



In the Pakistan Information Commission, Islamabad

Appeal No 1819-03/2022

Sharafat Khan

(Appellant)

Vs.

Pakistan Citizen Portal

(Respondent)

ORDER

Date: August 04, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission through an email dated March 03, 2022 has received an appeal from Mr. Sharafat Khan, stating that he submitted information request dated January 03, 2022 under the Right of Access to Information Act 2017 to the Pakistan Citizen Portal. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.

2. The information sought by the Appellant is as under:

“With due respect it is stated that a complaint No. KP-270821-88962247 was lodged on PDMU against my wife Amia Begum Charge Nurse (Matron MTI BKMC Swabi) on dated 27/08/2021, upon which a committee was constituted by the component authority to inquire the matter. She have submitted a detailed reply in written to the committee after completion of the investigation the committee declared all the allegations baseless as no evidence was found as it is matter of the respect and honor of my family I want to take this matter to the court for which it is requested that the identity of the complainant may kindly be disclosed so that legal action may be initiated against him / her.”

B. Proceedings

3. Through a notice dated March 31, 2022, sent to Deputy Secretary, Pakistan Citizen Portal, the Commission stated that “Under Section 14 of the Right of Access to Information Act 2017, each federal public body is bound to respond to a request as soon as possible and in any case within ten working days of receipt of the request. You are directed to provide reasons in writing within 7 working days of the receipt of this notice as to why the requested information has not been provided to the applicant, (copy of the information request and appeal thereon enclosed)”.

4. The appeal was fixed for hearing on June 07, 2022 and both parties were informed through notices sent on May 17, 2022.

5. The Respondent on June 13, 2022 submitted its response which is as under:

“ Please refer to the PIC Appeal No. 1819-03/2022 dated 31.03.2022 and hearing dated 07.06.2022 on subject cited above.

2. *It is submitted that the Pakistan Citizen's Portal (PCP) provides a nationwide window to connect people with Government Organizations at all levels for raising their issues / complaints with concerned authorities for their timely resolution on merit using mobile application. All processes of the portal are being carried out in the light of a self-contained operational manual titled "User's Guidelines Manual for Complaints & Suggestions Handling".*

3. *No anonymous applications / complaints can be lodged through Pakistan Citizen's Portal (PCP). All citizens are properly registered on the Portal Prior to lodging of any complaint. While registration, people are required to provide certain mandatory information i.e. Name, CNIC and mobile number. However, as per section 2.3 of User's Guidelines Manual "Every registered member/citizen on Pakistan Citizen's Portal has the liberty to hide or restrict his / her identity with regard to the contents of complaint being lodged. However, member with unhidden profile(s) shall also be kept confidential to the maximum extent possible, until otherwise required in the best interest of the complainant and fair determination of the complaint". Clause 3.2 of User's Guidelines Manual provides the procedure to request the complainant through the system to unveil his / her identity in case of hidden profile.*

4. *The User's Guidelines Manual for Complaints & Suggestions Handlings provides a proper mechanism for disclosure of the complainant's profile / identity vide the clauses 2.5. 3.51 & 2.5.2. As per the guidelines, all dashboard handlers / officers of the Federal Ministries / Divisions / Attached Departments / Provincial Governments' departments shall avoid unnecessarily requisitioning of information about a complainant's profile. However, if required either in the best interest of the complainant or fair determination of complaint, the same may be requisitioned from PMDU only if:*

- i. It is requested to a legal forum / court of law in a pertinent matter.*
- ii. The Organization requires it in an inquiry / probe being initiated on the basis of allegations leveled against an individual / officer / official in a complaint lodged on the Portal. In the instant case, formal request shall be placed to PMDU invariably with approval of the head of the office / department.*

5. *Apart from the above, disclosure of information of a citizen in any case in the manner requisitioned by the petitioner could cause:*

- a. Threat to the life of the complainant.*
- b. Serious consequences in the shape of private or institutional harassment to the Complainant.*
- c. Breach of public trust on the state machinery in cases where whistles are blown.*
- d. Violation of data privacy clauses of the international platforms i.e. Google / android and IOS resulting into suspension / termination of their services for Pakistan Citizen's Portal."*

