

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1701-01-2022

Sohail Sarwar Jaura

Versus

Ministry of Housing and Works

Date: 27.04.2022

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Sohail Sarwar Jaura filed his appeal dated 24th January, 2022 before the Pakistan Commission on access to information, Islamabad. He alleged that the request for information has not been responded by the Ministry of Housing and Works within the frame of time stipulated under the Right of Access to Information Act, 2017.
2. The Applicant states that he is law abiding citizen of Islamic Republic of Pakistan and remained employed by the Government of Pakistan as a Director in Estate Office which is the attached department of Ministry of Housing & Works. Currently he is working as Joint Executive Director in Naya Pakistan Housing and Development Authority on deputation basis. Through an application received by R&I, Ministry of Housing & Works on 4.1.2022 addressed to the Deputy Secretary (Admin), Ministry of Housing & Works he has desired the following information and record:

- i. *“Approval of Finance and Establishment Divisions for creation of new posts of Director General (BS-20) & Director (BS-19) in Estate Office Management Department.*
- ii. *Copy of Gazette Notification issued by Ministry of Housing & Works in respect of creation of new posts including one post of Director General (BS-20) and one post of Director (BS-19) in the Estate Office Management, an attached department of Ministry of Housing & Works, in pursuance of concurrence approval of Finance & Establishment Divisions.*
- iii. *Approvals of Establishment & Finance Divisions for change of nomenclature or re-designation of Existing post of Estate Officer (BS-19) to the post of Director (BS-19).*
- iv. *Gazette Notification issued by Ministry of Housing & Works regarding change of nomenclature or re-designation of the post of Estate Officer to the post of Director specifying the date of implementation in pursuance of the recommendation / concurrence/approval of Finance and Establishment Divisions.*

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- v. *Approval / Concurrence of Federal Public Service Commission regarding appointment /promotion / recruitment rules to fill in the post of Director General Estate Office Management.*
- vi. *Minutes of the meeting of Departmental Selection Board (DSB) held on 14 February 2018 regarding conditional promotion of Mr. Obaid-uddin to the post of Estate Officer (BS-19), in Estate Office Management.*
- vii. *Notification in respect of promotion and regularization of Mr Obaid-uddin in (BPS-19) against the newly created post of Director (BS-19).*
- viii. *Copy of summary submitted Ministry of Housing & Works to sought approval of Prime Minister for appointment of Mr. Obaid-uddin as Director General Estate Office Management under section 10 of Civil Secretariat Act 1973.*
- ix. *Working papers and relevant documents including Quantification and Seniority list forwarded submitted by Ministry of Housing & Works to Establishment Division for consideration of Central Selection Board of all officers who were eligible for the promotion to the post of Director General (BS-20) in the Estate Office Management.*
- x. *Copy of minutes of the meeting of Central Selection Board (CSB) held in September 2021 conveyed to Ministry of Housing & Works by Establishment Division pertaining to appointment / promotion of the officer against the post of Director General, Estate Office Management”.*

B. PROCEEDINGS

3. The Commission vide notice dated 28.01.2022 directed the respondent to provide reasons in 7 working days of the receipt of the notice as to why the requested information has been provided to the appellant within ten working days as required under section 14 of Right of Access to Information Act 2017.
4. The notice was not responded; therefore the appeal was fixed for hearing on 12. 01.2022 and both the parties were informed accordingly vide notices dated 22.02.2022.
5. The appeal was fixed for hearing before the Commission on 12-04-22. On the said date Mr. Naeem Saddique, Advocate appeared on behalf of the appellant while Mr. Haider Gull, Section Officer represented the public body and sought time. The appeal was adjourned to 19-04-22, with the direction to the public body to appoint the designated officer as mandated under section 9 of the Act. On 19-04-22 Mr. Ali Raza, section officer represented the Public Body and after going through the contents of the application undertook to provide the requested information by or before 27-04-22. On 27-04-22 Mr. Sohail Sarwar Jaura appellant is present in person where as Mr. Khalil Ch. Section Officer is present on behalf of the respondent public body. He has again requested further time for the provision of the requested information. On the other hand the appellant has argued malice on the part of the respondent, that he is being denied the access to the requested Information, wilfully and deliberately for causing the delay.

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C. COMMISSION'S VIEW

6. The appellant is former Director in Estate Office, an attached Department of Ministry of Housing and Works. Presently he is on deputation as Joint Executive Director in Naya Pakistan Housing and Development Authority. In his request he has asked for certain Information and record which has been detailed in para 2 supra of this order.
7. The public body has neither responded to the application submitted by the appellant before the Deputy Secretary (Admin), Ministry of Housing and Works nor has submitted the written reply before the Commission. On 12-04-22 the public body was specifically directed to notify the Designated Officer who may respond the requests filed under Section 11 of the Act and also to represent the public body before the Commission. The direction was not complied with. On the following date i.e. 19-04-22 the Section Officer appearing on behalf of the public body after discussing the content of the application and appeal agreed to provide the information and record to the appellant by 27-04-22. On 27-04-22 it is noticed by the Commission that a different Section Officer appeared before the Commission on every date who is totally ignorant of the proceedings on the previous date. From the conduct of the public body the stance taken by the appellant seems to be correct. Four different Section Officers entered appearances before the Commission and every time they have sought further time for the provision of the requested Information without complying direction on the previous date. The Public Body cannot be allowed to deliberately and wilfully cause delay in the provision of the Information for victimizing the Citizens.
8. The requested Information is the category of record and information that falls within the definition of the Public record and the public body is under obligations to duly publish and uploads it over the Internet as mandated under Section 5 of the Act.
9. The appellant has the legal and statutory right under the Right of Access to Information Act, 2017 and Constitutional Right under the Article 19(A) of the Constitution of Islamic Republic of Pakistan to have access to the requested information and record. This right can't be withheld or delayed by the bureaucratic hierarchy by using the delaying tactics.

D. ORDER

10. The appeal is allowed. The Deputy Secretary (Admin), Ministry of Housing and Work is directed to provide the appellant all the requested Information mentions in Para 2 of this order, forthwith but in any case not later than 10 days of the receipt of this order.

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He is further directed to make arrangements for the implementation of Section 5 and 9 of the Act, in letter and spirit, under intimation to this Commission by 27th of June, 2022.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 19.5.2022

Certified that this order consists of 04 pages, each page has been read and signed