

IN THE PAKISTAN INFORMATION COMMISSION ISLAMABAD

Appeal No. 2014-06/2022

Omer Qayuum

Vs

Establishment Division

Fawad Malik: Information Commissioner

A. APPEAL

1. Mr. Omer Qayyum, Section Officer, Ministry of Planning, Development and Special Initiatives, Government of Pakistan filed an application under the Right of Access to Information Act, 2017. Through his application dated 17.05.2022 addressed to the Secretary, Establishment Division, Islamabad he has requested certain information. The text of the application is reproduced hereunder:

- i. *“That the undersigned is a serving OMG Officer, directly recruited and belonging to the 46<sup>th</sup> Common Training Program (CTP), currently posted as Section Officer in the Ministry of Planning, Development and Special Initiatives, Government of Pakistan.*
- ii. *That as per Establishment Division’s OM No. 21/1/90-R-S dated 31<sup>st</sup> July 1991 and subsequent OMs even number dated 30<sup>th</sup> September 2015 and 12<sup>th</sup> November, 2015 it is required to maintain roster of posts to be filled by promotion / transfer / direct appointment.*
- iii. *That in view of the foregoing, the following information is hereby sought from the Establishment Division under the Right of Access to Information Act, 2017.*
  - a. *Total strength of officers currently serving in the OMG.*
  - b. *Number of officers in the OMG recruited through direct appointment.*
  - c. *Number of officers in the OMG appointed by promotion.*
  - d. *Number of officers in the OMG appointed by transfer.*
  - e. *Number of officers in the OMG working on deputation basis.*
  - f. *Number of posts currently vacant in the OMG.*
- iv. *That in view of the foregoing, it is submitted that the requisite information be shared with the undersigned.”*

2. Feeling aggrieved for the non-provision of the information within the stipulated period provided under the Act he filed an appeal before Pakistan Commission on access to information, Islamabad.

## B. PROCEEDINGS

3. The notice of the Commission was responded by this Deputy Secretary (PIO) Establishment Division vide letter dated 18<sup>th</sup> July, 2022 to the following effect:

*“It is stated that the Appellant has already filed a writ petition in the Islamabad High Court, Islamabad inter alia, assailing Establishment Division OM dated 7.2.2022 wherein the process of Appointment by transfer in Officer Management Group (OMG) copy enclosed. He also contended in the said petition that the OMG posts have not been calculated properly. This Division has already filed para-wise comments before the court. Therefore, the requested information cannot be shared with the Appellant being exempted from disclosure under Section 16 (i) (v) of the Right of Access to Information Act, 2017.”*

4. The appellant has agitated the reply by filing the rejoinder / written arguments. It is alleged that the appellant time and again filed the request when finally he was asked to seek information on the prescribed form available on the website of the Establishment Division, that the writ petition before the Islamabad High Court is with different pray and that the sharing of information would not prejudice the proceedings before the court.

## C. ISSUES

- a. Whether information can be sought during the pendency of the writ petition before the High Court?
- b. Whether the requested information falls within the category of public record?

## D. COMMISSION’S VIEW

### Issue a.

5. The appellant being a serving officer has asked for the provision of total strength of officers currently serving, number of officers

recruited through direct appointment, number of officers appointed by promotion, number of officers appointed by transfer, number of officers working on deputation basis and number of posts currently vacant in the Office Management Group. The respondent public body has denied the information while referring to the writ petition filed by the appellant before the Islamabad High Court, Islamabad.

6. The pendency of the writ petition filed by the appellant before the High Court for remedies other than the provision of record does not bar the appellant from seeking information and record instrumental and contributory towards the writ petition. Since the RTI Act is known as key to all rights.

Issue b.

7. The appellant being the serving officer of Ministry of Planning, Development and Special Initiatives, Government of Pakistan has the preferential and legal right to have access to the requested information and record. The fundamental right provided under the Constitution and statutory right provided under the Act cannot be denied or delayed at the whims of the beurocratic hurdles and by using the delaying tactics.
8. The total strength of officers currently serving, their mode of appointment and transfers and information and record incidental thereto is matter of public importance that should be made public in the public interest.
9. The section 5 of the Act mandates the proactive disclosure of the category of information and record including uploading over the internet on official website to the access of public at large. Had this been implemented the appellant wouldn't have to file the request.
10. The provision of the requested information is not likely to prejudice the proceedings of the court rather will be helpful in reaching a just decision therefore is not exempted from disclosure under Section 16 (i) (v) of the Right of Access to Information Act, 2017.

E. ORDER

12 The appeal is allowed. The Deputy Secretary (PIO) Establishment Division is directed to furnish the appellant all the requested information and record detailed in para 1 supra, 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: August 02, 2022

This order consists of 4 (four) pages, each page has been read and signed.