

Pakistan Information Commission
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In The Pakistan Information Commission, Islamabad

Appeal No 1236-07/2021

Luqman

(Appellant)

Vs.

Director General Estate Office Islamabad

(Respondent)

Order

Date: January 31, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission received the appeal via email dated July 30, 2021, to the Commission, stating that he submitted information request dated May 30, 2021 under the Right of Access to Information Act 2017 to the Estate Office, Islamabad.
2. The information sought by the Appellant is as under:
“Following information/record/documents regarding allotments issued by your good office (office of the respondent/Estate Officer) under rule 15(2)(b) of the Allocation rules, 2002 from 01/01/2011 till date.
 - i. *Duly verified/signed comprehensive list of information regarding subject mentioned allotments which includes name, designation, BPS and date of retirement of the retired FGS, Name of the beneficial i.e. in service son, daughter or spouse of retired FGS (to whom quarter is allotted), date of entitlement of the beneficial with designation and BPS, accommodation which was allotted to retired FGS, accommodation which is allotted to the beneficial, date of allotment and remarks if any.*
 - ii. *Retirement Orders of retired FGS.*
 - iii. *Initial appointment orders of their beneficial i.e. to whom quarter is allotted (son, daughter or spouse).*
 - iv. *Approval letters of the competent authority.*
 - v. *Allotment letters issued.”*

B. Proceedings:

3. Through a notice dated August 04, 2021, sent to Director General, Estate Office, Islamabad, the Commission called upon the Respondent to submit reasons for not providing the requested information, which was not replied with in the given time.
4. Through another notice dated September 28, 2021, sent to Director General, Estate Office, Islamabad, the Commission directed the respondent to submit written arguments within 15 working days, otherwise the appeal will be decided Ex-Parte in the light of record available on the file and the Right of Access to Information Act, 2017.
5. Respondent vide letter No. 238-E, G-6/2/EIV/EO dated dated September 28, 2021 submitted its response which is as under:

"It is settled principle of law that neither appellant / complainant in individual capacity (without forwarding from his department) presently posted out of Islamabad is required complete data of thousands of Federal Government Servants with their complete particulars since 01.01.2011 to date i.e. all allotments made under Rule 15(1) and 15(2)b. of AAR 2002 along with documentary evidences duly verified / attested by this office nor Appellant / Complainant's rights are jeopardized whereas his address given in appeal is of Peshawar and not of Islamabad. His address is reproduced as below: "Luqman, Legal Cell (Head Quarters), Regional Tax Office, Jamshaid Road, Peshawar".

ii. That appellant can demand information as well as documents of one or two identical cases due to having discrimination with Appellant's case and if his right is jeopardized against the principle of equity.

iii. That it is wrong application of law and wrong interpretation rather misuse of law prescribed U/S 14(1) of the right of access to information Act 2017 that how a person (without intimating his complete official address duly verified from his department) may be given access to computer data of a government department. Hence, Appellant has no cause of action to file instant appeal rather it is a highly security risk and cost damaging to the rights of Federal Government Servants who are lawfully living in government accommodations since 01.01.2011.

iv. That Appellant's case has no cause of action to file instant appeal whereas there is indication of specified house numbers eg Appeal No. 1087-05/21 already filed by Appellant, VS FOP" the hearing was attended by the Estate Office Peshawar before this Honorable circumstances on relevant issue on 12.08.2021 and apprised the factual position while in instant appeal, Appellant is demanding complete data along with documentary evidences including approval of the competent authority in each case regarding allotments under Rule 15(2)b of 2002 since 01.01.2011 without intimating any purpose or reason to the extent that why Appellant requires complete data / documents of thousand cases and what is his connectivity/ grievances with all these cases.

In view of the above submission it is respectfully prayed that just on the basis of a complaint as Pakistan Citizen Portal and request without forwarding through his department and without intimating his connectivity / grievances with all required record w.e.f. 01.01.2011, the entire data of government accommodations regarding Rule 15 (2)b cases cannot be given to an individual being a security risk and hurt the of respective of respondents allottees of these accommodations."

