

Ref: PILAP/HO/2020/369

July 29, 2020

**Chief Information Commissioner
Pakistan Information Commission
First Floor, National Arcade, A-4 Plaza,
F-8 Markaz, Islamabad**

APPEAL UNDER SECTION 17 OF THE RIGHT TO INFORMATION ACT, 2017

Dear Sir,

The Public Interest Law Association of Pakistan (PILAP) is a public interest association registered under the laws of Pakistan and is concerned with addressing issues of public interest in accordance with the Fundamental Rights guaranteed by the Constitution of the Islamic Republic of Pakistan. Our organization requested information from the Cantonment Board Clifton (CBC) under the Right of Access to Information Act, 2017 through an Application ("RTI Application"), attached herewith for your reference. PILAP has not received a response from CBC within the ten (10) day time period stipulated by the 2017 Act, hence this appeal under section 17 of the Right of Access to Information Act, 2017. We submit as under:

1. That PILAP submitted an application to CBC and the Sindh Environment Protection Agency (SEPA) on 6th July, 2020 on the public interest issue of a proposed development project undertaken by CBC along a stretch of Seaview Beach, Clifton, Karachi, as reported in Dawn on 5th July, 2020 (attached herewith as Annexure A).
2. That the news article reports that although the proposed CBC project has been approved by the Sindh Environmental Protection Agency (SEPA), the approval was granted without a detailed Environmental Impact Assessment (EIA). Under the provisions of the Sindh Environmental Protection Act, 2014, once an EIA has been submitted by a proponent of a project, CBC in this case, SEPA is required to review it before such approval is granted. Every such review is to be carried out with public participation and after full disclosure of the project details. No such review was carried out.
3. That the right to information is a Fundamental Right guaranteed by the Constitution of Pakistan under Article 19A. Article 19A provides that *"every citizen shall have the right to have access to information in all matters of public importance subject to regulation and reasonable restrictions imposed by law."*

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Plot # 18-C, 2nd Floor, Office # 202, Zamzama Lane # 2, Phase-5, DHA, Karachi.
Phone: +9221 32417049, +9221 32417087, +9221-35304110 Email: info@pilap.pk

4. That the matter agitated by PILAP in its RTI application is a matter of public importance. The proposed project involves a potential adverse impact on the surrounding environment, including the coastline. It would also pose a risk in terms of polluting the water, and hence threatening the flora and fauna, as well as the health of the human population. Under Article 9, the Constitution guarantees the right to life. This has been interpreted by the Supreme Court of Pakistan to include the right to a healthy environment. The matter at hand is, therefore, one of public interest and involves Fundamental Rights.
5. That it must also be mentioned that the decision by SEPA to approve CBC's proposal is one that relates to members of the public, and hence declared to be part of the public record under Section 6 (d) of the Rights of Access to Information Act.

In view of the above, it is humbly requested that your respected office accept this appeal and direct CBC to furnish the information sought. In particular, PILAP requested the following information from CBC:

- i) What measures, if any, has CBC taken to ensure that the proposed project shall be open to all citizens, in line with the pronouncements of the Honourable superior courts that have pronounced that the right to open access to public spaces is a fundamental right?
- ii) What steps, if any, has CBC taken to ensure that the proposed project does not adversely impact the environment, including the sea and coastline, flora and fauna and human health?

Best regards,



Public Interest Law Association of Pakistan (PILAP)
Through its Chief Executive Officer
Pervez Said

Address for reply:

Public Interest Law Association of Pakistan (PILAP),
Office No.202, 2nd Floor, Zamzama Commercial Lane # 2,
Defence Housing Authority, Phase-5,
Karachi.

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Plot # 18-C, 2nd Floor, Office # 202, Zamzama Lane # 2, Phase-5, DHA, Karachi.
Phone: +9221 32417049, +9221 32417087, +9221-35304110 Email: info@pilap.pk



BY COURIER

Ref: PILAP/2020/344

July 06, 2020

1. **Cantonment Board Clifton,
Through the Cantonment Executive Officer,
CC-38, 10th Street,
Khayaban-e-Rahat,
Phase VI, DHA,
Karachi**
2. **Sindh Environment Protection Agency
Through its Director General
EPA Complex,
Head Office,
Plot No. ST-2/1, Sector 23,
Korangi Industrial Area,
Karachi**

REQUEST FOR INFORMATION UNDER THE RIGHT OF ACCESS TO INFORMATION ACT, 2017

Dear Sir,

The Public Interest Law Association of Pakistan (PILAP) is a public interest association registered under the laws of Pakistan and is concerned with addressing issues of public interest in accordance to the Fundamental Rights guaranteed by the Constitution of the Islamic Republic of Pakistan. It respectfully submits as under: -

