

**Pakistan Information Commission
Government of Pakistan**

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**In the Pakistan Information Commission, Islamabad
Appeal No E245-03/22**

Omer Waqas

(Appellant)

Vs.

Auditor General of Pakistan

(Respondent)

ORDER

Date: August 16, 2022
Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated March 29, 2022 to the Commission, stating that he submitted an information request to the Auditor General of Pakistan on January 27, 2022 under the Right of Access to Information Act 2017 but did not receive the requested information from the public body.
2. The information sought by the Appellant is as follows:

“Reference CMA (RC's letter No FW/AN/10PIO)241, dated 27-01-2022 on the subject "Dissatisfaction of the Appellant to the Information Shared by Your Office-Appeal No. 1258-08-21 filed by Mr. Umar Waqas Qureshi Vs MAG before Pakistan Information Commission Islamabad " (Copy enclosed).

- i. *It has been conveyed vide, letter under reference, that the officer was provided cheques of house requisition (H.No. 156, Street No. 53, 1-8/3, Islamabad) till June 2020 from CMA (RC) Office and the hiring file was forwarded to Auditor General Office upon his transfer.*
- ii. *Foregoing in view, it is therefore requested that the payment details in respect of officer from July 2020 to June 2021 and from July 2021 onwards, may please be provided at the earliest. Moreover, status of house requisition, whether continuing or otherwise, may also be provided.”*

B. Proceedings

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on June 27, 2022 and its text is as under:
 1. *“That applicant was already provided information by this office vide this office letter No.1369/PAAS-1/55-96-11 (672) dated 18.04.2022 and No.1454/PAAS-1/55-96-11 (672) dated 31.05.2022*
 2. *Furthermore, it is stated that no payment has been made to Mr. Khurram Raza Qureshi, on account of Hiring of Residential Accommodation against House No.156, Street # 53, Sector. 1-8/3, Islamabad from July 2020 to June 2021 and July 2021 onward.”*
4. The Appellant submitted his response on July 19, 2022 and its text is as under:
 - 2 *“I would like to thank Pakistan Information Commission for taking up the issue and Auditor General Office for providing the information as per their policy. Pertinently,*

the detail provided by the department concerned, is still lacking some basic information.

- 3 I would like to seek the following information from Auditor General Office through Hon'able Pakistan Information Commission:-
- a. *Current status of House Requisition with the Department; (As the Agreement was signed for three years from 2018 to 2021 and probably payments have been made for the whole term of Agreement by CMA, RC Office) As the last payment has been made by CMA, RC against the hiring of the house dated 23-12-2020*
 - b. *Furthermore, this statement made by Auditor General Office "No payment has been made to Mr. Khurram Reza Qureshi, on account of Hiring of Residential Accommodation against House No. 156, Street No. 53, 1-8/3, Islamabad from July 2020 to June 2021 and July 2021 onwards" is not a proper reply to our query Supposedly, if contract had been cancelled by the Department (Auditor General Office) at later stage for the term June 2020 to June 2021, why no intimation to this effect has been conveyed to the Attorney.*
 - c. *Who asked the department to withdraw from the contract with Attorney and under what authority?*
 - d. *A copy of the request letter for cancellation of agreement (if any) may also be provided.*
 - e. *A copy of the intimation letter (if any) issued to the Attorney, intimating cancellation of agreement may also be provided.*
 - f. *It may also be intimated whether the incumbent officer has entered in contract for hiring of any other premises during this term (July 2020 to June 2021)*
 - g. *Name of Beneficiary (in favor of whom the Cheque were drawn),*
 - h. *Proceeds actually claimed by the person through cash or bank clearing etc.*
3. *The department concerned (Auditor General Office) may be asked to provide the deficient information within seven (07) days of the issuance of this letter Reference: No. E245-03/22, filed by the undersigned with PIC. 2. I would like to thank Pakistan Information Commission for up the issue and Auditor General Office for providing the information as per their policy. Pertinently, the detail provided by the department concerned, is still lacking some basic information."*

5. Hearing on the instant Appeal was fixed for August 11, 2022 vide letter dated July 25, 2022. The Respondent was represented by M. FAYYAZ CH. Adv. Advocate and Syed Kashif Shah, Director FAO, Auditor General Office.

The Respondent submitted its response and its text is as under:

"With reference to hearing Notice/Appeal No.E245-03/22, dated 25.07.2022, on the above subject. Following reply is submitted for kind consideration

2. *"That applicant was already provided information by this office vide this office letter No.1369/PAAS-1/55-96-11 (672) dated 18.04.2022 and No. 1454/PAAS-1/55-96-11 (672) dated 31.05.2022*

3. *It is further stated that reply on the previous appeal lodged by complainant dated 15.06.2022 has already been provided to the Commission vide this office letter No. 163/10/P&C/1-C/2015/KW/NVol-11, dated 23.06.2022 (copy enclosed). Furthermore, the individual has informed that the subject matter is subjudice in the Honorable court of Additional District & Session Judge, Islamabad."*

C. Issues

6. The instant appeal has brought to the fore the following issues:
- (a) Can the requested information be exempted from disclosure on the grounds as submitted by the Respondent that the matter is sub judice in the court?
 - (b) Has the Respondent provided requested information permissible under the Right of Access to Information Act, 2017, henceforth referred to as the Act, 2017 as mentioned in original request for information?

D Discussion and commission's views on relevant issues:

7. This commission maintains that the requested information permissible under the Act, 2017 cannot be denied on the grounds of lis alibi pendens.
8. This commission has maintained through its different Orders that pendency of the writ petition between the parties does not bar the provision of information under the Act unless specifically barred by the court itself, or, under the provisions of the Act. Therefore, the contention of the Respondent that “Section 16 (i) (v) of the RAI Act, 2017, inter alia, states that the information may be exempted if its disclosure is likely to prejudice the proceedings in a court or a tribunal” does not hold water.
9. Our ability to exercise our fundamental right of access to information enables us to attain our other fundamental rights such as gainful employment, right to life, right to clean drinking water, right to breathe in clean air and right to healthcare services etc. In fact, the constitutional right of access to information helps citizens in the exercise of right of access to justice as well by having access to records/information to effectively present their cases in the court of law.
10. This commission holds that while the Respondent has provided the requested information pertaining to “the payment details in respect of officer from July 2020 to June 2021 and from July 2021 onwards”, the Respondent has not provided the requested information pertaining to the “status of house requisition, whether continuing or otherwise”.
11. This commission also maintains that the Appellant has expanded the scope of his original request which this commission cannot entertain on the principle that such an expansion in the original information request leads to putting this commission in a never-ending process which hampers proceedings on the other appeals. However, the Appellant has the right to file another information request to the public body.

E. Order

12. The Appeal is allowed. The Respondent is directed to provide the Appellant information requested in para 2 of this Order pertaining to the “status of house requisition, whether continuing or otherwise” at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
13. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: August 19, 2022

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