



In The Pakistan Information Commission, Islamabad

Appeal No 1214-07/21

Syed Ishteyaq Mustafa Bukhary

(Appellant)

Vs.

Ministry of Information and Broadcasting

(Respondent)

ORDER

Date: February 15, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission received the appeal from Syed Ishteyaq Mustafa Bukhary dated July 26, 2021, stating that he submitted information request dated June 29, 2021 under the Right of Access to Information Act 2017 to the Secretary, Ministry of Information and Broadcasting.
2. The information sought by the Appellant is as under:
 1. *“Provide complete certified copies of Rules and Procedure of contract appointment of CHAIRMAN Implementation Tribunal for Newspaper Employees (ITNE).*
 2. *Provide term and conditions of contract appointment of all previous Chairman including their salaries, allowances and other benefits with their appointment notification and tenure.*
 3. *Provide complete details of departmental promotion committee (DPC) report about promotion of Mr. Mazhar Haneef Inspector (BPS-17), in grade 19 as Registrar on permanent Basis or as any additional charge as registrar along with copy of notifications.*
 4. *Rules & procedures can allow to promotion of Inspector ITNE as Registrar from grade 17 to grade 19 posts without having degree of LLB and without fulfilling the 12 years period in grade 17.*
 5. *Provide information about appointment of REGISTRAR and INSPECTOR including all relevant documents like Rules and procedures about appointment, promotion or deputation on that post along with their Grades.*
 6. *Provide certified copies of notification of present and all previous registrars who have served in this Tribunal.*
 7. *How many persons serving in this Tribunal as Judicial staff or receiving salaries with judicial allowance from which date.*

8. *Provide information about assets declaration of presently promoted Mr. Mazhar Hanif and other staff of grade 16 and above with their spouse.*
9. *Provide complete list of inspectors who serves in this organization (ITNE) as per transfer base or promotion base or deputation or direct appoint basis.”*

B. Proceedings:

3. Through a notice dated July 29, 2021, sent to Deputy Secretary (Coord) / Public Information Officer, Ministry of Information and Broadcasting, 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. The Respondent through a letter vide No. 5 (1)/2020-E.II(PIC) dated 20.08.2021 submitted its response which is as under:
 - “2. *The requisite details on account of ITNE an attached department of this Ministry are enclosed herewith requested by applicant.*
 3. *Therefore, it is requested that PIC may forward the requisite information/documents to the appellant.”*
5. Response submitted by the public body was shared with the Appellant on August 24, 2021.
6. The Appellant on September 01, 2021 submitted rejoinder to the response of the public body which is as under:

“I am satisfied with point No. 1 and partly satisfied in extent to providing Notifications of Chairman ITNE of point No. 2, in written reply by ministry of information and broadcasting.

I am not satisfy with the reply of point No. 3, Point No. 7 & point No. 8, there is no any restriction to provide the required information on the ground that the matter is pending before the Hon’ble Islamabad High Court Islamabad, no any restraining order no any suspension order than how these information linked with the pending matter, in the other hand under the Act, 2017, nothing any bar in section 16(i)(v) or under section 6 read with section 7(g) or under Section 16(c) of the act, 2017, when the Hon’ble Chief Justice of Lahore High Court Lahore Justice Mansoor Ali Shah declare his assets on the letter from Punjab to Information Law learned Finance ministry Shukat Tareen declared his assets openly and provided at Cabinet division web site than why these BPS16 to BPS 19 grade officer are seeking exemption.

That the points No. 4, 5, 6 & 9 are still not addressed and m/o Information and Broadcasting failed to provide the required information.

