

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

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**In the Pakistan Information Commission, Islamabad**

**Appeal No E156-09/21**

**M. Mushtaq Ahmed**

**(Appellant)**

**Vs.**

**International Islamic University**

**(Respondent)**

**ORDER**

Date: January 26, 2022

**Zahid Abdullah:** Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated September 09, 2021, to the Commission, stating that he submitted an information request to the President, International Islamic University on August 16 2021, citing Article 19-A of the Constitution of the Islamic Republic of Pakistan but did not receive the requested information from the public body.
2. The subject matter of the Appeal is as under:
  1. "I was recently removed from service on the basis of the recommendation of Professor Dr. Abdul Hayee Abro, Authorized Officer, and the report of an Inquiry Committee, comprising Professor Dr. Ayaz Afsar, Professor Dr. Abdul Rashid and Professor Abdul Rehman
  2. To have access to the said recommendation and report is my legal right not only as a person aggrieved from the said order but also as a citizen of the Islamic Republic of Pakistan to whom the Constitution has guaranteed the right of access to information under Article 19A
  3. It is, therefore, requested that a copy of the said recommendation and inquiry report be provided to me at the earliest, but not later than 10 days, so as to enable me to decide About my future course of action for the protection of my legal rights".

**B. Proceedings**

3. Through a notice dated December 01, 2021 sent to the Rector, International Islamic University, the commission directed the Respondent to submit reasons for not providing the requested information.
4. Through a letter dated January 03, 2022, the Respondent submitted its response which is as under:
  - i. I am directed to refer to your Notice dated December 01, 2021 on the subject cited above apropos Appeal No. E-156-09/21 submitted by Dr. Muhammad Mushtaq Ahmad, Ex-Associate Professor of IIUI to the Pakistan Information Commission,

Government of Pakistan, Islamabad on 13.09.2021 and to state that University has invited legal opinion in the matter whereby it has been stated that the appellant has filed application to provide him a copy of the recommendations and the report of inquiry of his case not only as a person aggrieved from the orders (of his removal from service) but also as a citizen of the Islamic Republic of Pakistan under Article: 19 A of the Constitution of Pakistan.

- ii. The application dated August 16, 2021 was filed by Dr. Muhammad Mushtaq Ahmad, Ex-Associate Professor of IIUI under Article: 19-A of the Constitution; which provides that "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<sup>^</sup> prime Under Article: 19 - A of the Constitution, the recommendations and inquiry are not public documents which cannot be provided. Whereas, an appeal is filed before the Information Commission under the provisions of Access to Information Act, 2017. Hence, the documents requested are not public and are not supplied.
5. The Appeal was fixed for hearing on January 20, 2022 and both parties were informed through notices sent on January 10, 2022.
6. During the hearing, the learned council of the Respondent reiterated the response submitted in writing. He maintained that as the Request for information was not filed under the Right of Access to Information Act 2017, the requested information could not be provided on this ground.

**C. Issues**

7. The instant Appeal has brought to the fore following issues:
  - (a) Does the communication of the Appellant with the Respondent, International Islamic University, (IIU), constitute 'request for information' under Section 11 (3) of the Right of Access to Information Act 2017, henceforth referred to as "the Act 2017"?
  - (b) Can the access to the requested information which should have been proactively published through the web site of the Respondent, IIU be denied to the Appellant on the technicality that the request for information was not filed under the Act 2017?
  - (c) Has the Respondent, IIU carried out its obligations under the Act, inter alia, ensuring proactive disclosure of categories of information mentioned in Section 5 of the Act?

**Status of 'Request for Information' in the Instant Appeal:**

8. Status of any communication of a citizen with a federal public body as to whether or not it constitutes 'request for information' is determined by Section 11 (3) of Act 2017 which is as under:

“Any written request that identifies the information or record sought in sufficient detail, to enable the public body to locate it and which includes a complete address and contact details for delivery of the information or record shall be treated as request”.
9. In the instant Appeal, the communication is 'written'; identifies information/records sufficiently enough for the Respondent, IIU to locate it and deliver the same to the Appellant, henceforth, meets the threshold of 'request for information' under the Act 2017.

