

M.H.M.Haseer v Central Bank of Sri Lanka

RTIC Appeal (In-Person Hearing)/[1036/2019]- Minute adopted as part of the formal meeting of the Commission on [04.06.2019]

Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

Chairperson: Mr. Mahinda Gammampila
Commission Member: Ms. Kishali Pinto-Jayawardena
Commission Member: Mr. S.G. Punchihewa
Commission Member: Dr. Selvy Thiruchandran
Commission Member: Justice Rohini Walgama

Appellant: M.H.M.Haseer
Notice issued to: Designated Officer (DO), Central Bank of Sri Lanka

Appearance/ Represented by:

Appellant – Not present
PA - Not present

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| RTI Request filed on | 27.09.2018 |
| IO responded on | 13.11.2018 |
| First Appeal to DO filed on | 25.10.2018 |
| DO responded on | 21.11.2018 |
| Appeal to RTIC filed on | 20.12.2018 |

Brief Factual Background:

The Appellant had by request dated 27.09.2018 requested the following,

1. *Certified copies of documents stating the procedure to be followed by a bank officer when refunding the deposited money to a depositor,*
2. *Certified copies of documents stating the procedure to be followed by a bank officer when refunding Rs. 3 Million to a depositor,*
3. *Certified copies of documents stating the procedure to be followed by a manager of the bank when refunding Rs. 3 Million to a depositor,*
4. *What is the responsibility of the bank manager to reassure the depositor's identity when issuing a sum of Rs. 3 Million to a depositor?*
5. *Certified copies of documents stating the procedure to be followed by a bank to verify the identity of the depositor when refunding the deposited money and*
6. *If the source of identity is unclear, the certified copies of the documents, including the procedures*

The Information Officer (IO) on 13.11.2018 responded stating that the information requested is not in the custody, control and possession of the Public Authority. Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 25.10.2018. The DO responded on

21.11.2018 reiterating the response of the IO. Dissatisfied with the response of the DO the Appellant preferred an appeal to the Commission on 20.12.2018

Matters Arising During the Course of the Hearing:

The Public Authority has informed that the hearing be postponed by letter dated 03.06.2019.

The matter is re-fixed for hearing on 11.06.2019 for consideration.

The Appeal is adjourned.

Next date of Hearing: 11.06.2019

RTIC Appeal (In-Person Hearing)/[1036/2019]- Order adopted as part of the formal meeting of the Commission on 11.06.2019]

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 Member: Ms. Kishali Pinto-Jayawardena
Commission Member: Mr. S.G. Punchihewa
Commission Member: Dr. Selvy Thiruchandran
Commission Member: Justice Rohini Walgama

Appellant: M.H.M.Haseer
Notice issued to: Designated Officer (DO), Central Bank of Sri Lanka

Appearance/ Represented by:

Appellant – M.H.M.Haseer
PA - K.G.P. Sirikumara, Director Legal and Compliance
D.T. Dhanawalawithana, Legal Officer
N.N. Gunawardene, Senior Assistant Director

Order

It is noted that the Central Bank of Sri Lanka is a Public Authority that comes within the purview of the Right to Information Act, No.12 of 2016 and therefore has a statutory duty to abide by its provisions.

Section 3(1) of the Right to Information Act, No.12 of 2016 reads as follows:

3. (1) Subject to the provisions of section 5 of this Act, every citizen shall have a right of access to information which is in the possession, custody or control of a public authority

Accordingly, the right of the citizen to acquire information from a PA arises when the PA concerned is in the possession, custody or control of the information requested.

Section 25(1) of the RTI Act reads as follows:

“An information officer shall.....make a decision 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 this Act, and shall forthwith communicate such decision to the citizen who made the request”

Consequently, the access to information of a citizen could only be denied by a Public Authority, which is *in the possession, custody or control* of the information requested, by citing any one or more of the grounds referred to in Section 5 (1) of the RTI Act

The attention of the Appellant is drawn to the fact that the Central Bank of Sri Lanka, (PA) has a general role in regulating private and state banks. The Public Authority does not possess information of individual transactions carried out between banks and their customers. It is only if a specific fraud or frauds involving, inter alia, a lapse of due diligence on the part of a banking institution that the Public Authority is mandated to regulate controls. As such, the information requested by the Appellant is unique to the said bank in question and not to the Public Authority. In the foregoing circumstance, it is evident that the information requested is not in the possession of the PA. The Appeal is concluded.

Order is directed to be 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).