 1. -----
 2. ----- *Required information partly provided failed to provide term and conditions and contract appointment of all previous Chairman including their salaries, allowances and other benefits with their appointment.*
 3. *Provide complete details of department promotion committee (DPC) report about promotion of Mr. Mazhar Haneef Inspector (BPS-17), in grade 19 as Registrar on permanent Basis or as any additional charge as registrar along with copy of notifications.*

4. *Rules & procedures can allows to promotion of Inspector ITNE as Registrar from grade 17 to grade 19 posts without having degree of LLB and without fulfill the 12 years period to grader 17.*
 5. *Provide information about appointment of REGISTRAR and INSPECTOR and all relevant documents like Rules and procedures about appointment, promotion or deputation on that post along with their Grades.*
 6. *Provide certified copies of notifications of present and all previous registrars who serving in this Tribunal.*
 7. *How many persons serving in this Tribunal as Judicial staff or receiving salaries with judicial allowance from which date.*
 8. *Provide information about assets declaration of presently promoted Mr. Mazhar Hanif and other staff of grade 16 and above along with their spouse.*
 9. *Provide complete list of inspectors who serves in this organization (ITNE) as per transfer base or promotion base or deputation or direct appoint basis.”*
7. Rejoinder submitted by the Appellant was shared with the public body on September 02, 2021, with the directions to submit response to the queries of the Appellant within 10 working days.
 8. The Respondent through a letter vide No. IT-3-5/75-2021/1636 dated September 16, 2021 submitted response to the queries of the Appellant. Response submitted by the public body is as under:
 - “2. *Reply of the applicant annexed with the notice clearly indicates that points No. 3 and 7 are sub-judice before the august Supreme Court of Pakistan as well as before the honourable Islamabad High Court, Islamabad. Furthermore, points No. 4,5,6, and 9 also relate to appointment of Registrar and Inspector, ITNE, which has been challenged by the applicant through Writ Petition No. 2600/2021 titled Qaumi Akhbar Media Group Employees Union versus Federation of Pakistan before the honourable Islamabad High Court, Islamabad as counsel, therefore, the information sought in these points cannot be provided at the stage when the final decision has not been passed by the honourable court and the same also comes under section 18(i)(v) of Right of Access to Information Act , 2017.*
 3. *As far as the information sought in point No. 8 is concerned, the approval of Principal Officer of Public Body is needed under section 13 (4) of the Act ibid. The post of Chairman, ITNE is vacant since 07/13/2021. No Chairman till date has been appointed. Furthermore statement of the applicant shows that he has relied upon analogy of political figures or individuals who themselves declared their assets voluntarily without specifying any provision of law applicable to the government employees. The conduct of the candidates of election is governed by Article 62-63 of the Constitution of Islamic Republic of Pakistan and the Election Act, 2017. As regards the declaration of assets form, filed by the government Employees, there is no law requiring the government agencies or public bodies to make such declaration/ statement, open to inspection by public. On the contrary, express exemption clause is available in respect of individuals records available in the government departments,*

public bodies like the records specified in section 7 (g) and 16 (c) of the Right of Access to Information Act, 2017.”

9. The Appeal was fixed for hearing on November 09, 2021 and both parties were informed through notices sent on October 11, 2021.
10. No one appeared on behalf of the Respondent to attend the hearing. The public body was given another opportunity to submit arguments before the Commission and appeal was fixed for hearing on November 16, 2021.
11. The Respondent through a letter dated November 15, 2021 submitted its response, which is as under:
“Enclosed herewith please find the working paper and minutes of the meeting of Departmental Promotion Committee (DPC Report) in respect of Mr. Mazhar Hanif, Inspector (BS-17) in Grade-19 as Registrar, provided by the Ministry of Information and Broadcasting in the subject case. The remaining information has already been given to the applicant in Appeal No. 1116-06/21, titled Ishteyaq Mustafa versus implementation Tribunal for Newspaper Employees (ITNE) it is pertinent to mention here that the petitioner as a counsel has challenged the subject matter before the honourable Islamabad High Court through Writ Petition No. 2700/2021 titled Qaumi Akhbar Media Group Employees Union versus Federation of Pakistan, therefore, recorded relating to the Registrar, ITNE comes under Section 16(i)(v) of Right of Access to Information Act, 2017.”
12. The Appellant on December 30, 2021 submitted rejoinder to the response of the Appellant which is as under:
“I received Information sharing from M/O Information & Broadcasting dated 15-11-2021 through learned commission about any complaint against the public body, but the information is incomplete not addressed the point/Question No. 7 and No 8 and still refused to provide the required information.

