Notification or Act of Parliament etc. against which the DGSE was formed in the first place and is providing its services since then.”*

Specimen for the provision of information mentioned at para 2(i).

Appeal No.E-183/11/2021

<i>Name of Institution</i> <i>e.g. "National Special Education Centre for Hearing Impaired Children"</i>		
<i>Sr. No.</i>	<i>Designation and Scale of Post.</i>	<i>Total Number of Posts</i>
<i>1</i>	<i>e.g. UDC (BS-11)</i>	<i>e.g. 2 posts</i>

Specimen for provision of information mentioned at para 2(iii).

<i>Sr. No.</i>	<i>Scale of Allotment at the time of allotment</i>	<i>Number &amp; cadre of Allotees</i>
<i>1</i>	<i>e.g. BS-20</i>	<i>e.g.1 from DGSE non-teaching</i>
<i>2</i>	<i>e.g. BS-19</i>	<i>e.g.2 from DGSE non-teaching</i>

List of Subsidiary Offices of DGSE for information mentioned at Para 2(i) above are detailed below:

- i. "DGSE Headquarter, Hanna Road, G-8/4, Islamabad.*
- ii. National Special Education Centre for Physically Handicapped Children (NSEC for PHC), G-8/4, Islamabad.*
- iii. National Special Education Centre for Hearing Impaired Children (NSEC for HIC), H. 9, Islamabad.*
- iv. National Special Education Centre for Visually Handicapped Children (NSEC for VHC), G-7, Islamabad.*
- v. National Institute of Special Education (NISE), H-8, Islamabad.*
- vi. Rehabilitation Centre for Children with Developmental Disorder (RCCDD).Islamabad.*
- vii. National Library and Resource Centre (NL & RC), Islamabad*
- viii. National Training Centre for Special Persons (NTCSP), Islamabad*
- ix. National Mobility and Independence Training Centre (NM&ITC), Islamabad,*
- x. National Braille Press (NBP), Islamabad,*
- xi. Vocational Rehabilitation and Employment of Disabled Persons Islamabad."*

## **B. PROCEEDINGS.**

3. The notice of the Commission was responded by the Director (SW&SE), Ministry of Human Rights vide letter dated 25<sup>th</sup> October 2021 stating therein that approval of the Secretary, Ministry of Human Rights is sought for the provision of the requested information. The relevant part of the said letter is reproduced hereunder:

*"The copies of recruitment rules at 1(ii) as demanded are available to purchase from Printing Corporation of Pakistan, however, the copy of list of institutions as required at (i) and Presidential Directive through which the DGSE and Centres Institutions established as demanded at (v) above can be provided as public document. However, legal document about affiliation of Special Education Centres with Federal Board of Intermediate and Secondary Education required at (tv) which is internal departmental document and the details of allottees of DGSE housing colony includes in exempted*

*information from disclosure referred at Section-16 of Right to Access to Information Act, 2017 under sub section c,f,h,i&j with following facts:-)*

[REDACTED]

5. *Keeping in position stated above kindly apprise situation to the Secretary, Ministry of Human Rights and DGSE may be allowed to provide the information vide para 1 (tv) to the applicant and non-provision of information (iii&iv) as per justifications mentioned in para 2.”*

4. The appellant resisted the reply by filing the rejoinder to the appeal. He has reiterated the provision of the requested information and record and initiating of proceedings against the responsible for causing obstruction in the right of access to information. The relevant part of the same is reproduced hereunder:

i. *“The so-called reply is without authority being ultra-vires. An internal/ floating/ intermediary letter written by one officer to other requesting*

- approval of Competent Authority (Secretary), cannot be treated as an official position of Public Body rather opinion of issuing officer.*
- ii. No any case is sub-judice on requested information. Any history of other cases does not prohibit any Appellant from exercising his fundamental right given under Constitution/ Act of 2017. Further details about cases at para 2 (b.c.d.f) & 4 of reply have been incorrectly mentioned. Instead they have been concluded in favor of Appellant (Affidavit enclosed).*
  - iii. That a simple information was requested about basic facts of organization such as the no. of posts, designations, scales and Recruitment Rules etc. which otherwise are liable to be published and declared under Section 5 & 6 by the Public Body itself and not by PCP.*
  - iv. The information about allotment of DGSE Villas is not excluded under Section 16 as it only reveals statistics. Since allotments of government accommodations have always remained under criticism of being non-transparent, against the merit/ on nepotism/favouritism. Therefore hesitation to disclose is an evasion from accountability.*
  - v. The Respondent has neither designated PIO nor responded the request within statutory time and submitted this so-called reply with 80 days delay which shows his respect for this right.*
  - vi. Section 11(5) exempts Appellant from identifying reason motivation behind request and drawing false presumptions vide para 3&4 of reply, on basis of anonymous complaints on PM Citizen Portal and incorrectly quoting cases without confronting evidence is baseless.*
  - vii. Document requested at para(iv) is not internal, rather agreement between two Public Bodies. It is the right of aggrieved employ to challenge any decision. Organizational structure has been challenged by entire teaching cadre not only by Appellant's mother, as being against the spirit of PM's approval. No representation has been filed breaching proper channel And Appellant's mother is teaching special children while no disciplinary action is pending against her. Thus information cannot be denied on these baseless allegations."*