1. That the details of the authorized person on behalf of PILAP are as under: -

Name of the Applicant:	Pervez Said
CNIC No.:	42301-0954324-1
Father's Name:	Muhammad Said
Address:	51-I, Khayaban-e-Hilal, Phase-6, DHA, Karachi
Phone No.:	0300-8235570

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Plot # 18-C, 2nd Floor, Office # 202, Zamzama Lane # 2, Phase-5, DHA, Karachi.
Phone: +9221 32417049, +9221 32417087, +9221-35304110 Email: info@pilap.pk



2. That please refer to the article published in *Dawn* on 5th July, 2020, titled "Clifton Beach Development Project Poses Serious Environmental Risk, Experts Warn". The said article is attached herewith for ease of reference.
3. That the above mentioned article draws attention to a development project currently being undertaken by the Cantonment Board Clifton (CBC) along a stretch of Seaview Beach. Though the project has been approved by the Sindh Environmental Protection Agency (SEPA), the approval was granted without a detailed Environmental Impact Assessment (EIA). Under the provisions of the Sindh Environmental Protection Act, 2014, once an EIA has been submitted by a proponent of a project, SEPA is required to review it before such approval is granted. Every such review is to be carried out with public participation and after full disclosure of the project details.
4. That the citizens of Karachi are stakeholder in the proposed CBC project and hence it is their right to be a part any decision-making process that has an impact on their lives. The Constitution guarantees the right to life, which has been interpreted by the Supreme Court of Pakistan to include the right to a healthy environment. The citizens, therefore, are entitled to be a part of any review process that could have an impact on their lives.
5. That the proposed project could potentially have an adverse impact on the surrounding environment, including the coastline. It would also pose a risk in terms of polluting the water, and hence threatening the flora and fauna, as well as the human population.
6. That, in light of the above, PILAP respectfully submits this Application requesting for information under the right granted to all citizens of Pakistan under the Right of Access to Information Act 2017 as under: -
 - i) What is the reasoning behind SEPA's failure to conduct a review of CBC's proposed project, as it is required to do under the law?
 - ii) What is the reasoning behind SEPA's failure to meet the requirement of seeking public participation in its review of the CBC project, as it is required to do under the law?
 - iii) What measures, if any, has CBC taken to ensure that the proposed project shall be open to all citizens, in line with the pronouncements of the Honourable superior

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Plot # 18-C, 2nd Floor, Office # 202, Zamzama Lane # 2, Phase-5, DHA, Karachi.
Phone: +9221 32417049, +9221 32417087, +9221-35304110 Email: info@pilap.pk



courts that have pronounced that the right to open access to public spaces is a fundamental right?

iv) What steps, if any, has CBC taken to ensure that the proposed project does not adversely impact the environment, including the sea and coastline, flora and fauna and human health?

7. That in the circumstances, PILAP would be grateful for a reply at the earliest.

Thank you.

Best regards,



Public Interest Law Association of Pakistan (PILAP)
Through its Chief Executive Officer
Pervez Said

Address for reply:

Public Interest Law Association of Pakistan (PILAP),
Office No.202, 2nd Floor, Zamzama Commercial Lane # 2,
Defence Housing Authority, Phase-5,
Karachi.

PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Plot # 18-C, 2nd Floor, Office # 202, Zamzama Lane # 2, Phase-5, DHA, Karachi.
Phone: +9221 32417049, +9221 32417087, +9221-35304110 Email: info@pilap.pk

TODAY'S PAPER | JULY 29, 2020

Clifton beach development project poses serious environmental risks, experts warn

Faiza Ilyas | 05 Jul 2020



Construction work in progress at Clifton beach.—Fahim Siddiqi/White Star

KARACHI: The development project currently being executed by the Clifton Cantonment Board (CCB) poses serious environmental risks and would deprive the people of their “fundamental right to free access to the beach”, experts and civil society activists have said.

The project was approved by the Sindh Environmental Protection Agency (Sepa) in February, without a detailed environmental impact assessment, which deprived citizens of a lawful opportunity to participate in the project review process.

Planned to be spread over 20.89 acres, the project entails the development of one-kilometre-long stretch of the Seaview beach from Nishan-i-Pakistan to the Chunky Monkey amusement park located in DHA Phase V (extension).