It is against the law (Act, 2017) and wisdom of the legislature, it is also against the Government Servants (Conduct) Rules, 1964.

Principal Officer defined under section 2(viii) in the Act, 2017.

Public Body defined under section 2(ix) in the Act 2017.

ITNE is the attached department of Ministry of Information & Broadcasting and as per Office Memorandum issued by the Establishment Division for assets declaration dated 26th July 2021.

Ministry of I & B is responsible for obtaining the assets declaration form of non-cadre civil servants of the ministry, Division and all attached departments.

Civil Servants are bound to submit their Assets declaration every year and also when a civil servant promotes to higher grade, submitted his assets declaration to his respective Department or Establishment Division.

Civil Servants Assets declaration is mandatory under the Section 12 and 13 of the Government Servants (Conduct) Rules, 1964, which is available in the Esta code Edition 2015 at page number 722 to 734.

Under Section 13-A of the government Servants (Conduct) Rules, 1964 all these asses of all those who are paid from the government exchequer shall be made public.

This rule 13-An included in the Rules, 1964 through Notification S.R.O. 771 (I)/2012 dated 4th June, 2012 issued by Government of Pakistan through Cabinet Secretariat Establishment Division.

These points are reproduced here for case, which are still un-answered and required to be answered.

7. *How many persons serving in this Tribunal as Judicial staff or receiving salaries with judicial allowance from which date.*

8. *Provide information about assets declaration of presently promoted Mr. Mazhar Hanif and other staff of grade 16 and above with their spouse. ”*

13. The rejoinder submitted by the Appellant was shared with the public body on January 03, 2022 with the directions to respond to the queries of the appellant within 10 working days.

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

14. The commission has to decide:
- i. Whether the remaining requested information falls within the ambit of public document under the Right of Access to Information Act, 2017, hereafter referred to as the “Act” or not?
15. This Commission maintains that information about “*persons serving in this Tribunal as Judicial staff or receiving salaries with judicial allowance*” is public record under the Section 6(c) of the Act.
16. This Commission through an Order in Appeal No 437-07/20 Rana Asadullah Khan Vs National Accountability Bureau held that disclosure of the asset’s declaration is not a public record as it harms to the legitimate privacy interests of government employees, their spouses and children far outweigh any public interest that the disclosure of the details of their assets may entail.
17. The Commission maintained that bringing out in the public domain details of assets of public officials, their spouses and off-spring is against the principle of natural justice.
18. The Commission also maintained that if the details of assets of the identifiable individuals is disclosed, it may have following implications:
Disclosure of types and value of each asset along with the name of an identifiable individual leading to family feuds; and
Public scrutiny and speculations about the net worth of spouses and children of public officials.
19. The implementation of Section 5 of the Act can only be ensured if federal public bodies continuously juxtapose categories of information enlisted in section 5 with the information provided on the web sites. In this regard, all federal public bodies are required to use Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017 to ensure proactive disclosure of information. This template can be retrieved from the web site of the commission www.rti.gov.pk In this template, the Pakistan Information Commission has explained as to how each category of information is to be proactively disclosed through web sites.
20. 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

21. The Appeal is partially allowed. Deputy Secretary (Coord) / Public Information Officer, Ministry of Information and Broadcasting is directed to provide provide complete information mentioned in para 2 of this Order to the Appellant, except the information requested in Para-8 of the information request of the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
22. Copies of this order be sent to Deputy Secretary (Coord) / Public Information Officer, Ministry of Information and Broadcasting, Registrar, Implementation Tribunal for Newspapers Employees (ITNE) and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

February 15, 2022

This order consists of 6 (six) pages, each page has been read and signed.