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



[REDACTED]

[REDACTED]

**C. COMMISSION’S VIEW.**

6. The appellant has requested information and record pertaining to the number of various posts along with their designation & pay scale sanctioned at each institution/ subsidiary office of DGSE, Recruitment Rules notified from time to time for the said posts vide S.R.O no: 337(1)/2001; 311(1)/2005: 373(1)/2008 & 1025(1)/2008, the details about the number, pay scales and cadre of allottees of DGSE Villas/ Houses (Cat-II), the legal document against which several National Special Education Centre under DGSE have been affiliated with the Federal Board of Intermediate & Secondary Education and the legal framework that may be in the form of any O.M, Notification or Act of Parliament etc. against which the DGSE was formed in the first place and is providing its services.

[REDACTED]

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8. Be that as it may, it is an admitted fact that the mother of the appellant is serving in the organization. It is also not denied that the mother of the appellant is at odds and confronting the organization at different forums and court of law for her service and legal rights. The Commission is not concerned with the pros and cons of the issues between the parties that who is at right and nor is influenced that the cases are sub-judice or decided in whose favour as stressed by both sides in their pleas. The function and aim of the Commission is to evaluate whether the requested information falls within the category of public record or is exempted from disclosure as claimed by the respondent organization in the reply. The Commission is of the considered view that the requested information and record are public documents and the respondent organization is under obligation to provide the appellant attested copies for the following reasons.
- a. The pendency of case between the citizen and the organization does not disentitle the citizen from seeking information and record pertaining to the dispute between them or any other party.
  - b. The there is no provision in the Act which bars the provision of the public record during the pendency of petition, suit or appeal before any forum.
  - c. Article 10A of the Constitution of Islamic Republic of Pakistan 1973 provides right of fair trial to the citizens and for that end provision of the relevant information and record is the basic right of every citizen.

- d. The citizen who has challenged the decision or the organizational structure of the public body, has the preferential right to seek all the relevant information and record, for or against, in aid of his/her stance.
  - e. Section 11(5) of the Act does not require the appellant to provide reasons for seeking the information.
  - f. 19A of the Constitution of Islamic Republic of Pakistan 1973 provides the right of access to the public record as fundamental right.
  - g. Section 5 of the Act mandates the proactive disclosure of the requested information on the official website of the organization.
  - h. The bare reading of the request depicts that the disclosure would not involve invasion of privacy of an identifiable individual, nor is privileged from production in legal proceedings. The disclosure would not cause prejudice to the effective formulation or development of government policy as well therefore the claim of exemption with reference to sub sections c,f,h,i&j of Section-16 of the Right of Access to Information Act, 2017 are not relevant in the appeal in hand.
  - i. Transparency in the working of the government departments is the essence for the enactment of the Act 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practice would improve the participation of the people in the public affairs aimed at reducing corruption, nepotism, misuse of authority and inefficiency in the governance.
9. The appellant has pointed out in the appeal that the application was addressed to the Director General, Directorate General of Special Education, Islamabad, as no Public Information Officer has been designated by the public body.
10. Approval of the Principal Officer of the public body is required where the designated official refuses the request as required under section 13(4) of the Act. For the provision of the information the designated official do not need the approval of the Principle Officer.

#### **D. ORDER**

11. The appeal is allowed. The Deputy Director (Legal/A-IV), Directorate General of Special Education is directed to provide the appellant all the requested information, in attested form, to the appellant in the manner desired by him at his address, forthwith but in any case not later than ten days of the receipt of this order.

He is further directed to implement mandatory sections 5 & 9 of the Act in letter and spirit under intimation to this Commission within one month of the receipt of this order.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner

Announced on 11.1.2022

Certified that this order consists of eight (08) pages, each page has been read and signed.