6. *As far as the instant appeal to provide the identity of the complainant is concerned, it is pertinent to mention that a complaint against appellant's wife was lodged by a complainant on PCP and was routed through the system to the concerned office to proceed as per Rules / Policy on the matter. The concerned office requested the complainant to share details / evidence on the matter, failure to which resulted in closure of the complaint being baseless. No legal action was taken by the concerned office against the appellant's wife as the complaint could not meet the criteria of merit. The appellant's wife also lodged a complaint on PCP requested the concerned office to share the details of the complainant which was turned down by the concerned office because of policy for non-disclosure and anticipation of threat / harassment between the two parties. Resultantly, the appellant*

approached the forum of Pakistan Information Commission for disclosure of identity of the complainant.

7. *In view of all above, it is requested that as no action / damage against the appellant's wife was taken by the concerned office and the complaint was closed being baseless, therefore, the identity of the complainant may not be shared with the appellant. Sharing details with the appellant would result in mutual fight / harassment / threat to both parties and would be against the spirit of data privacy of Pakistan Citizen Portal.*"

6. Response submitted by the public body was shared with the appellant on June 16, 2022.
7. The appellant through an email dated July 26, 2022 submitted rejoinder to the response of the public body which is as under:

"Kindly refer to your letter dated June 16, 2022 on the subject cited above. It is stated that I have received your letter today by post office sir you have mentioned in that letter to contact Pakistan Information Commission within 07 days which clearly indicate delaying tactics in this matter from yours side. Furthermore, I'm not satisfied with response of the Pakistan Citizen Portal regarding my Appeal No. 1819-03/2022 due to the following reasons:

- i. *Firstly, whenever a complaint of this type in Pukhtoon culture is lodged against an innocent and honest person at his work place where he / she spends whole day, it causes a severe mental stress as happened in this case. My wife is in severe mental trauma since the day she has heard regarding complaint against her, which now leads to the condition that she becomes a psychiatric patient and taking medicines.*
- ii. *Secondly, in our society and culture respect and honor matters a lot. We belong to a very respectable family, and such complaint badly damages her image and reputation at least until proved baseless or even after that too. This type of allegation makes the image of respectable citizen suspicious in the eyes of society.*
- iii. *Third and most important thing is that I have requested for the said information for legal proceedings as I want to sue the complainant in court for defamation, so that this type of incidents may not happen in future with other respectable workers at least at her work place."*

C. Discussion and Commission's View on Relevant Issues

12. The commission has to decide whether the harm from disclosure of information outweighs public interest under the Right of Access to Information Act, 2017, hereafter referred to as Act.
13. The appellant requested information about the identity of the complainant who have filed complaint against his wife on Pakistan Citizen Portal.
15. The respondent in its response dated June 13, 2022 stated that the no legal action was taken by the concerned office against the appellant's wife as the complaint could not meet the criteria of merit. As the complaint caused no harm to the appellant therefore, the disclosure of the identity will only cause law in order situation.
16. This Commission through an order in Appeal No 1898-05/22 titled Mustaq Ahmed Vs Pakistan Citizen Portal maintained the identity of a complainant to the official against whom the complaint is lodged can only be disclosed after a certain threshold is met where it is determined that the complainant needs to come forward to prove allegations. Otherwise, citizens will find it difficult to lodge complaints against the officials in matters pertaining to public accountability of officials.

20. According to Section 9 of the Act, each public body shall, within thirty days of the commencement of this Act, notify one or more designated officials, not below the rank of an officer in BPS -19 or equivalent; but the Respondent has not so far nominated any official to deal with the information request of the citizen.
22. This Commission maintains 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".

D. Order

23. Appeal is disposed of as the reply submitted by the respondent is satisfactory.
24. The Respondent is also 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 and submit the compliance report to the commission in the Template for the Compliance Report-Proactive Disclosure of Information under Section 5 of the Right of Access to Information Act 2017'. This template is available under 'Information Desk' category at the web site of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
25. Deputy Secretary, Pakistan Citizen Portal directed to notify Public Information Officer, (PIO), under Section 9 of the Act, put contact details of PIO on its web site as required under Section 5 (1) (h) of the Act and submit compliance report to the commission within 10 working days of the receipt of this order.
26. Copies of this order be sent to Deputy Secretary, Pakistan Citizen Portal and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on: August 04, 2022

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