

Pakistan Information Commission
Government of Pakistan

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In The Pakistan Information Commission, Islamabad

Appeal No 2202-09/22

Nadeem Umer

(Appellant)

Vs.

National Electric Power Regulatory Authority

(Respondent)

ORDER

Date: November 07, 2022

Mohammad Azam: Chief Information Commissioner

A. The Appeal

1. This commission has received an appeal through an email from Mr. Nadeem Umer dated September 09, 2022, stating that he submitted an information request dated August 22, 2022 under the Right of Access to Information Act 2017 to the National Electric Power Regulatory Authority. The Respondent public body has not responded to his information request as required under section 13 of the Right of Access to Information Act, 2017. Therefore, the appellant has filed his appeal to the Commission.
2. The information sought by the Appellant is as under:
 - “1. List of the independent power producers in Pakistan.
 2. Certified copies of all agreements signed with independent power producers so far.
 3. Copy of the inquiry committee report that was formed by the Imran Khan led government to investigate independent power producers (IPPs) in 2019/2020.”

B. Proceedings:

3. The Respondent in pursuance of the notice of this Commission, submitted reponse which is as under;

“ Please find enclosed herewith the information requested vide Serial No. 1 of the e-mail dated August 22, 2022 received from the Appellant (Mr. Nadeem Umar) with regard to 'List of the independent Power Producers in Pakistan' as per Annex-I.

With regard to information requested vide Serial No. 2 & 3, following is submitted:

a) Serial No. 2 relates to 'Copies of Agreements signed with independent power producers so far relates to CPPA-G.

b) Serial No. 3 relates to 'Copy of the inquiry committee report that was formed by the Imran Khan led government to investigate independent power producers (IPPs) in 2019/2020' relates to Ministry of Energy."

4. The appeal was fixed for hearing on October 18, 2022 and notices were sent to Deputy Secretary (Coord), Ministry of Energy (Power Division) and Managing Director, Central Power Purchasing Agency. Mr. Hisham, AML, Central Power Purchasing Agency and Mr. Zunair, AML, Central Power Purchasing Agency attended the hearing and requested time for the provision of the requested information. The appeal was adjourned for November 01, 2022.
5. Mr. Zunair, AML, Central Power Purchasing Agency again attended the hearing held on November 01, 2022 but failed to provide the requested information.

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

6. The commission has to decide whether the remaining information requested by the citizens falls within the ambit of the public record and whether the public body has responded or not to the information request and notices of the commission within time limit mentioned in the Right of Access to Information Act, 2017, hereafter referred to as Act.
7. The respondent during the hearing informed the Commission that the record related to the agreements signed with the independent power producers is more than 20 years old. According to Section 16(k) of the Act the record held by any public body even if it is exempted under the act is a public record after twenty years.
8. Section 16(k) is as under:
"(k) The exemptions set out in section 16 shall cease to apply after every twenty years and that record of the public bodies shall be made public."
9. Moreover, the information requested in Para-3 of the information request is also public record under Section 5 (i) of the Act.
10. Purpose of the Act is to ensure the Transparency in the business of the Government, as the Preamble of the Act states."
"Whereas Government believes in transparency and the right to have access to information to ensure that the people of Islamic Republic of Pakistan have improved access to records held by public authorities and promote the purpose of making the government more accountable to its people, of improving participation by the people in public affairs, of reducing corruption and inefficiency in Government, of promoting sound economic growth, of promoting good governance and respect for human rights".
11. 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.

12. 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

13. Appeal is allowed. The Deputy Secretary (Coord), Ministry of Energy (Power Division) and Managing Director, Central Power Purchasing Agency 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.
14. The Respondent is also 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 on the website of the commission www.rti.gov.pk. The compliance report be submitted to this commission within 30 days of the receipt of this Order.
15. Copies of this order be sent to the Deputy Secretary (Coord), Ministry of Energy (Power Division) and Managing Director, Central Power Purchasing Agency and the Appellant for information and necessary action.

Mohammad Azam

Chief Information Commissioner

Zahid Abdullah

Information Commissioner

Announced on: November 07, 2022

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