6. Response submitted by the public body was shared with the appellant on October 25, 2021.
7. The Appellant on November 04, 2021 submitted rejoinder to the response of the public body which is as under:

“It is respectfully stated that the reply submitted by the Worthy Deputy Director (Amin), Estate Office Islamabad is nothing but shows fully reluctance for not providing the requested information, hence this rejoinder with the following grounds,

 1. *Para-i of reply is misconceived, hence denied. It is submitted that u/s 11(5) of Right of Access to Information Act, 2017 appellant is not bound to provide any reason for his request. Furthermore it is much sufficient for appellant/applicant that being law abiding citizen of Islamic Republic of Pakistan whether living or posted in Islamabad or Peshawar or anywhere in the country even abroad his request cannot be rejected until and until such information has been declared exempt from disclosure. It is further stated that there is no question of jeopardization but for the sake of clarification it is submitted Federal Government Estate Offices either located in Islamabad, Karachi, Lahore, Peshawar or Quetta all these Offices are working under the supervision of the same Ministry i.e. Federal Ministry of Housing & Works, Islamabad and are established and followers of the same rules i.e. Accommodation Allocation Rules, 2002.*
 2. *Para-ii of the reply is irrelevant, hence denied. It is submitted that the "Every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law so there is no bar of jeopardization.*
 - 3 *Para-iii of the reply is totally wrong, denied. However it is submitted that section of 14(1) of Right of Access to Information Act, 2017 relates to the time limitation for responding to a request not to procedure of filing request. It is further submitted that appellant/applicant never requested for access to the any computer record but just request for record of specific allotments of a specific time period.*
 4. *Para-iv is incorrect. It is submitted that it is not compulsory for appellant/applicant that he/she must mentioned reason for his request even appellant/applicant is not required to provide reason for his request. Further it submitted that there is no bar of law on the appellant/applicant that if he earlier requested for record of allotment of two quarters he cannot demand further record. Mentioned appeal bearing Appeal No. 1087-05/21 of appellant has already been allowed by this honorable commission however it is matter of record that complete compliance is not made by the respondent till date.*

In view of the above the respondents are more liable toward transparency and merit but their reluctance in not providing the information is itself creating ambiguity. In order to transpire that whether merit has prevailed and they have acted in accordance with the law, rules and directions in the judgments of superior courts, they must have to public the data of allotments under rule 15(2)b of AAR-2002 forthwith.”
8. Rejoinder submitted by the Appellant was shared the with the public body, with directions to respond to the queries of the Appellant within 10 working days.
9. The appeal was fixed for hearing on January 06, 2022. Mr. Kamran Marwat Assistant Director Estate Office and the Appellant attended the hearing.

C. Discussion and Commission's View on Relevant Issues:

10. The commission has to decide:
 - i. Whether the Appellant is bound to provide reason for requesting the information/documents under the Right of Access to Information Act, 2017, hereafter referred to as the "Act"?
 - ii. Whether the information requested by the Appellant is public record or not?
11. According to Section 11(5) of the Act, "*In no case shall an applicant be required to provide reasons for his request*".
12. According to Section 14 of the Act, "*a public body shall be required to respond to a request as soon as possible and in any case within ten working days of receipt of the request,*" however, in the instant appeal the public body has failed to acknowledge and respond to the information request of the appealant.
13. The information requested by the appellant belongs to the Section 5 (e) of the Act, which is as under:

"e) The condition upon which members of the public body can acquire any license, permit, consent, approval, grant, allotment or other benefits of whatsoever nature from any public body or upon which transactions, agreements and contracts, including, contracts of employment which can be entered into with the public body, along with particulars about the recipients of any concession, permit, license or authorization granted by the public body."
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".
16. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.

D. Order

17. Appeal is allowed. Director General, Estate Office, Islamabad 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.

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 also directed to designate Public Information Officer as required under Section 9 of the Act and upload its notification along with the name, designation and contact details on its website as required under Section 5 (1) (b) and (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
20. Copies of this order be sent to Director General, Estate Office, Islamabad and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: January 31, 2022

This order consists of 5 (five) pages, each page has been read and signed.