

**K.P.D.W. ABESUNDRA .VS. MINISTRY OF HEALTH**

RTIC Appeal (Documentary Proceeding) 442/2018- Order adopted as part of a formal meeting of the Commission on 01.07.2019.

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

**Director General:** Mr. D.G.M.V Hapuarachchi

**Appellant:** K.P.D.W Abeyesundara

**Notice Issued to:** Secretary, Ministry of Health

<b>RTI Request filed on</b>	15.03.2018
<b>IO responded on</b>	16.03.2018
<b>First Appeal to DO filed on</b>	06.04.2018
<b>DO responded on</b>	27.04.2018
<b>Appeal to RTIC filed on</b>	21.05.2018

Briefly stated facts in appeal:

The appellant by his request dated 15.03.2018 made to the Information Officer of the Public Authority had requested the information as stated below;

1. Copies of the business registration, assets certificate, bank mortgage copy and the registration number employees provident fund of the following companies ,

Smart Janitors Private Company

Lakro Janitor Manpower Service

Hiyata Services which bid for the tenders called by the PA.

It is to be noted that the IO while responding has stated that, as the Contractors are not chosen yet and since the bidding procedure is still going on, and to safeguard the competitive nature of the bidding procedure, the requested information cannot be granted.

As the Appellant was aggrieved by the above decision of the IO the appellant lodged an appeal with the DO on 06.04.2018.

DO by his response dated 27.04.2018, had responded to the effect that the said information is covered under Section 5(1)(d) of the Right to Information Act No. 12 of 2016 and he is barred from releasing the same. The above Section articulates thus;

‘ information including commercial confidence trade secrets or intellectual property Act, the disclosure of which would harm the competitive position of a third party, unless the public authority is satisfied that larger public interest warrants the disclosure of such information’

As the Appellant was dissatisfied with the above decision of the DO ,preferred an appeal to the Commission. On receipt of the instant appeal, the Commission noticed parties to appear before the Commission on 11.02.2019.

On the above date when the appeal was taken for hearing the Representative of both parties were present. On the said date the Commission decided to resolve the appeal by way of Documentary Procedure and the appeal was to be considered on 07.10.2019. The said decision of the Commission was informed to the respective parties by the letter dated 19.08.2019.

**Matters arising at the hearing of the appeal;**

*At the Right to Information Commission of Sri Lanka*

When the appeal was under consideration, the Commission took cognizance of the fact that the IO and DO had responded to the requested information in the negative and there by had complied with the mandatory requirements of the Act.

In the above setting the Commission was of the view, as the PA had responded to the said requested information of the Appellant and as such it was observed by the Commission that it is apposite to conclude the appeal

**Order:**

As the Public Authority has responded to the requested information of the Appellant, the Commission moved to conclude the appeal.

Thus appeal is concluded.

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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