

Thisara Himaranga Edirithilleka v. National Authority on Tobacco and Alcohol

RTICAppeal(In-Person)/143/2018 - 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) – heard as part of a formal meeting of the Commission on 09.05.2018

Chairperson: Mr. Mahinda Gammampila
Commission Members: Ms. Kishali Pinto-Jayawardena
Mr. S.G. Punchihewa
Dr. Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: Mr. Thisara Himaranga Edirithilleka
Notice Issued to: Designated Officer, National Authority on Tobacco and Alcohol

Appearance/ Represented by:

Appellant - Mr. Thisara Himaranga Edirithilleka
Public Authority - Ms. Udeshika Gunarathna, Administrative Officer, National Authority on Tobacco and Alcohol

RTI Request filed on	02.11.2017
IO responded on	N/A
First Appeal to DO filed on	11.12.2017
DO responded on	N/A
Appeal to RTIC filed on	12.01.2018

Brief Background Facts

The Appellant had requested the following information, by an information request dated 02.11.2017

1. In Daily Island of 29th September 2017, it was stated that, the Government of the UK has provided an amount of over US\$ 1.3 million on the Tobacco Control Program in Sri Lanka in accordance with the WHO FCTC Agreement. (The said article is attached below)
 - a). What are the area in which the NATA/ Government is planning to allocate money out of the sum received from the UK for the said Tobacco Control Program?
 - b). How much of such sum is already committed for the said Program?

At the Right to Information Commission of Sri Lanka

- c). How much money is planned to be allocated for the said Program for 2017, 2018, 2019, 2020 and 2021 respectively?
 - d). What are the planned activities/actions for each of the 5 years respectively for the Program? Please provide the copies of the relevant documents.
 - e). How much of such money is allocated for local training, overseas training and cessation program?
 - f). Are Food and Drug Inspectors (FDIs) members to this Program?
 - g). Are Public Health Inspectors (PHIs) members to this Program?
 - h). Is Excise Department a member to the Program?
 - i). Is Police a member to the Program?
 - j). Is Sri Lanka Customs a member to the Program?
 - k). Is the Director General of Health Service (DGHS) a member to this Program?
 - l). Is this Minister of Health (MOH) a member to this Program?
 - m). Is H.E. the President a member to this Program?
 - n). Is the Prime Minister a member to this Program?
 - o). Is Dr. Jacob Kumaresan (WHO Representative to Sri Lanka) a member to this Program?
 - p). Who else are members of the said Program?
 - q). Is this program audited periodically?
 - r). If so, how often does this Program get audited?
 - s). If so, by whom is it audited?
 - t). If so, will the audit report get published?
 - u). If so, who could view the audit report?
2. In Ceylon Today of 19th July 2017, the manufacture and sale of betel chews containing tobacco was said to be banned (The said article is attached to the information request). Although it was said to be banned, the manufacture and sale of the same seems to continue to take place.
- a). What is the penalty for manufacture and sale of betel chews?
 - b). How many detections of manufacture and sale of betel chews were made?
 - c). How many prosecutions were made on manufacture and sale of betel chews?
 - d). Is the said ban effective?
 - e). If not, why are you not implementing/ enforcing the said ban?
3. a) In curbing the consumption level of alcohol and tobacco does NATA collaborate with:
- i) Alcohol and Drug Information Centre (ADIC)
 - ii) Faculty of Medicine, University of Colombo/Centre for Combating Tobacco (CCT)
 - iii) Expert Committee on Tobacco, Alcohol and illicit drugs of Sri Lanka Medical Association (SLMA)