10. The Respondent, IIU, through its written response which was reiterated during the hearing by its learned council denied access to the requested information on the ground that the Appellant did not file the request for information under “the Act” and that the Appellant cited Article 19-A of the Constitution which is as under:

*“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”*

11. In the instant Appeal, the Appellant states that he is exercising his constitutional right of access to information under Article 19-A of the Constitution which states that this right can only be restricted under ‘reasonable restrictions imposed by law’.
12. Even when this commission determined that the communication of the Appellant with the Respondent, IIU constituted request for information under Section 11 (3) of the Act 2017 and sent notices under the Act 2017 to respond to the request for information of the Appellant under the provisions of the Act 2017, the Respondent, IIU remained adamant that it did not constitute request for information.

#### **Proactive Disclosure of Enquiry Reports:**

13. Irrespective of the merits of the communication of the Appellant with the President, IIU being ‘request for information’ under the Act 2017, the instant Appeal has highlighted the utter disregard of both the Rector and the President, IIU for transparency and citizens’ right of access to information in matters of public importance. This can be gauged from the fact that access to the requested ‘enquiry report’ should have already been published on its web site as required under Section 5 of the Act 2017 which came into effect in October 2017.
14. It demonstrates that the powers vested in both the Rector and the President, IIU are not being exercised “reasonably, fairly, justly, and for the advancement of the purposes of the enactment” as required under Section 24A (1) of the General Clauses Act 1897.
15. This commission has already held through its different Orders that information pertaining to finalised enquiry reports is public information. As such, this information is not only to be provided to citizens when requested but public bodies are obligated to proactively publish through their web sites all finalised enquiry reports as required under Section 5 (1) (i) of the Act.

#### **Exempting Sensitive Information from Finalised Enquiry Reports:**

16. This commission also maintains that proactive disclosure or otherwise of all kinds of finalised enquiry reports held by federal public bodies should be determined under Section 5 (1) (i), Section 7 (f), Section 16 (1) (i) and Section 16 (1) (k) of the Act.
17. While all federal public bodies are required to proactively publish all finalised enquiry reports and the records retrieved during the process of the enquiry, some of these reports, or, some parts thereof may be exempted from disclosure on legitimate concerns, including the protection of the privacy of an identifiable individual.
18. The personal/private information means CNIC details, residential addresses, telephone numbers, bank accounts/financial details and health conditions. While proactively publishing finalised enquiry reports, The Respondent, IIU can withhold such information and make the rest public.

#### **Proactive Disclosure of Information:**

19. 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 of 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.

#### **Proactive Disclosure of Information about Public Information Officer, (PIO)**

20. This commission has also noticed that even when Public Information Officer, (PIO) is designated under the Act, information to this effect is either not provided on the web site, or, if it is provided, it is not displayed at a prominent place on the web site.
21. This commission holds that the federal public bodies should ensure that the name, designation, telephone number and E-mail of the PIO is placed at top right corner of the home page of their web sites. Furthermore, as a PIO is designated by post, any change to this effect should be immediately updated on the web site.

#### **Ensuring Information Accessibility for People with Disabilities:**

22. 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.
23. 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**

24. The appeal is allowed. President, IIU is directed to share with the Appellant and also publish on its web site finalised enquiry report mentioned in para 2 of this Order, withholding any record or, parts thereof containing personal/private information such as CNIC details, residential addresses, telephone numbers, bank accounts/financial details and health conditions within 10 working days of the receipt of this Order, with intimation to this commission.
25. 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](http://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.
26. The Respondent is directed to designate Public Information Officer as required under Section 9 of the Act, and put name, designation, telephone number and E-mail of the PIO at top right corner of the home page of its web site and submit compliance report to this effect to this commission within 10 working days of the receipt of this Order.
27. 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](http://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.

28. Copies of this order be sent to President, IIU and the Appellant for information and necessary action.

**Mohammad Azam**

Chief Information Commissioner

**Fawad Malik**

Information Commissioner

**Zahid Abdullah**

Information Commissioner

Announced on: January 26, 2022

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