



**In the Pakistan Information Commission, Islamabad**

**Appeal No 2036-06/22**

**Amir Baloch**

**(Appellant)**

Vs.

**Registrar, Supreme Court of Pakistan**

**(Respondent)**

**ORDER**

Date: September 05, 2022

Zahid Abdullah: Information Commissioner

**A. The Appeal**

1. The Appellant filed an appeal, dated June 30, 2022 to the Commission, stating that he submitted an information request to the Honorable Registrar, Supreme Court of Pakistan on May 06, 2022 under the Right of Access to Information Act 2017 but did not receive any response from the public body.
2. The information sought by the Appellant is as follows:
  1. *“Total sanctioned strength of officers, staff members of Honorable Supreme Court of Pakistan (category wise ) against different positions/pay scales Le pay scales 1 to 22 (category wise). The response may distinguish perks and privileges allocated to officers and staff members of Supreme Court of Pakistan.*
  2. *Total vacancies in the Supreme Court of Pakistan against different pay scales/ positions (category wise) and dates since which these positions have been lying vacant.*
  3. *Number of staff members who are not regular but have been engaged on daily wages basis or through short term or long term contracts against various positions/ pay scale ( category wise)*
  4. *Number and types of positions created anew since January 1 2013.*
  5. *Total number of female staff members (category-wise) against various positions/pay-scales. The response may distinguish between the shot. Term/temporary staff members and regular ones.*
  6. *Total number of persons with disabilities working with Supreme Court of Pakistan against various positions/ pay-scales (category-wise). The response may distinguish between the shot-term temporary staff members and regular ones.*

7. *Total number of transgender persons working with Supreme Court of Pakistan against various positions/ pay-scales (category-wise). The response may distinguish between the short-term / temporary staff members and regular ones*
8. *Total numbers of vehicle provide to Honorable Judges, officers, staff members and employees of Honorable Supreme Court of Pakistan. The response may distinguish the number of vehicle with allocation of Supreme Court of Pakistan. Purchase, auctioned, depreciated from January 1, 2013 to onward.*
9. *Details of allocated & utilized budget and expenditure statement of the current financial year 2021-2022 of the Supreme Court of Pakistan Including proposed and actual expenditures. The response may distinguish the budget fixed for employees related expenses, operating expenses, employee's retirement benefits, grant subsidies and write off loans, transfer (Gift & Entertainment). Physical Assets, local and international travels and tour funds, Repair and Maintenance.*
10. *Attested Copy of Audit Report of audit year 2020-2021 of Honorable Supreme Court of Pakistan*
11. *Total number of houses, bungalows, flats and portion given to the Honorable Judges, officers and staff members of Honorable Supreme Court of Pakistan by Supreme Court of Pakistan. The response may distinguish the number of house repair, funds allocated for maintenance or allowances of maintenance from January 1. 2013 to onward.*
12. *Total number of rest houses of the Supreme Court of Pakistan. The response may distinguish the funds allocated to the maintenance rest houses from January 1, 2013 to onward.*
13. *A certified copy of the latest approved Services Rules of the Honorable Supreme Court of Pakistan.”*

## **B. Proceedings**

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on August 05, 2022 and its text is as under:

*“With reference to your letter bearing Appeal No.2036-06/22 dated 19.07.2022, I am directed to inform you that The Right of Access to Information Act, 2017 is applicable to public bodies as defined in the said Act. Which definition does not include the Court of Pakistan?”*

- i. *The Orders dated 12.07.2021 and 17.11.2021 passed by the Pakistan Information Commission in appeal No. 060-06/19 in case titled Mukhtar Ahmed Ali Vs Supreme Court of Pakistan through its Registrar have been challenged before the Honorable Islamabad High Court in Writ Petition No. 4284/2021 and the Judgment is reserved. As the Judgment of the Islamabad High Court regarding the constitutionality, legality and validity of the above mentioned Order is awaited and the matter being sub judice, it will be just and fair to await the outcome of the aforementioned writ petition.*
- ii. *This issues with the approval of the Hon'ble Chief Justice of Pakistan ”*

## **C. Issues**

- 4 The instant appeal has brought to the fore the following issues:

- (a) Do proceedings on the instant appeal warrant sine die adjournment?

