

APPEAL NO. 1880-04/2022
Nadeem Umer
Vs
Al-Shifa Trust Eye Hospital, Rawalpindi

**Dissenting Note of Information Commissioner Zahid Abdullah On Order Nadeem Umer
Vs Al-Shifa Trust**

“I respectfully disagree with my learned colleagues on the following grounds:

- i. The majority Order relies on unambiguous ‘laws of morality’ rather than legal provisions of the Right of Access to Information Act, 2017.*
- ii. The Honourable Parliamentarians, through their collective wisdom have included Section 5 (1) (e) of the Act, 2017 to ensure proactive disclosure of “particulars about the recipients of any concession, permit, license or authorization granted by the public body to counter-check corruption and curb corrupt practices prevalent in public bodies.*
- iii. The majority Order does not take into the account that the individuals who got treatment as patients are also beneficiaries who got treatment through public funds.*
- iv. The health-related information of these individuals as patients is protected under right to privacy. As such, health related information of these patients such as nature of the eye disorder and treatment recommended and carried out to each individual, if disclosed, without the express consent of the individual, will infringe upon the right to privacy of an identifiable individual.*
- v. The individuals who got treatment at these eye camps are beneficiaries of public funds and their names along with addresses is public information and the Respondent is legally bound to share this information while withholding their health-related information.*
- vi. Similarly, billing details of individuals who got eye lenses through public funds is public information. This information should also be made available on the web site of the Respondent as Section 5 (1) (e) of the Act, 2017 requires “particulars about the recipients of any concession, permit, license or authorization granted by the public body to be proactively published.*
- vii. There is no stigma attached with free treatment if a person cannot afford such a treatment. In other words, there is no invasion of privacy if community comes to know that a particular individual got treatment for free at Al-Shifa Trust Eye Hospital. Therefore, there is no harm in disclosing the names and addresses of beneficiaries of public funds, if there is at all, it far outweighs the benefits.*
- viii. The stigma should be attached with people who can otherwise afford but get concessions and benefits from public bodies in connivance with corrupt officials.*

- ix. *The stigma should be attached with those corrupt officials who fudge numbers, register either 'fake', or, 'underserving beneficiaries and embezzle public funds knowing that names and addresses of the recipients of public funds will stay hidden.*
- x. *If names and addresses of beneficiaries are proactively published, as the law requires, it would help curb corrupt practices.*
- xi. *In the majority Order relies on just the numbers of beneficiaries as provided by the Respondent.*
- xii. *As the majority Order does not allow the disclosure of names and addresses of the beneficiaries, the citizen will not be able to counter-check whether these numbers and actual deserving beneficiaries add up and confirm each other.*
- xiii. *The collective wisdom of our Honourable Parliamentarians can be appreciated for ensuring proactive disclosure of names and addresses of the beneficiaries of public funds when we take into consideration how wives of public officials embezzled public funds, meant for the poorest of the poor women under BISP program.*
- xiv. *Had the names and addresses of the beneficiaries of public funds under BISP been proactively disclosed, as required under the Act, 2017, corrupt officials would not have been able to embezzle public funds for such a long time.*
- xv. *The disclosure of the names and addresses of the beneficiaries of the Respondent would serve as a deterrence against corrupt practices. Furthermore, proactive disclosure of names and addresses of the beneficiaries will ensure proper counting of medical gadgets and the amounts involved in such treatments.*
- xvi. *Distinction needs to be made between private and institutional donors of the Respondent.*
- xvii. *The names of the institutional donors and funds donated by each donor cannot be withheld on the grounds of privacy as these donors claim tax exemptions on the basis of these donations.*
- xviii. *The names of private individuals who have donated funds to the Respondent cannot be disclosed without express consent of the private donors.*
- xix. *The Respondent should develop mechanism to seek input from each individual donor as to whether the individual would like or not to disclose the name and the amount donated rather than treating it a private information on its own."*