

N Munasinghe v. People's Bank

RTIC Appeal(In-Person) /50/2018 - 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 05.06.2018

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 N Munasinghe
Notice Issued to: Designated Officer, People's Bank

Appearance/ Represented by:

Appellant - Absent
Public Authority - Mr D P M I Dissanayake, Legal Officer, People's Bank
Ms N G T Kalpani, Assistant Manager – Compliance, People's Bank

RTI Request filed on	13.08.2017
IO responded on	22.09.2017
First Appeal to DO filed on	14.09.2017
DO responded on	No response
Appeal to RTIC filed on	13.11.2017

Brief Background Facts

The Appellant had requested the following items of information, by an information request dated 13.08.2017

1. Annual turnover of the bank for the years 2014, 2015 and 2016
2. Amount of taxes paid to the government and bonus allowances paid to the employees
3. Monthly salary allowances paid to the General Manager, Assistant General Manager, Chief Auditor, Chief Legal Officer and Chief Managing Executives respectively
4. Do the above mentioned get paid on a contract basis or as permanent staff?
5. Amount spent by the bank with regard to the Hedging Contract

The Appellant received a response from the IO by a letter dated 22.09.2017, providing information for requests 1, 2 and 4. Item 3 had been denied on the basis of private information of the above named officers, and the request made under item 5 was denied reasoning an ongoing court case with regard to the particular agreement. Dissatisfied with the IO's response the Appellant appealed to the DO on 14.09.2017 with no success. Following which the Appellant preferred an appeal to the Commission on 13.11.2017

Matters Arising During the Hearing

The Appellant was not present for the hearing.

Noting that responses for request Items 1, 2 and 4 were provided to the Appellant, the PA submitted that most salary payments pertaining to item 3 are made on contract basis and these contracts include a confidentiality clause between the bank and the relevant official. The PA further submitted that these contracts of employment do not exceed a maximum of 3 years and if the relevant information was to be disclosed, the bank could be sued in court for breach of contract. The PA cited Section 5(2)(a) and 5(2)(b) of the RTI Act as grounds for declining to release the information.

The PA also submitted that the Appellant had not provided his NIC details upon requesting for information. In response to the submission, the Commission stated that submission of a NIC number is not a requirement as long as it could be ascertained that the Appellant is a citizen of Sri Lanka. In response to this, the PA prayed to the Commission to ascertain the Appellants nationality and eligibility to request for information.

Order

The PA is directed to provide the salary scales of executive officers as requested by the Appellant as required in the minimum, under and in terms of Regulation 20 of RTI Regulations (No. 2004/66 - FRIDAY, FEBRUARY 03, 2017).

Upon hearing the Appellant, the Commission will consider the ordering of information disclosure in relation to the actual salary payments made to the officers named in item 3 of the information request. It is to be noted that, the confidentiality of the contracted salaries are to be balanced against the disclosure of information relating to the expenditure of public funds. The PA is hereby directed to submit for the Commission's perusal, the employment contracts of the officers in regard to whom information has been requested under item 3 of the request.

The Appeal is adjourned.

Next date of hearing: 17.07.2018