(b) has the legislature in its wisdom included this Court within the folds of the definition of public body and excluded it from the purview of the Right of Access to Information Act, 2017, henceforth referred to as the Act, 2017?

(c) Is the disclosure of the requested information permissible under the provisions of the Act, 2017?

**D Discussion and commission's views on relevant issues:**

5. In an earlier Appeal No 1706-01/22, filed against the same Respondent, this commission stated that "the record on the file pertaining to Appeal No 060-06/19 in the case titled Mukhtar Ahmed Ali vs Supreme Court of Pakistan suggests that the maintainability of the Writ Petition No. 4284/2021 is under consideration of Honourable Islamabad High Court which means that it is at pre-admission stage. The question in this petition under consideration is whether the Registrar of the Honorable Supreme Court of Pakistan is competent to invoke the jurisdiction of the court and whether the same falls within the definition of aggrieved person in the context of Article 199 of the Constitution and not the Order of the Commission itself, at least at this stage. This commission maintains that the pendency of a writ petition regarding the admissibility of another matter cannot be a valid ground to stop the Commission from performing its functions in other appeals before it.
6. The Act does not accord blanket exemption to any public institution. This commission has already held that Registrar office of Honourable Supreme Court of Pakistan comes within the definition of public body under Section 2 (xi) (e) which is as under:  
  
"Any court, tribunal, commission, or board under the Federal law;"
7. In the absence of any judgement of any of the High Courts, or, of the Supreme Court which bars citizens from seeking information from the Registrar, Supreme Court, under the Right of Access to information Act on the grounds that it is tantamount to curbing independence of the judiciary, this commission is left with no option but to determine likelihood of any such eventuality.
8. The honourable Supreme Court as a public institution performs two kinds of functions i.e., a) judicial functions and b) administrative functions pertaining to procurements and recruitments, involving public funds, like any other public institution.
9. This commission is of the view that the exercise of constitutional and statutory right of citizens in matters of public importance through the Act is neither likely to, nor, designed to curtail independence of the superior judiciary. This commission also believes that exercise of constitutional right of access to information in matters of public importance through the Act cannot be equated with executive oversight of superior judiciary.
10. The categories of information to be proactively disclosed under Section 5 of the Act have no bearing on the independence of the judiciary. Similarly, the information to be provided to the applicants under Section 6 of the Act is also not in conflict with the independence of the judiciary. Furthermore, the Public Information Officer to be designated under the Act will receive applications and can turn down any request for information which is likely to impact independence of the judiciary, relying on the relevant exemption clauses of Section 7 and 16 of the Act.
11. This commission is of the view that the constitutional right of access to information in matters of public importance can only be restricted on reasonable grounds supported by law. This commission holds that only provisions of this Act can restrict disclosure of any information.

