

Pakistan Information Commission
Government of Pakistan

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In the Pakistan Information Commission, Islamabad
Appeal No 2054-07/22

M. Mubeen Ahmed (Appellant)
Vs.
Ministry of Energy (Petroleum Division) (Respondent)

ORDER

Date: October 10, 2022
Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated July 04, 2022 to the Commission, stating that he submitted an information request to the Secretary, Ministry of Energy, and Petroleum Division on April 02, 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:
 - “ 1. As Mr. Muhammad Mubeen Ahmed, BPS-18 Ex-cadre.Ex-Deputy Director Department of Explosives has been dismissed from service vide order F. No 5(71/2020-D-Oil dated, dated 21-04-2020 (order dated 21-04-2020) passed by Secretary Petroleum (Annexure A). The list of allegations No F1(11/2020 MISC dated 08-0-12-20209 in connection with (order dated 21-04-2020) is attached as Annexure B.
 2. As para 3 of order dated 21-04-2021(Annexure A), provided that, "the inquiry officer after giving an opportunity of personal hearing to Mr. Mubeen Ahmed on 28th December 2020 and considering the relevant record and documentary evidence concluded that all the charges conveyed to him stood proven."
 3. As provided in Section 2 of Right to access to Information Act, 2017, "Definitions. In this Act unless there is anything repugnant in the subject or context, "applicant" means a citizen of Pakistan, as defined in law, who lodges a request or any person who is acting for or on behalf of such a person.
 4. As every citizen of Pakistan have the privilege under Right to access to Information Act, 2017, to obtain information/record regarding decisions relating to member of Public.
 5. As in term of Section 2(xi) of Right to access to Information Act, 2017, the Ministry of Energy and Petroleum Division and Department of Explosives are Public Bodies.
 6. As provided in Section 3 of Right to access to Information Act, 2017, that, "Right to have Information not to be denied (1) Subject to the provisions of this Act, no applicant shall be denied access to information or record held by a public bod.
 7. As provided in Section 6 of Right to access to Information Act, 2017, that. "Declaration of public record. Subject to the provisions of section 7, the following record of all public bodies is hereby declared to be the public record, namely:-
 - i. Policies and guidelines.
 - ii. Transactions involving acquisition and disposal of property and expenditure undertaken by a public body in the performance of its duties and functions.

- iii. Information regarding grant of licenses, allotments and other benefits, privileges, contracts and agreements made by a public body.
- iv. Final orders and decisions, including decisions relating to members of public and.
- v. Any other record which may be notified by the Minister-in-charge of the Federal Government as public record for the purpose of this Act.

8. As provided in Section 7 of Right to access to information Act, 2017, that, Exclusion of certain record. Nothing contained in section 6 shall apply to the following record of all public bodies, namely:

- i. Noting on the files, subject to a final decision by the public body.
- ii. Minutes of meetings, subject to a final decision by the public body.
- iii. Any intermediary opinion or recommendation subject to a final decision by the public body.

9. As in term of Section 6 &7, Right to access to Information Act, 2017, following record with respect to Mr. Muhammad Mubeen Ahmed is requested to provide in connection with order dated 21-04-2021(Annexure A), and list of list of allegations No. F1 (1)/2020 MISC dated 08-0-12-2020. (Annexure B).

