

B.R.P.R. Gunasena v. Coconut Development Authority

RTICAppeal(In-Person)/60/2018 - 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 23.02.2018

Chairperson: Mr. Mahinda Gammanpila
Commission Members: Ms. Kishali Pinto-Jayawardena
Dr. Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: Ms. B.R.P.R Gunasena
Notice Issued to: Director General, Coconut Development Authority
Mr. S.S. Rajakaruna, Information Officer, Coconut Development Authority

Appearance/ Represented by: Mr. A.H.C.D. Gamini Wijesinghe, Director General, Coconut Development Authority
Mr. S.S. Rajakaruna, Information Officer, Coconut Development Authority
Ms. B.R.P.R Gunasena

RTI Request filed on	: 25.10.2017
IO responded on	: 09.11.2017
First Appeal to DO filed on	: 08.11.2017
DO responded on	: N/A
Appeal to RTIC filed on	: 27.11.2017

Brief Background Facts

The Appellant had requested the following information, by an information request dated 25.10.2017

1. Details concerning the interview held on 07.04.2017 for the post of the Administrative Officer of the Coconut Development Authority
 - i) The way in which marks were allocated for the following categories in the interview held on 07.04.2017 to recruit for the post of the Administrative Officer of the Coconut Development Authority
 - Relevant Additional Qualifications – 30 Marks
 - Relevant Additional Experience – 30 Marks
 - Achievements – 15 Marks
 - Performance at the Interview – 25 Marks
 - ii) Accordingly, the manner in which marks were allocated to Mr. K. W. Ranjith, Ms. W.R.Priyangani and Ms. B.R.P.R. Gunasena for each category.
 - iii) Approval of the Director Board for the Marking Scheme
2. Details concerning the interdiction of Mr. K.W. Ranjith and the inquiry conducted consequently
 - i) Interdiction Order of Mr. K.W.Ranjith and the duration of such interdiction
 - ii) Charge sheet given to Mr. K.W.Ranjith pertaining to his inquiry
 - iii) Report of the Disciplinary Inquiry against Mr. K.W.Ranjith
 - iv) Disciplinary Inquiry Order of the inquiry conducted against Mr. K.W.Ranjith
 - v) Notes of the Board of Directors which reinstated Mr. K.W.Ranjith and the confirmation notes (අධ්‍යක්ෂක මණ්ඩලයේ පත්රිකා හා සනාථ කිරීමේ පත්රිකා)
 - vi) Documents indicating whether or not Mr. K.W.Ranjith had been remunerated during the time he was interdicted.

The IO by letter dated 09.11.2017 had refused to provide the information requested by the Appellant on the basis that, since the Appellant had filed a Fundamental Rights petition in the Supreme Court against the Coconut Development Authority concerning the same matter, the PA was advised by its legal representative not to supply the information requested by the Appellant.

Upon the non-receipt of a response to the appeal made to the DO dated 08.11.2017, the Appellant made an appeal to the Commission on 27.11.2017.

Order

The requested information had been refused by the IO of the Public Authority on the basis that there is a case pending in court. The attention of the PA is drawn to the fact that, under Section 25 of the Right to Information Act, No.12 of 2016, the IO must decide *‘either to provide the information requested or to reject the request on any one or more of the grounds referred to in Section 5 of the RTI Act.’*

Declining to provide information merely on the basis that there are in existence, contemporaneous legal proceedings is not an acceptable basis for rejection unless the exemption set out in Section 5(1)(j) of the Act is specifically pleaded and it is established on the requisite burden of proof requiring to be satisfied in terms of Section 32(4) that ‘a real risk’ may therein be posed to the ‘authority and impartiality of the judiciary’ so that ‘prejudice’ is caused thereby.

The PA’s consequent objection to the release of the requested information was premised on Section 5(1)(a) of the RTI Act which reads as follows;

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;

Assessing the information asked for as against the above-stated exemption, it is apparent that the substantive information requested under item 1 of the information request had no substantial privacy concern attached to it. We note, as of record, that the PA has stated that it will provide the said information requested under item 1 of the information request [i.e. 1(i), 1(ii) and 1(iii)].

With regard to the remaining item of information in the said request, this will be considered by this Commission in terms of assessment of the public interest notwithstanding the privacy exemption cited by the PA upon provision of the information as directed as aforesaid.

The Appeal is adjourned.

Next date of hearing: 24.04.2018

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