



In the Pakistan Information Commission, Islamabad

Appeal No 1625-01/22

Naveed Ahmed (Appellant)

Vs.

Ministry of Kashmir Affairs and Gilgit Baltistan (Respondent)

Order

Date: April 06, 2022
Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal from Mr. Naveed Ahmed dated December 28, 2021, stating that he submitted information request dated December 10, 2021 under the Right of Access to Information Act 2017 to the Secretary, Ministry of Kashmir Affairs and Gilgit-Baltistan. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. The information sought by the Appellant is as under:

“In this regard, the undersigned requests your kind self to provide information of the vacant posts of BPS 18-21 in your Ministry, Division, attached departments as well as Autonomous Bodies. The information may please be submitted in the following format:

<i>Sr #</i>	<i>BPS Scale</i>	<i>Position</i>	<i>Organization</i>	<i>Time Since position is vacant</i>	<i>Reason for filling vacancy</i>

B. Proceedings

3. Through a notice dated January 07, 2021, sent to Deputy Secretary, Ministry of Kashmir Affairs and Gilgit Baltistan 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 F.15(05)/Admn/2018 dated February 10, 2022 submitted response which is as under:

“I am direct to refer to Pakistan Information Commission Government of Pakistan Appeal No. 1525-01/2022 dated 26th January, 2022 on the above subject.

2. *It is informed that as per available record, the application No. Nil dated 28.12.2021 of Mr. Naveed Ahmed was not received in this Ministry. I tis further apprised that as per Cabinet Division 's U.o No. 4/16/92-Security dated 4th April, 1993 this Ministry has been declared as classified (copy enclosed).”*

5. Mr. Nasir Hayat, Personal Secretary, Ministry of Kashmir Affairs and Gilgit Baltistan appeared before the Commission and again submitted the same response.

C. Discussion and Commission's View on Relevant Issues

6. The commission has to decide that 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 and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred as Act.
7. The Respondent in its claimed that the record of the whole Ministry is classified and any kind of information can not be shared with the citizen under the Act. The public body referred to a notification of the Cabinet Division dated April 04, 1993.
8. This Commission maintains that the said notification was issued when there was no legislation present in the country regarding the Right of Access to Information. After the enactment of the Right of Access to Information Act, 2017 such notifications are not maintainable. Moreover, under Section 25 of the Act, it override other laws.

Section 25 is as under:

“25. Act to override other laws--- The provisions of this act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.”

9. In the instant appeal the information requested by the Appellant is public record under the Section 5(a) of the Act, which states,

“5(a) Description of the public body's organization and functions, duties, powers and any services it provides to the public, including a directory and any services it provides to the public, including a directory of its officers and employees, indicating their duties that these are accessible subject to reasonable restrictions based on limited resources;”

10. Purpose of the Act is to ensure the Transparency in the business of the Government, as the Preamble of the Act stats,

“Where as Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights”.

11. The fact that the citizens are forced to exercise the Right of Access to Information Act 2017 and have to wait for many months even for the information that should be available on the websites of the public bodies.
12. 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.
13. 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

14. Appeal is allowed. Secretary, Ministry of Kashmir Affairs and Gilgit Baltistan 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.
15. 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.
16. Secretary, Ministry of Kashmir Affairs and Gilgit Baltistan is also directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put contact details of PIO on its web site as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
17. Copies of this order be sent to Secretary, Ministry of Kashmir Affairs and Gilgit Baltistan and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: April 06, 2022

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