

H.A.L. Udayasiri vs. Department of Inland Revenue

RTIC Appeal (Documentary Proceeding) 933/2019- Order adopted as part of a formal meeting of the Commission on 26.08.2019.

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: S.G. Punchihewa
Dr. Selvy Thiruchandran
Justice Rohini Walgama

Appellant: H.A.L. Udayasiri

Notice Issued to: Designated Officer, Department of Inland Revenue

RTI Request filed on	23. 08. 2018
IO responded on	07. 09. 2018
First Appeal to DO filed on	20. 09. 2018
DO responded on	19. 10. 2018
Appeal to RTIC filed on	16. 11. 2018

Brief Factual Background:

The Appellant by letter dated 23.08. under section 3 (1) of the RTI Act requested the following information in relation to RAMIS system;

1. The Cabinet decision that decided to establish the RAMIS.
2. The agreement that was entered between the Singapore Corporation and Inland Revenue Association of the Department of Inland Revenue.
3. The basic agreement between Local Corporation and the Inland Revenue Association of the Department of Inland Revenue to develop the RAMIS.
4. The total expenditure that was spent for the RAMIS project under each source of expenditure.
5. SOR identifying the necessity for each activity under the RAMIS Project.
6. The total expenditure incurred for amendments made to the RAMIS.
7. The Agreements entered into with the parties to provide services for the RAMIS project.
8. The feasibility study conducted for RAMIS Project.
9. If the Commissioner General has received the expert opinion, the basic agreement entered with the third party in this regard.
10. The official posts, their duties, obligations and powers under the RAMIS Project.
11. The foreign workshops that were organized by the funds all located for the RAMIS project and the officials who participated in those workshops (the relevant workshop, the amount of money spent)

The Information Officer on 07. 09. 2018 responded stating that information requested cannot be disclosed based on sections 3 (1) and 43 of the Right to Information Act. Dissatisfied with the response of the Information Officer the Appellant lodged an appeal with the Designated Officer on 20. 09. 2018. The Designated Officer responded on 19. 10. 2018 affirming the decision of the Information Officer. Dissatisfied with the response of the Designated Officer the Appellant preferred an appeal to the Commission on 16. 11. 2018.

Matters Arising During the Hearing:

Public Authority by their written submission dated 23.05.2019 stated the following.

The Public Authority affirms the decision of the Information Officer and the Designated Officer. Information requested shall be refused under section 5 (1) (b) (ii) of the Right to Information Act No 12 of 2016 which states as “Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where disclosure of such information would be or is likely to be seriously prejudicial to Sri Lanka’s relations with any State, or in relation to international agreements or obligations under international law, where such information was given by or obtained in confidence;”.

Hence the RAMIS project is functioned by a cabinet decision and is in agreement with a company in Singapore. Therefore the content of the proposal is considered to be confidential. The document establishing the confidentiality in the content of the agreement between the two parties, (IDA International Pte. Ltd and Inland Revenue Depart) is marked as Annexure 8 to the written submission.

By the Appeal no RTIC Appeal/ 831/2019 the Inland Revenue Assessors’ Union had requested information with regard to the RAMIS project previously. Hence an order has been released by the Commission.

Order:

The Commission observes the decision given by RTIC Appeal/ 831/2019 and affirms the decision taken by the same order. Therefore the Commission orders the Public Authority to obtain the Singaporean company’s consent prior to releasing the said information. The Public Authority is to consult the Singaporean company and obtain their consent to disclose the requested information in items No.1-11, prior to the next appeal hearing. Therefore, a final date is given to clarify consent.

The appeal is adjourned.

Next date of Hearing: 15.10.2019

Order is hereby conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

RTIC Appeal (Documentary Proceeding) 933/2019- Order adopted as part of a formal meeting of the Commission on 14.01.2020 consequent to hearings held on 15.10.2019 and 14.01.2019.

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

Appellant: H.A.L. Udayasiri
Notice Issued to: Designated Officer, Department of Inland Revenue

Appearance:

Appellant: H.A.L. Udayasiri
PA: D.J.M..Devapriya- Senior Commissioner/ Information Officer

Matters Arising During the Course of the Hearing:

The attention was drawn to the fact that the information request pertaining to this appeal overlaps to a certain extent with that of RTIC Appeal 831/2019 *Inland Revenue Assessors' Union v. Department of Inland Revenue*.

In relation to details which concern the Singaporean Company the PA submitted that as in the instance of the information request pertaining to RTIC Appeal 831/2019 the Singaporean company had not consented to disclosure of the agreement of the RAMIS project and related documentation.

In relation to item 1 the PA submitted that it cannot provide the information as it concerned a cabinet decision and that therefore it is exempted in terms of the RTI Act. However the Commission noted that the exemption in terms of Section 5 (1) (m) of the RTI Act as the relevant cabinet decision has already been taken.

Order:

The attention of the PA is drawn to Section 5 (1) (m) of the Right to Information Act No. 12 of 2016 which states as follows;

Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where... the information is of a cabinet memorandum *in relation to which a decision has not been taken* (emphasis ours)

Since the relevant cabinet decision has already been taken the PA is directed to provide the information requested by item 1 of the information request.

Furthermore given that the PA has appointed a committee in order to enable discussion and permit inspection of select items of the information request pertaining to the RAMIS system,

subsequent to which the release or inspection or otherwise of the other items of information will be determined by the Commission, in RTIC Appeal 831/2019 *Inland Revenue Assessors' Union v. Department of Inland Revenue* the PA is directed to do the same for information items 4 to 6 of the information request which concern expenses incurred in relation to the RAMIS system.

Next Date: 03.03.2020

Order is hereby conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

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Mahinda Gammampila – Chairman

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Kishali Pinto-Jayawardena- Commissioner

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Justice R. Walgama – Commissioner