The facilities to be built include two beach decks, a jogging track, fountains, monuments, restaurants and tuck shops, hawkers and streets stalls, a children's play area, two public piazzas of 2.5 acres each, green areas spread over 13.5 acres and watchtowers.

'The project will deprive people of free access to the beach'

"It's a recipe for an ecological disaster as large concrete structures along the coastline have shown to impact sea's hydrological dynamics, causing loss of natural land and increasing the risk for erosion and vulnerability to inundation. They also magnify the impact of extreme weather events and natural disasters," said senior director at World Wide Fund for Nature-Pakistan Rab Nawaz. Factors such as climate change and environmental degradation compounded those risks, he added.

He said coastal development should only involve environment-friendly and low-impact structures. He also referred to some coastal development projects in Balochistan and said they would degrade water quality and have an adverse impact on marine species in the long run.

Sedimentation of beach

Talking about coastal dynamics, Dr Asif Inam, former director general of the National Institute of Oceanography, said the Clifton beach was experiencing rapid sedimentation mainly due to the material dredged from the Deep Sea Container Terminal (built by the Karachi Port Trust).

"And, what's causing accretion of dredged material along the beach is the (natural) process of longshore sediment transport occurring from the west of Clifton to its east.

"Any structure or development along the Clifton beach obstructing this process would result in accumulation of sediments on the western side and erosion on the eastern side of the structure," he said, adding that it might also have an impact on the adjoining creek and delta.

Studies conducted by various institutions, he pointed out, had shown that Pakistan's coast was going to face a lot of issues due to sea level rise and increased frequency of cyclones/storm surge.

Dr Inam was a bit sceptical about the sewage treatment plant planned in the project and said untreated sewage being released in the vicinity for the last several years had severely deteriorated water quality and bathing/exposure to seawater was likely to harm humans.

“It appears that the development plan has a provision for [a] sewage treatment plant. But, we all know the history and effectiveness of all sewage plants in Karachi,” he noted.

Fundamental right

Senior lawyer Zubair Abro regretted that public places were being taken over in the name of development. “Recently, a part of Zamzama Park has been turned into a parking plaza and now this project at Seaview. These activities are in defiance of the Sindh High Court’s judgement in the Muhammad Tariq Abbasi case. In this case, decided in 2007, the court held that free access to the beach was a fundamental right of every citizen under the Public Trust Doctrine.”

He argued that the public — the primary stakeholders in the project — should have been involved in the venture through the environmental impact assessment review process.

“But, unfortunately, the project was approved by Sepa under the Initial Environmental Examination (IEE) rules without any justification. The project, in fact, falls in category I (4) of the schedule II of Sepa (Review of IEE & EIA) Regulations, 2014,” he said.

He described categorisation of the project in Schedule I as against the principle set by the Sindh High Court in the DHA versus Federation of Pakistan (Bahria Town Clifton Flyover case).

“In that particular case, the court held that the environmental law is a beneficial legislation enacted for the welfare of the public at large. Therefore, it’s important that an EIA is done and the public is heard even if a project seems to be falling in both environmental schedules.”

‘Project an eyewash’

Concerns over the project were also raised at a recent meeting of the International Union of Conservation of Nature (IUCN), Pakistan. The issue was brought to the attention of the IUCN national committee members by Amra Javed of Shehri-Citizens for a Better Environment.

“The Clifton beach is the only source of relaxation and recreation for a majority of Karachiites and this project would deprive the public of free access to the beach. There was no transparency in the project approval process and what Sepa did was an eyewash,” said Ms Javed when contacted by Dawn.

In Sepa’s defence, director general of the agency Naeem Mughal said the project neither violated citizens’ rights nor posed any environmental risks as “the project won’t be built inside the seawater and the area was devoid of any ecologically important flora and fauna.

“Rather, this project would upgrade the beach, which currently stinks with polluted water. The public would have better recreational facilities with no entry fee to the project site, which would allow the general public to have free access to the beach. There is no threat of marine pollution as the project would have a sewage treatment plant.”

When asked how Sepa would ensure that the treatment facility would work when the entire untreated sewage of the city, including that of the DHA, discharged into the sea, he said: "It's a different matter. We are following this and have written many letters to the DHA on this subject".

The department, he said, would closely watch progress of the project and was ready to make relevant individuals and organisations part of its monitoring team.

About Sepa's decision to grant approval to the project under the IEE rules, he said it's a small project of just one kilometre.

A CCB spokesperson declined to reply to any queries, insisting that the project had Sepa's approval and the environmental department should be contacted in that regard.

Published in Dawn, July 5th, 2020