

**Ceylon Bank Employees Union (Regional Development Bank Branch) v Regional Development Bank**

*RTIC Appeal (In person)/160/2017 (Appeal heard as a part of a formal meeting of the Commission on 30.01.2018)*

*Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)*

**Chairperson:** Mr. Mahinda Gammampila

**Commission Members:** Ms. Kishali Pinto-Jayawardena  
Justice Rohini Walgama

**Present:** Director-General Mr. Piyathissa Ranasinghe

**Appellant:** Ceylon Bank Employees Union (Regional Development Bank Branch)

**Notice issued to:** W. Kottage Information Officer/Divisional Head, HRD and Administration

**Appearance/ Represented by:**

Appellant - H. M. J. Ariyapola Secretary Ceylon Bank Employees Union (Regional Development Bank Branch)  
-W. G. Ranatunga Deputy Secretary Ceylon Bank Employees Union (Regional Development Bank Branch)  
PA - W. Kottage SAGM RDB  
- N. A. D. P. Gunasekera Manager RDB

**RTI request filed on** : 04.05.2017

**IO responded on** : 17.05.2017 (acknowledgement), 26.05.2017 (responded on the substantive request)

**First Appeal to DO filed on** : 29.06.2017

**DO responded on** : 28.07.2017

**Appeal to RTIC filed on** : 12.09.2017

**Brief factual Background:**

The Appellant by letter dated 04.05.2017 had requested the following information

1. Detailed results sheet including the marks obtained by applicants applying for the Asst. General Manager post, which have been publicized in 2017.
2. Detailed results sheet including the marks obtained by applicants applying for the Officer 3 –Grade III based on seniority, which is to be publicized
3. Detailed results sheet including the marks obtained by applicants applying for Chief Management grade (Officer 1)

The IO by letter dated 26.05.2017 refused to provide the information stating that since the information relates to third parties, their consent was required. The PA further stated that the information is of a confidential nature between an employer and employee and therefore it cannot release the said information. On appeal to the DO by letter dated 29.06.2017, the DO refused the information pleading Section 5 (1) (a) stating that the information would affect the privacy of the persons concerned.

Thereafter the Appellant submitted an appeal to the Commission dated 12.09.2017

**Matters Arising During the Hearing:**

The Appellant is the Regional Development Bank Branch of the Ceylon Bank Employees Union and not an individual citizen. It is therefore claiming the right under Section 43 of the Act, read with Section 24 (1) to file this information request and this appeal. Both Sections require that the Appellant aver the fact of citizenship in the information request. The Appellant states of record before this Commission that not less than three-fourths of the members of its union are in fact citizens as mandated by Section 43.

With regard to question as to whether the information can be issued, the PA submitted that the information concerns third parties and cannot, therefore, be released without the respective third parties consent.

The Appellant submitted that it is in the interests of justice that the marks are publicized to ensure that recruitment was done in the order of merit. It was further submitted on behalf of the Appellant that information of a similar nature had been released before the Human Rights Commission in 2012 and there was no real threat to the privacy of individuals when information such as this is released.

Upon consideration of these facts the PA agreed to release the requested information

**Order**

With regard to the exemptions pleaded by the PA through the IO and the DO the Commission directs the attention of the PA to Section 29 of the RTI Act No. 12 of 2016, wherein it states that third party consent would be required only if the information had been supplied by the third party in confidence to the PA as stated in Section 5 (1) (i) which reads *'the information has been supplied in confidence to the public authority concerned by a third party and the third party does not consent to its disclosure.'* In this instance the information requested (which concerned the marks obtained by certain employees) came into existence as a result of the actions of the PA in conducting the interviews and marking the interviews according to a particular scheme and was in no way supplied to them in confidence by an employee (third party). The PA is not required to obtain the consent of third parties where their privacy is affected in terms of Section 5 (1) (a). Therefore the issue of consent by the third party does not arise at all and the PA has erred in requiring the consent of the third parties to provide the information.

The Appellant Union although falling within the definition of a citizen under Section 43 of the Act which states that "citizen" includes a body whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens', has failed to aver such citizenship in its original information request. However, notwithstanding that lapse and given that no bad faith or negligence has been shown by the Appellant, we allow the Appellant Union to amend its appeal papers to include the averment of citizenship. The Appellant Union is directed to file amended appeal papers stating the fact that three-fourths of its members are citizens within one week subsequent to which the information is to be provided to the Appellant.

The Appeal is adjourned.

Next date of hearing: 27.03.2018

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