



In The Pakistan Information Commission, Islamabad

Appeal No E318-08/2022

Muhammad Sarim Khan

(Appellant)

Vs.

Higher Education Commission

(Respondent)

ORDER

Date: October 10, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission received the appeal through online appeal management portal from Muhammad Sarim Khan dated August 10, 2022, stating that he has submitted information request dated July 28, 2022 to the Designated Officer, Higher Education Commission under the Right of Access to Information Act 2017, but the public body through a letter dated August 03, 2022 has refused to provide him the requested information.
2. The information sought by the Appellant is as under:
“That the undersigned is a law-abiding citizen and undertook recent LAW-GAT examinations conducted on 24th July, 2022. The undersigned seeks following documents and records from your institution under the titled Act.
 1. *Certified copy of the Exam/Question Paper of the test that took place on the said date;*
 2. *Answer keys of the Exam/question papers of the test that took on the said date;*
 3. *Any document that evidences the reason of the right answers of the exam questions.”*
3. The response of the Respondent dated August 03, 2022 sent to the appellant in response to his information request is as under:
“With reference to your request for provision of question paper of Law Graduate Assessment Test (LAW-GAT) held on 24-07-2022. It is stated that the candidates have been provided access to a sample paper from the question bank through website to be effectively guided in their preparation for the test. Answer key of the exam already available on the HEC-ECT portal.

Any testing agency local or international, does not share question papers developed based on a standardized question bank. According to Section 16 (i) (iv) of “The Right of Access to Information Act, 2017”,
“information may be exempt if its disclosure is likely to undermine the effectiveness of a testing or auditing procedure use by a public body”.
As a result of the facts and circumstances, the requisite data cannot be provided access.”

B. Proceedings:

3. Through a notice dated August 19, 2022, sent to Director (Media & Publications) / Public Information Officer, Higher Education Commission, the Commission called upon the Respondent to submit reasons for not providing the requested information, which was not replied with in the given time.
4. The Appeal was fixed for hearing on September 27, 2022 and both parties were informed through notices sent on September 12, 2022. Mr. Muhammad Ittifaq, Assistant Director (Media), Higher Education Commission attended the hearing but failed to submit any response or information before the Commission.

C. Discussion and Commission’s View on Relevant Issues:

08. The commission has to decide:
 - i. Whether the question paper of any exam which is already conducted is a public document under the Right of Access to Information Act, 2017, hereafter referred to as the “Act”?
 - ii. Whether the disclosure of the information will affect the testing standard of the public body or not?
09. This Commission through different orders including “Sajid Abbas Vs Federal Public Service Commission (FPSC) and Syed Ali Asghar Vs Higher Education Commission” has held that the even the answer sheet of any examination, after result is announced, is a public document under the Act.
10. This Commission maintained that in the instant appeal the appellant has only requested copy of the question papers of a particular exam whose result is also announced. Such old papers of different exams are available online and, in the market. Students/candidates use these papers for the preparation of the examination.
11. The fact that the citizens are forced to exercise the Right of Access to Information Act 2017 and have to wait for many months even for the information that should be available on the websites of the public bodies demonstrates that the public bodies are not ensuring the implementation of the Act, 2017.
12. If directions of the commission in this Order are not followed, it will be left with no option but to invoke Section 20 (f) of the Right of Access to Information Act 2017.
13. 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

14. Appeal is allowed. Director General (Publications)/ Public Information Officer, Higher Education Commission is directed to provide complete information mentioned in 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.
15. 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.
16. Copies of this order be sent to Director General (Publications)/ Public Information Officer, Higher Education Commission and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on:

October 10, 2022

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