12. This commission maintains that the disclosure of the requested information is matter of public importance. Citizens of Pakistan have the right to know under Article 19-A of the Constitution of the Islamic Republic of Pakistan and the provisions of the Act, 2017 about the total sanctioned strength of officers, staff members of Honorable Supreme Court of Pakistan, total vacancies in the Supreme Court of Pakistan against different pay scales/ positions (category wise) and dates since which these positions have been lying vacant, number of staff members who are not regular but have been engaged on daily wages basis or through short term or long term contracts against various positions/ pay scale ( category wise), number and types of positions created anew since January 1 2013, total number of female staff members (category-wise) against various positions/pay-scales, total number of persons with disabilities working with Supreme Court of Pakistan against various positions/ pay-scales (category-wise), total number of transgender persons working with Supreme Court of Pakistan against various positions/ pay-scales (category-wise).
13. In fact, the requested information about the officers and the staff of the Supreme Court of Pakistan in the instant Appeal is identical to the one requested in Appeal No 060-06/19 in the case titled Mukhtar Ahmed Ali vs Supreme Court of Pakistan on which this commission issued Order on July 12, 2021.
14. This commission maintains that the citizens of Pakistan have the right to know under Article 19-A of the Constitution of the Islamic Republic of Pakistan and the provisions of the Act, 2017 about total numbers of vehicle provide to Honorable Judges, officers, staff members and employees of Honorable Supreme Court of Pakistan, and vehicles purchase, auctioned, depreciated from January 1, 2013 to onward as requested by the Appellant.
15. This commission maintains that details of allocated & utilized budget and expenditure statement of the current financial year 2021-2022 of the Supreme Court of Pakistan Including proposed and actual expenditures is public information and its disclosure is warranted under the provisions of the Act, 2017.
16. So far as the requested attested Copy of Audit Report of audit year 2020-2021 of Honorable Supreme Court of Pakistan is concerned, it is public information. This commission held in Appeal No 060-06/19 in the case titled Mukhtar Ahmed Ali vs Supreme Court of Pakistan that the Respondent was legally bound to proactively publish the requested information about “Audit reports of the Supreme Court’s accounts for the last five years including FY 2019.20. FY 2018-19, FY 2017-18, FY 2016-17, and FY 2015-16”, through its web site as required under Section 5 of the Act, 2017.
17. This commission also holds that the requested information about the total number of houses, bungalows, flats and portion given to the Honorable Judges, officers and staff members of Honorable Supreme Court of Pakistan by Supreme Court of Pakistan and total number of rest houses of the Supreme Court of Pakistan is public information and its disclosure is warranted under the provisions of the Act, 2017.
18. This commission holds that the disclosure of the latest approved Services Rules of the Honorable Supreme Court of Pakistan is not only public record under the provisions of the Act, 2017 but also in line with the judgement of Hon’ble Supreme Court of Pakistan. In constitutional petition 39 of 2019, Juris Foundation through Chairman VS Federal Government through Secretary, Ministry of Defence, the Hon’ble Supreme Court said: “Acts of the Parliament or subordinate legislation are public documents and must be readily available to the citizen of the country subject to the exceptions provided under the Right of Access to Information Act, 2017.”.

19. It is pertinent to mention here that this commission has maintained through its different Orders that the information, proactively published under Section 5 of the Right of Access to Information Act 2017, should be ‘accessible’ for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities. Apart from the interpretation of ‘accessible’ in section 5 of the Act, section 15 (5) of the ICT Rights of Persons with Disabilities Act 2020 requires federal public bodies to ensure accessibility of web sites to the special needs of persons with disabilities and it is as under:

“The government shall ensure that all websites hosted by Pakistani website service providers are accessible for persons with disabilities”.

#### **E. Order**

- 20 The Appeal is allowed. Worthy Registrar, Supreme Court of Pakistan is directed to provide the Appellant the requested information in para 2 of this Order, at the earliest, but not later than 7 working days of the receipt of this Order, with intimation to this commission.
- 21 Worthy Registrar, Supreme Court of Pakistan is directed to take immediate steps to proactively share through the web site all categories of information mentioned in Section 5 of the Right of Access to Information Act 2017, ensuring accessibility of the information proactively published on its web site for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities.
- 22 Worthy Registrar, Supreme Court of Pakistan is directed to ensure accessibility of the information proactively published on its web site under Section 5 of the Right of Access to Information Act 2017 for all citizens, including the blind, low-vision, physically disabled, speech and hearing impaired and people with other disabilities and submit compliance report to this effect using ‘Web accessibility checklist’. This checklist is available under ‘Information Desk’ category at the web site of the commission [www.rti.gov.pk](http://www.rti.gov.pk). The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
- 23 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: September 06, 2022

This order consists of 5 (five) pages, each page has been read and signed.