

## IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1271-08-2021

Zahid Hussain Wasim

Versus

Federal Investigation Agency

Date of Hearing: 16.3.2022

Fawad Malik: Information Commissioner

### A. APPEAL

1. Mr. Zahid Hussain Wasim, preferred his appeal dated 12<sup>th</sup> August, 2021 before the Pakistan Commission on access to information, Islamabad. It is alleged that the request for information has not been responded by the Director, Federal Investigation Agency (FIA) within the frame of time provided under the Right of Access to Information Act, 2017.
2. Through an application dated July 26, 2021 addressed to the Director, Federal Investigation Agency, Lahore under the Right of Access to Information Act, 2017 read with section 47 of Public Procurement Rules, 2004 and Article 19A of the Constitution of Islamic Republic of Pakistan, 1973, he has desired the attested/certified copy of investigation report pertaining to Enquiry No. 39/21 (Banking Fraud) but has not been responded. The detailed particulars of the requested information are:

- i. *“Reference to my complaint # PU 291020-87522137 on Pakistan Citizen Portal.*
- ii. *Your notice dated 22-03-2021 under section 160.”*

### B. PROCEEDINGS

3. The response by the Deputy Director/Law, FIA vide letter dated 14.10.2021 is reproduced hereunder:

- i. *“The enquiry No. 39/2021 mentioned in your appeal was closed after approval of the Competent Authority on the ground that allegations levelled against the accused didn’t prove and civil litigations are also under trial in different Courts against both parties involved in the enquiry. The copy of report submitted by the E.O of the enquiry enclosed.*

- ii. *The Official letter enclosed with the requisite information is sent only for the purpose of official correspondence. The letter head format/template of correspondence as well as stamp and signature of the signing officers is confidential and exempted u/s 16 b(i), 16 (j) of the Right of the Access to Information Act, 2017. Therefore, you are strongly advised not to disclose these publicly.”*

4. The reply is objected by the appellant as under:

*“This is with reference to your letter dated October 20, 2021 related to above mentioned appeal no 1271-08/21. Please note that undersigned is not satisfied about the response of Federal Investigation Agency (FIA). It is my constitutional right and also under the Right if Access to Information Act 2017. It is also pertinent to mention here that Article 19-A of the Constitution of Islamic Republic of Pakistan covers my fundamental right to get certified copies which is reproduced as under.*

*19-A. 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.”*

### **C. COMMISSION VIEW**

- 5. The appellant has desired the copy of investigation report pertaining to Enquiry No. 39/21 (Banking Fraud) against his complaint # PU 291020-87522137 on Pakistan Citizen Portal and notice dated 22-03-2021 under section 160 of Criminal Procedure Code (CrPC) (police-officer's power to require attendance of witnesses), requires the accused to personally appear before the FIA.
- 6. The Commission is of the considered view that the appellant reserves the right of access to the requested information/record amongst others for the following reasons:
  - i. The requested information i.e. investigation report against his complaint is a final report which falls within the compass of the public record under the Act of 2017.
  - ii. The said enquiry was initiated on the complaint lodged by the appellant therefore he has the privileged right to know the final result of his complaint.

- iii. The pendency of civil, criminal or any other legal proceedings before any court of competent jurisdiction does not bar the access to the connected record thereto.
- iv. The provision of the complete documents will help the courts and other adjudicating forums to reach at a just and appropriate conclusion.
- v. The matter highlighted by the appellant in the complaint is one of public importance and in the interest of public at large.
- vi. The exemption claimed by the public body under section 16 b(i) & 16 (j) of the Right of the Access to Information Act, 2017 has no relevance or nexus with the appeal in hand.
- vii. Under Article 19A of the Constitution of Islamic Republic of Pakistan, 1973, every citizen shall have the constitutional right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law.
- viii. Under the Right of Access to Information Act, 2017 appellant have the statutory right to have access to the requested information/record.
- ix. Under Rule 47 of Public Procurement Rules, 2004 as soon as a contract has been awarded the procuring agency shall make all documents related to the evaluation of the bid and award of contract public to the access of public at large.
- x. Transparency in the working of the government departments is the essence for the enactment of the Act, 2017. Its spirit is to ensure that the people of the Islamic Republic of Pakistan have access to the records held by the federal public bodies for making the government accountable to the people. This practise would improve the participation of the people in the public affairs aimed at reducing corruption and inefficiency in the governance.

## **D. ORDER**

7. The appeal is allowed. The Director, Federal Investigation Agency, Lahore is directed to provide the appellant the requested information/record forthwith but in any case not later than seven days of the receipt of this order.

Mohammad Azam  
Chief Information Commissioner

Fawad Malik  
Information Commissioner

Zahid Abdullah  
Information Commissioner  
Announced on 18.5.2022

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