

**M.H.M. Hazeer v Central Bank of Sri Lanka**

RTIC Appeal (In-Person Hearing)/ [1056]/ [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.Hazeer  
**Notice issued to:** Designated Officer, DO, Central Bank of Sri Lanka

**Appearance/ Represented by:**

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

<b>RTI Request filed on</b>	25.10.2018
<b>IO responded on</b>	31.10.2018
<b>First Appeal to DO filed on</b>	29.11.2018
<b>DO responded on</b>	No response
<b>Appeal to RTIC filed on</b>	17.01.2019

**Brief Factual Background:**

The Appellant had by request dated 25.10.2018 requested the following,

- 1. Does a bank provide two reports named detailed account statement and summary account report at the end of a month when providing the monthly account statement to a current account owner?*
- 2. Do all the transactions which took place in the said month, have to be included to the report given to the current account holder?*
- 3. Can the Bank at its discretion not indicate a particular transaction or transactions which occurred during that month?*
- 4. What are the steps to be taken by the bank regarding the cheques given by third parties when an account holder has instructed the bank to stop transactions through cheques? Provide copies of the documents including those measures.*

The Information Officer (IO) on 31.10.2018 responded stating that the information requested is not in the custody, control and possession. Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 29.11.2018. As the DO too failed to respond with the time

period stipulated under the Act the Appellant preferred an appeal to the Commission on 17.01.2019

**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).

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