- I. The record of order of appellant authority. Federal Government that is Federal Cabinet in line with rule 122(1) of Petroleum Rule 1937, by allowing instant appeal dated 24-11-2021 of M/s Attack Petroleum Limited (Annexure C) of Order appealed against No. KAR 4535/P, dated 20-11-2020(Annexure D), issued in line with rule 121 of Petroleum Rules, 1937, for cancellation of a license No KAR 4535/P in form "" dated 09-07-2020 at port Qasim Karachi.
- II. The record of approval letters/licenses issued with signature of Mr. Muhammad Mubeen Ahmed license in "L" form in respect of 13 terminals having no lawful authority in line with Para 20) of statement of Allegations (Annexure B) as it has been provided at para 3 of order dated 21-04-2020 (Annexure A), that this allegation has been stood proven in inquiry officer report.
- III. The record of plans approved without lawful authority bearing signature of Mr. Muhammad Mubeen Ahmed of license in "L" form in respect of 13 terminals in line with Para 2() of statement of Allegations (Annexure 8), it has been provided at para 3 of order dated 21-04-2020 Annexure A), that this allegation has been stood proven in inquiry officer report.
- IV. The record in respect of recommendations and licenses granted in generalized categories i.e. Dangerous Petroleum, without specifying the exact type of product being store with signature of Mr. Muhammad Mubeen Ahmed without having lawful Authority In line with Para 2(v) of statement of Allegations (Annexure B), it as it has been provided at para 3 of order dated 21-04-2020 (Annexure A), that this allegation has been stood proven in inquiry officer report.
- V. The record of twelve (12) form license under Petroleum Rule, 1937 which have been issued with signature of Mr. Muhammad Mubeen Ahmed, contrary to approved plan in line with Para 2(vi) of statement of Allegations (Annexure B), it as it has been provided at para 3 of order dated 21-04-2020, that this allegation has been stood proven in inquiry officer report.
- VI. The record of inquiry report by Mr. Asad All Khan, Additional Commissioner-I, Karachi Division with the portion highlighted pointed out that Mr. Mubeen Ahmed, Regional In charge Explosives Office Karachi committed criminal negligence in the matter, which resulted in the loss of human lives in line with Para 2(viii) of statement of Allegations (Annexure B).

10. As provided in with Section13 (3) of Right of Access to information Act, 2017, order F. No. 5(7)/2020-1D-Dil dated, dated 21-04-2020 (order dated 21-04-2020) passed by Secretary Petroleum (Annexure A). The list of allegations No. F1 (1)/2020 MISC dated 08-0-12-20209 in connection with (order dated 21-04-2020) is attached as Annexure B.

11. Where information or a record is provided in accordance with clause (a) of sub-section (2), Section 13 of Right of Access to Information Act, 2017 it shall be

accompanied by a certificate which may be affixed to the information or record at the foot thereof, or as appropriate, to the effect that the information is correct or, as the case may be, the copy is a true copy of the original record and such certificate shall be dated and signed by the designated official.

12. As provided Section 13(4) of Right of Access to Information Act, 2, that, "Where the designated official refuses a request, he shall, before informing the applicant of such refusal, obtain written approval of the principal officer of the public body."

B. Proceedings

3. Hearing on the instant Appeal was fixed for October 06, 2022 vide letter dated September 20, 2022. Appellant attend the hearing whereas nobody represented the Respondent.

C. Issues

4. The instant appeal has brought to the fore the following issues:
 - (a) Has the Respondent followed the procedure enunciated in the Act, 2017 for responding to the information request?
 - (b) Can the requested information pertaining to the finalised enquiry report and the related records be disclosed under the provisions of the Right of Access to Information Act, 2017?

D Discussion and commission's views on relevant issues:

5. In the instant Appeal, the record on the file shows that the Respondent demonstrated utter disregard to the provisions of the Act, 2017.
6. In the instant appeal, the Respondent failed to provide written acknowledgement of the request for information filed by the citizen as required under Section 10 (1) of the Act.
7. The Respondent also failed in following the procedure enunciated in the Act for acceptance and refusal of request for information laid down in Section 13 (2) of the Act.
8. The Respondent also failed in adhering to the timeline for responding to the information requests as required under Section 14 (1) and (2) of the Act as the PIO did not respond to the information request at all.
9. The Respondent failed to respond to notices of the commission and also failed to attend the hearing.
10. This commission holds that the finalised enquiry report and all the related records/information requested by the Appellant is public record.
11. This Commission has observed, as is also the case in the instant Appeal, that information of public importance mentioned in Section 5 of the Act is not being published through the web site of federal public bodies. In fact, the Web sites of federal public bodies contain generic information and not specific information as required under Section 5 of the Act. This is despite the fact that Principal Officer of each public body was required to ensure proactive disclosure of information through web site within 6 months of the commencement of the Right of Access to Information Act, 2017.
12. 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

13. The Appeal is allowed. The Respondent is directed to provide the Appellant information requested 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 office. All records/information thus provided be certified in the manner enunciated in Section 13 (3) of the Right of Access to Information Act 2017.
14. The Respondent 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 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.
15. The Respondent 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.
16. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Fawad Malik

Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: October 11, 2022

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