- iv) Police
 - v) Excise Department
 - vi) Sri Lanka Customs
 - vii) Or any other authority/organization/Ministry? If so, please state.
- b) In curbing the alcohol and tobacco related crimes, does NATA collaborate with?
- i) Alcohol and Drug Information Centre (ADIC)
 - ii) Faculty of Medicine, University of Colombo/Centre for Combating Tobacco (CCT)
 - iii) Expert Committee on Tobacco, Alcohol and illicit drugs of Sri Lanka Medical Association (SLMA)
 - iv) Police
 - v) Excise Department
 - vi) Sri Lanka Customs
 - vii) Or any other authority/organization/Ministry? If so, please state.
4. Recently, the Cabinet has approved a Memorandum on Protocol to eliminate illicit trade in tobacco products. (The said Protocol is attached to the information request and marked as “A”). This Protocol was said to be developed in response to the growing international illicit trade in tobacco products, which poses a serious threat to public health. Although this Memorandum was approved by the Cabinet, there does not seem to be any action taken over the illicit trade in tobacco products in Sri Lanka.
- a). (i) Have the PA adopted and implemented effective measures to control/regulate the supply chain of goods covered by the Protocol in order to prevent, deter, detect, investigate and prosecute illicit trade in such goods? (Article 4(1)(a))
(ii) If Article 4(1)(a) was duly complied by the PA, what are those adopted and implemented measures? Please provide copies of the relevant documents.
 - b). (i) Have the PA taken any necessary measures in accordance with the national law to increase the effectiveness of the competent authorities and services, including customs and police responsible for preventing, deterring, detecting, investigating, prosecuting and eliminating all forms of illicit trade in goods covered by the Protocol (Article 4(1)(b))
(ii) If Article 4(1)(b) was duly complied by the PA, what are those measures? Please provide copies of the relevant documents.
 - c). (i) Have the PA provided financial support in respect of the national activities intended to achieve the objective of the Protocol, in accordance with the national plans, priorities and programs? (Article 36(2))
(ii) If Article 36(2) was duly complied by the PA, how much was the financial support that was provided by the PA?

- d). What else are the steps taken/complied by the PA in relation to this Protocol? Please state.
5. There are many instances where alcohol products are promoted stating, for examples, “Buy one and get one free”, “Happy Hour”, etc. displayed at shops and/or restaurants.
- a). Isn’t this a breach of the Sections 35 and/or 27 of the NATA Act, as it amounts to a form of advertisements and/or a free distribution of alcohol products to consumers?
- b). If so, what are the necessary steps/measures taken by your Authority in curbing such violations of the NATA Act?
6. Recently the international Global Alcohol Policy Conference (GAPC) was held in Australia to discuss on alcohol policy.
- a). Have the PA attended the said Conference?
- b). If so, who were the officers of the PA who attended the said Conference?
- c). If so, was it a successful event?
- d). If so, was it useful to the future operation of the PA in respect of controlling alcohol related crimes and consumption?
- e). Do you think the Alcohol Policy of Sri Lanka is aligned, more stringent or less stringent to the World’s Alcohol Policy? Please state the reason for your answer.
- f). If you consider the Alcohol Policy of Sri Lanka is either more stringent or less stringent, what are the steps/measures do you think the PA should adopt and implement and make it more aligned to the World’s Alcohol Policy? Please state.
7. In www.lankaweb.com of 2nd November 2016, a research was revealed that beedi is more harmful than cigarettes, despite the statement made by the Minister of Health that smoking beedi may pose less health risks than cigarettes. (The said document is attached to the information request and marked as “B”). Beedi is also a type of tobacco product but is currently under regulated. What are the measures adopted/implemented by your Authority to regulate beedi which is revealed to be more harmful than cigarettes? Please provide copies of the relevant documents if any.
8. There seems to be large scale smuggling racket between Sri Lanka and India in the recent past. The Articles below illustrate such incidents.
- a). Is the PA aware of this smuggling?
- b). What are steps taken by the PA in controlling beedi smuggling?

Upon receiving no response from the Information Officer (IO), the Appellant had made an appeal to the Designated Officer (DO) on 11.12.2017. Upon receiving no response from the DO, the Appellant made an appeal to the Commission by letter dated 12.01.2018.

Matters Arising During the Hearing

The PA stated that it had already provided a response to the information request of the Appellant and provided him the information requested. However, the Appellant contended that the PA had only provided a generic response and had failed to address most of the questions posed as sub-questions under the eight main items of information in the information request dated 02.11.2017.

Order

In the instant matter, upon perusal of the response/information granted by the PA to the Appellant, it is evident that the response is generic and vague. Consequently, the right to information of the Appellant thereof has not been successfully met with.

In the foregoing circumstances, the Public Authority is directed to more fully substantiate its reply and to be present before the Commission along with a comprehensive response and the required documents for the Commission's perusal on the next date of hearing.

The Appeal is hereby adjourned.

Next date of hearing: 19.06.2018
