

V.Y. Sabaratnam v. Sri Lanka Insurance Corporation Ltd.

RTICAppeal(In-Person)/117/2018 - 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
Dr. Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: Mr. V.Y. Sabaratnam
Notice Issued to: Mr. Hemaka D. S. Amarasuriya, Chairman, Sri Lanka Insurance Corporation Ltd.

Appellant - N/A
Public Authority - A.D. Perera – DGM (Life)
A.A.D.C.P. Athauda – AGM (Life)
R. Hewavitharanage – Manager (Legal)
N. R. Sivendran, PC (Counsel for PA)

RTI Request filed on	17.12.2017
IO responded on	26.12.2017
First Appeal to DO filed on	03.01.2018
DO responded on	04.01.2018
Appeal to RTIC filed on	03.01.2018

Brief Background Facts

The Appellant had requested by an information request dated 17.12.2017 information relating to his insurance claim and that the insurance claim be awarded soon as he had been diagnosed with cancer on 31.10.2017. The Public Authority (PA) has asked him for another medical report in 6 months. He therefore requested,

1. The names of the persons who had made the decisions on his claim. If a medical team or a doctor was involved their names, designation and qualifications as well.

2. Certified copies of all the relevant decision-making documents

On 26.12.2017, the Information Officer responded to him denying the information sought on the panelists who decided on the claims under Section 5 (1) (f) of the RTI Act, No.12 of 2016. Dissatisfied with this response the Appellant appealed to the Designated Officer (DO), on 03.01.2018 and he received a response on 04.01.2018 that the decision to withhold the names of the panelists was based on the recommendation of the Chief Officer-Life and as decided by the Board on 28.12.2017. Therefore it was stated that the decision was not taken by the IO arbitrarily but was a collective decision of the Chief Officer-Life and the Board. It was unclear whether the response dated 04.01.2018 was a follow up to the IO's previous response or a response to the Appellant's appeal to the DO. The Appellant then preferred an appeal to the RTI Commission on 03.01.2018.

Matters Arising During the Hearing

The Appellant had sent an email excusing himself from the appeal hearing as he was undergoing chemotherapy for his illness. The PA was present and represented by legal counsel. Counsel for the PA stated that the insurance policy stipulated a 6 months grace period to decide if this was a permanent disability and that this period would be over in approximately two months' time and that therefore it was premature to decide on the Appellant's claim since it yet had to be evaluated. It further submitted that this related to information that might have to be presented to courts if the matter went to court and that therefore, the PA had denied the release of the information.

The PA reiterated that the 6 months grace period was to evaluate the claim on the claimant and till the evaluation was over the claimant was not entitled to any information and that a decision could not be taken without evaluating the claim. The PA emphasized that no decision had been taken on the Appellant's claim as yet.

Order

The Public Authority's argument that the matter relates to a potential dispute which may go to court is not a valid exemption to deny information to an information requestor. Section 5 (1) of the RTI Act No.12 of 2016 provides for specific exemptions and *sub judice* or a pending court case itself is not one of these exemptions. Consequently, the likelihood of a court case arising in the future cannot be construed as a valid exemption to deny information on an information request submitted under the Act.

The Commission records the submission of the Public Authority that no decision has been taken as yet on the Appellant's claim due to the fact that the 6 month time period for evaluation of the claim is yet to be completed. The Public Authority is directed to convey that position to the Appellant and to call for any documents that may be needed for the said evaluation.

The Appeal is adjourned.

Next date of hearing: 26/06/2018
