

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

APPEAL NO. 1717-04-2022

Mohammad Maqbool

Versus

The Institute of Chartered Accountants of Pakistan

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Mohammad Maqbool through Dr. Rao Raza Hashim, Advocate filed a letter dated 29th November, 2021 addressed to the Secretary, The Institute of Chartered Accountants of Pakistan. He has requested information under the Right of Access to the Information Act, 2017, regarding sharing of Council's proceedings in WhatsApp group w.r.to letter No. ICAP/INV/000781/89398 vide letter dated December 3, 2021 & REF NO. ICAP/INV/000781/8645 dated December 14, 2021. The detail of the requested information is as under:
 - *"288th ICAP Council Meeting Highlights (held on July 7-8, 2017).*
 - *Implementation Report of the Decisions Taken 288th Council Meeting (held on July 7-8, 2017), Agenda Item 4, sr. No. 12."*
2. The Secretary, Institute of Chartered Accountants of Pakistan vide his letter No. ICAP/INV/000781/89398 dated December 3, 2021 in the matter regarding sharing of Councils proceeding on WhatsApp responded as under:
 - *"This is with reference to the letter dated November 29, 2021 received from Hashim Law Associates (the Law Firm), on your behalf, wherein they have requested to provide certain information within the purview of Right of Access to Information Act, 2017 (the Act). Please note that the Institute of Chartered Accountants of Pakistan (ICAP – "the Institute") doesn't fall under the definition of a public body as mentioned under Section 2(ix) of the Act.*
 - *However, considering your request, please find enclosed 288th Council meeting highlights as these have already been shared with the members vide email dated July 24, 2017."*
3. Feeling aggrieved of the response of the public body appeal is filed before the Pakistan Commission on Access to Information, Islamabad under the Right of Access to the Information Act, 2017.

B. PROCEEDINGS

4. The Secretary, Institute of Chartered Accountants of Pakistan vide letter dated 1.2.2022, was directed to provide reasons in writing within seven working days as to why the requested information has not been provided to the applicant as under section 14 of the Right of Access to Information Act 2017, each public body is bound to respond to a request as early as possible and in any case not later than ten working days of the receipt of the request.
5. The reply was not submitted therefore the appeal was fixed for hearing before the Commission on 6.4.2022 and both the parties were informed accordingly vide notices dated 22.2.2022.
6. No one appeared to represent the respondent at the time of hearing nor was the written reply submitted.

C. COMMISSION'S VIEW

7. While dealing with the matters related to information and record sought by the citizens under the Act 2017, the public bodies are under obligation to respond the applications as mandated in the Act. In the case in hand the respondent has provided partial information to the applicant. The reply is not submitted and the hearing before the Commission was not represented by the public body. It is presumed that the respondent public body is willfully avoiding the proceedings before the Commission and that the public body has nothing to submit in the defense. In such like circumstances the Commission is left with no option but to decide the appeal ex parte on the basis of material available in going the file and in the light of the Act.
8. The respondent has claimed that the Institute of Chartered Accountants of Pakistan doesn't fall under the definition of a public body as mentioned under Section 2(ix) of the Act. It is imperative to decide the jurisdiction of the Commission at the first instance before proceeding on the merits of the case. The Commission is of the view that the Institute of Chartered Accountants of Pakistan is public body under section 2(ix) of the Act for the following reasons:
 - a. Institute of Chartered Accountants of Pakistan is statutory institution established by the Federal Government of Pakistan under the Chartered Accountants Ordinance, 1961.
 - b. Institute of Chartered Accountants of Pakistan is partially controlled Federal Government having five nominees in the Board.

c. Institute of Chartered Accountants of Pakistan is funded by the Federal Government.

9. The appellant being member of the institution has requested sharing of Council's proceedings in WhatsApp group. The public body has not claimed exemption of the information rather has provided the request in the reply.

D. ORDER

10. The appeal is allowed. The Secretary, Institute of Chartered Accountants of Pakistan is directed to provide the appellant the requested information forthwith but in any case not later than five days of the receipt of this order.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on 01.06.2022

Certified that this order consists of 03 pages, each page has been read and signed