



In the Pakistan Information Commission, Islamabad
Appeal No 2033-06/22

Aamir Baloch

(Appellant)

Vs.

Islamabad High Court

(Respondent)

ORDER

Date: November 04, 2022

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated June 27, 2022 to the Commission, stating that he submitted an information request to the Honorable Registrar, Islamabad High Court, 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:

“With reference to the above cited subject the undersign most respectfully draw your kind attention towards Article 19-A of the Constitution of Islamic Republic of Pakistan 1973 and Section 11 of The Right to Access Information Act 2017 and requested to provide the following information under the above mentioned provisions of law.

- i. Total sanctioned strength of officers, staff members of Honorable Islamabad High Court (category wise) against different positions/pay scales Le pay scales to 22 category wise). The response may distinguish perks and privileges allocated to officers and staff members of Supreme Court of Pakistan.*
- ii. Total vacancies in the Islamabad High Court against different pay scales/ positions (category wise) and dates since which these positions have been lying vacant.*
- iii. 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)*
- iv. Number and types of positions created anew since January 1 2013.*
- v. Total number of female staff members (category-wise) against various positions/pay-scales. The response may distinguish between the shea term/temporary staff members and regular ones.*
- vi. Total number of persons with disabilities working with Islamabad High Court against various positions/ pay-scales (category-wise). The response may distinguish between the shot-term / temporary staff members and regular ones.*
- vii. Total number of transgender persons working with Islamabad High Court against various positions/ pay-scales (category-wise). The response may distinguish between the shot-term temporary staff members and regular ones.*
- viii. Total numbers of vehicle along with their models provide to Honorable Judges, officers, staff members and employees of Honorable Islamabad High Court The response may distinguish the number of vehicle with allocation of Islamabad High Court, Purchase, auctioned, depreciated from January 1 2013 to onward.*

- ix. *Details allocated and utilized budget and expenditure statement of the current financial year 2021-2022 of the Islamabad High Court including proposed and actual expenditures. The response may distinguish the budget fixed for employees related expenses, operating expenses, employees retirement benefits, grant subsidies and write off loans, transfer (Gift & Entertainment), Physical Assets, local and international travels and tour funds, Repair and Maintenance.*
- x. *Attested Copy of Audit Report of audit year 2020-2021 of Islamabad High Court.*
- xi. *Total number of houses, bungalows, flats and portion given to the Honorable Judges, officers and staffs members of Islamabad High Court given by Islamabad High Court. The response may distinguish the number of house repair, funds allocated for maintenance or allowances of maintenance from January 1, 2013 to onward.*
- xii. *Total number of rest houses of the Islamabad High Court. The response may distinguish the funds allocated to the maintenance rest houses from January 1, 2013 in onward.*

In view of the above circumstances it is humbly requested that the hard copy of above detailed information may kindly be shared with undersigned within the time frame stipulated under section 14 of The Right to Access Information Act 2017 I shall remain thankful on the said kindness and your immediate response shall be highly appreciated and obliged”.

B. Proceedings

3. The record on the file suggests that the Respondent submitted its response on the intervention of this commission on October 13, 2022 and its text is as under:

“Kindly refer to your letters dated July 19, 2022 and October 06, 2022, I am directed to say that Islamabad High Court is following the policy guidelines given by the Hon'ble Supreme Court of Pakistan on the matter of provision of Information of Superior Courts in its letter No. F.1/18/2009-SCA, dated: 30.09.2014, to Ministry of Law and Justice (copy enclosed).

- i. *The operative part of policy of Hon'ble Supreme Court of Pakistan stated in the instant letter is as under.*

The preamble of the Islamic Republic of Pakistan, which is now a substantive part of the Constitution by virtue of Article 2 A, envisages that the independence of Judiciary shall be fully secured. The mandate of Article 175 regarding separation of the Judiciary from the executive already stands fulfilled in light of judgment of the Supreme Court reported as Government of Sindh v Sharaf Faridi (PLD 1994 SC 105). The Constitution has dedicated a full Part (Part VII) comprising + Chapters on "The Judicature" The role of the Legislature in the appointment of Judges of the Superior Courts is delineated in the Constitution. Needless to mention that the Constitution contains a full-fledged mechanism of internal checks and balances on the working of the Courts in the form of appeal, review, etc. In this regard. Article 203 of the Constitution mandates the High Courts to supervise and control the Courts subordinate to them. As regards the working of the Superior Courts, the Constitution does not entrust such a function to any outside institution /other organ of the State, rather leaves to such Courts themselves. It may be noted here that the Constitution does not envisages oversight in any form/manner by any other institution/organ of the State on the functioning of the Courts. This position may kindly be appreciated while dealing with the queries/questions received from the concerned quarters.

