

K.W.S. Saddhananda v. Department of Census and Statistics

RTICAppeal(In-Person)/146/2018 - 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. K.W.S. Saddhananda
Notice Issued to: Designated Officer, Department of Census and Statistics

Appearance/ Represented by:

Appellant - Mr. K.W.S. Saddhananda
Public Authority - Mr. P.M.P. Anura Kumara, ADGIII, Department of Census and Statistics

RTI Request filed on	01.11.2017
IO responded on	01.11.2017(acknowledgment), 04.12.2017
First Appeal to DO filed on	07.12.2017
DO responded on	12.12.2017 (acknowledgment)
Appeal to RTIC filed on	12.01.2018

Brief Background Facts

The Appellant had requested the following information, by an information request dated 01.11.2017.

1. The steps taken pursuant to the letter written by the Appellant objecting to the letter of the Director-General of the Department of Census and Statistics dated 18.08.2017 bearing number “HR01/D/බඳවාගැනීම් (II වෙළුම)”

2. A copy of the Report made by the Board appointed by the Secretary of the Ministry consequent to the letter of the Appellant
3. The names of the members of the panel of interviewers
4. A copy of the marks given to each candidate for the post of 'Director of Statistics' (including the officers who were not present on the day of the interview) under each subject according to the marking scheme.
5. What is the current progress of the interviews held on 28.08.2017 to confirm/verify (සිටීර කිරීම සඳහා) the appointment for the post of 'Director of Statistics'

The Information Officer (IO) by RTI06form dated 04.12.2017 had informed the Appellant that since recommendations for the appointment of 9 officers for the post of Director (Statistics) had been sent to the Public Services Commission, the Public Authority (PA) was unable to provide the information within the stipulated time period and thereby had requested for more time. Upon being dissatisfied with the decision of the IO, the Appellant has made an appeal to the Designated Officer (DO) on 07.12.2017. The DO by letter dated 12.12.2017 had acknowledged the receipt of the appeal. Upon receiving no decision from the DO, the Appellant made an appeal to the Commission by letter dated 12.01.2018.

Matters Arising During the Hearing

The Appellant informed the Commission that subsequent to his appeal to the Commission, the PA had provided him with a response to his information request dated 01.11.2017 on 16.02.2018. Therein, the Appellant submitted that he was satisfied with the information received pertaining to item 5 of his information request. With regards to items 1, 2, 3 and 4 of the information request, the Appellant claimed that the PA had failed to provide the information requested.

The PA submitted that consequent to the response of the Public Service Commission to which the matter was referred, the PA wished to grant the information requested under items 1,2, and 3 which it had brought to the hearing. The PA then handed over the information requested under items 1, 2 and 3 of the information request to the Appellant and the Appellant expressed his satisfaction with the information received. The PA further submitted that the information requested under item 4 of the information request dated 01.11.2017 by the Appellant is refused under Section 5(1)(a) of the Right to Information Act, No.12 of 2016 since releasing the marks obtained by other candidates would be an invasion of privacy.

Order

The Commission notes as of record that the PA provided the information requested under items 1, 2, 3 and 5 of the information request dated 01.11.2017 to the Appellant before the Commission.

The PA has refused the information requested by the Appellant under item 4 of the information request citing Section 5(1) (a) of the RTI Act, which reads as follows;

5. (1) Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where–

(a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;

In *O. W. K. Gnanadasa v. Bank of Ceylon* (RTIC Minutes 04.12.2017), this Commission referenced several judgments of the Supreme Court of Sri Lanka delivered in favour of releasing final results of examinations conducted by Public Institutions and Boards. Therein, the Commission ruled that the public interest of the subject matter is derived from the fact that the PA is funded by public money and therefore the public has a right to know whether or not appointments and promotions have been made in accordance with proper procedure. Furthermore, in the instant matter, we note that there is question as to the relevance and the applicability of the exemption quoted by the Public Authority since the marks have been awarded by another Public Authority.

In the foregoing circumstances, the Public Authority is directed to more fully substantiate its refusal to provide the information requested and is required to present itself before the Commission along with 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
