

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad
Appeal No 1925-05/22

Sharafat Ali Zia

(Appellant)

Vs.

Establishment Division

(Respondent)

ORDER

Date: September 12, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated May 18, 2022 to the Commission, stating that he submitted an information request to the Establishment Division, Govt. of Pakistan on April 21, 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:
 - i. *“Details of Assets held by the Minister-in-Charge Establishment Division as on date; and*
 - ii. *Details of assets held by BS-17 and above officers of Establishment Division as on date.”*

B. Proceedings

3. Hearing on the instant Appeal was fixed for August 11, 2022 vide letter dated July 27, 2022. The Respondent was represented by Sania Saeed, Section officer and Sana Ul Islam, DS, Establishment Division. They maintained that this information should not be disclosed as it relates to privacy of the officers. They also stated that in terms of Rule 7(i) of Civil Servants Promotion (BS-18 to BS-21) Rules 2019, non-submission of annual declaration of assets for the last five years constitutes one of the conditions for deferment.

C. Issues

4. The instant appeal has brought to the fore the following issue:

Does the right to privacy of the officer's trumps the legal requirement pertaining to the disclosure of their asset's details under the Right of Access to Information Act 2017, henceforth referred to as the Act 2017?

D Discussion and commission's views on relevant issues:

5. The Appellant has sought details of Assets of Minister-in-Charge Establishment Division and those of BS-17 and above officers of Establishment Division.
6. So far as the requested information about the details of the Assets of Minister-in-Charge Establishment Division is concerned, each elected representative is legally bound to

disclose these details to Election Commission of Pakistan and the Appellant needs to approach the relevant forum in order to access this information.

7. The Government Servants (Conduct) Rules, 1964 also deal with how details of assets of paid from the government exchequer are to be collected by federal public bodies and how these assets details are to be made public. The Government Servants (Conduct) Rules makes it binding on government employees to submit to an annual declaration of income, assets and expenses for the financial year, ending on 30th June. **Section 12 (2) and (3) of the Government Servants (Conduct) Rules, 1964 is as under:**

“(2) Every Government Servant shall submit to the Government, through the usual channel an annual declaration of income, assets and expenses for the financial year, ending on 30th June, showing any increase or decrease of property as shown in the declaration under sub-rule (1) or the last annual return, as the case may be.

(3) Declaration of "Assets Proforma shall be opened in the concerned section each year and entered into the relevant database in the month of December showing any increase or decrease of property as shown in the declaration under sub-rule or, as the case may be, the last annual return”.

8. So far as the disclosure of the assets details of BS-17 and above officers of Establishment Division is concerned, the Respondent is legally bound to disclose this information under Rule 13-A of the Government Servants (Conduct) Rules, 1964 which is as under:

“Assets to be made public. —The assets of all those who are paid from the government exchequer shall be made public”.

9. This commission is of the view that the requested information cannot be exempted from disclosure under any provisions of the Act.
10. The requested information cannot be denied even on the ground of personal privacy as mentioned in Section 7 (g) of the Act.
11. This commission has observed that public officials have limited understanding about right to privacy when juxtaposed with the right of access to information held by public bodies. Privacy/personal information is understood to be, broadly speaking, information/data pertaining to access control (username and/or password), financial information such as bank account, credit card, debit card, or other payment instruments, and, passports, biometric data, and physical, psychological, and mental health conditions, medical records, and any detail pertaining to an individual's ethnicity, religious beliefs etc.
12. The Act, 2017 envisages a situation wherein a document, which should be otherwise be made public but its parts may contain private information. In such an eventuality, the part containing private information can be severed from the document as mentioned in Section 16 (1) (i) of the Act, 2017.
13. This commission notes with concern that the disclosure of information about the assets details of those who are paid from the government exchequer is permissible under Section 13-A of the Government Servants (Conduct) Rules, 1964 but the Respondent has never implemented this section which is a serious case of maladministration and negligence of duty.
14. This commission holds that if relevant sections of the Government Servants (Conduct) Rules, 1964 pertaining to the assets details of those who are paid from the government exchequer, are implemented, the citizens of Pakistan, who pay taxes for, inter alia, the salaries of civil servants, will be able to know the following:

- Names, designations and number of officers who are not fulfilling their obligation of submitting their assets declaration.
- Frequency and duration of the failure on the part of officers in submitting assets declaration;
- Action taken, if any, by the Establishment Division against officers who failed to submit their assets declaration; and
- Action taken by the Respondent to determine any anomaly in the increase of assets details submitted by officers.

E. Order

15. The Appeal is allowed. The Respondent is directed to provide information mentioned in Item No. 2 of Para 2 of this Order to the Appellant, at the earliest but not later than 7 working days of the receipt of this Order, with intimation to this office.
16. Secretary, Establishment Division is directed to take immediate steps to proactively share through the website 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 10 working days of the receipt of this Order.
17. Secretary, Establishment 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. The compliance report be submitted to this commission at the earliest but not later than 10 working days of the receipt of this Order.
18. Copies of this order are sent to The Secretary, Senate Secretariat and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

September 12, 2022

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