- ii. *It is added here that the Superior Courts do public Annual Reports on their working giving, amongst other things, the details of year wise Institution/disposal/pendency of cases for information of the general public. Such reports as well as other information pertaining to the composition of Courts, etc., are also available on the websites of the respective Courts."*

03. In addition to above, two Writ Petitions on the similar subject are pending for adjudication in the Islamabad High Court, Islamabad, i.e. W.P. 4284/2021 titled "The Registrar. Supreme Court of Pakistan Vs. Pakistan Information Commission etc." and WP 4500/2021, titled "Federation of Pakistan through Secretary, Ministry of Law and

Justice Vs. Pakistan Information Commission etc." Therefore, outcome of the same may please be awaited."

4. The hearing on the instant appeal was fixed for October 20, 2022 vide letter dated October 06, 2022. The Respondent did not attend the hearing.

C. Issues

5. 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:

6. This Commission holds that the stance of the Respondent that the proceedings on the instant appeal be warrant sine die adjournment as two Writ Petitions on the similar subject are pending for adjudication in the Islamabad High Court, Islamabad does not hold water. The matter under the consideration of Honourable Islamabad High Court in the said petitions is the maintainability of the Writ Petitions which means that it is at pre-admission stage. The question in these petitions under consideration is whether the Registrar of the Honourable 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.
7. 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 the instant appeal as the subject matter of the requested information and the Appellant are different. The Appellant in the instant appeal has the right to approach relevant legal forum to exercise his fundamental right of access to information as the said writ petitions are still pending decision at the honourable Islamabad High Court.
8. The Respondent has submitted that "Islamabad High Court is following the policy guidelines given by the Hon'ble Supreme Court of Pakistan on the matter of provision of Information of Superior Courts in its letter No. F.1/18/2009-SCA, dated: 30.09.2014, to Ministry of Law and Justice (copy enclosed)".
9. This Commission holds that the said letter is of administrative nature and not a court verdict and as such cannot trump the Right of Access to Information, 2017 and its Section 2 (xi) (e) which brings Islamabad High Court within the definition of public body and is as under:
"Any court, tribunal, commission, or board under the Federal law;"
10. While this Commission entirely agrees with the stance submitted by the Respondent before this commission by Relying on the operative part of policy of Hon'ble Supreme Court of Pakistan, that the independence of Judiciary shall be fully secured", this Commission maintains 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.
11. 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.

12. The Respondent has submitted that “the Superior Courts do public Annual Reports on their working giving, amongst other things, the details of year wise Institution/disposal/pendency of cases for information of the general public. Such reports as well as other information pertaining to the composition of Courts, etc., are also available on the websites of the respective Courts”.
13. This Commission holds that it is not at the discretion of the public bodies to decide which information is to be proactively published, and how is to be published after the enactment of the Right of Access to Information Act, 2017 but each public body is legally binding to proactively publish, in accessible manner, all categories of information mentioned in Section 5 of the Act, 2017, including Audit Report of audit year 2020-2021, as requested by the Appellant in the instant appeal.
14. 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).
15. 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.
16. 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 Islamabad High Court, and vehicles purchase, auctioned, depreciated from January 1, 2013 to onward as requested by the Appellant.
17. This commission maintains that details of allocated & utilized budget and expenditure statement of the current financial year 2021-2022 of the Islamabad High Court Including proposed and actual expenditures is public information and its disclosure is warranted under the provisions of the Act, 2017.
18. 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 Islamabad High Court by Islamabad High Court, as requested by the Appellant and total number of rest houses of the Islamabad High Court is public information and its disclosure is warranted under the provisions of the 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, Islamabad High Court 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, Islamabad High Court 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, Islamabad High Court 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.
23. Copies of this Order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: November 04, 2022

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