

K. Wijayagunawardena v Central Bank of Sri Lanka (CBSL)

RTIC Appeal (In – person)/245/2018 (*Order adopted as part of a formal meeting of the Commission on 03.07.2018*)

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)

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: K. Wijayagunawardena

Notice Issued to: Dr. Indarjith Coomaraswamy, Designated Officer (DO), Governor, CBSL

Appearance/ Represented by:

Appellant - Absent
Public Authority - A. A. I. N. Wickramasinghe, Acting Deputy Director
Dilini Wilathgamu (illegible), SAD/Legal
Kamal Dissanayake, SAD/SNBFL (illegible)
P.V. L. Nandasiri, Director Legal
K.G. P. Sirikumar, Addl. Director Legal Compliance
W. Ranaweera, Director/Supervisory Non-Bank Financial Institution
(illegible)
Ms. S. H. Gunawardena, Director (Communication) CBSL

RTI Request filed on:	21.11.2017
IO responded on:	22.11.2017 (acknowledgement) 04.01.2018 (response)
First Appeal to DO filed on:	24.01.2018
DO responded on:	09.02.2018 (acknowledgement)
Appeal to RTIC filed on:	14.03.2018

Brief Factual Background

The Appellant by request dated 21.11.2017 had requested copies of the letters sent by the Central Bank of Sri Lanka (CBSL) to other parties for the purpose of providing assurances in relation to the funds/ deposits presented by Chancental Works Gmbh to the CBSL and letters in response giving the bank the necessary assurance.

The IO had denied the information by a letter dated 04.01.2018 citing Section 5 (1) (h) of the RTI Act. Dissatisfied with the response of the IO, the Appellant made an appeal to the Designated Officer (DO) on 24.01.2018. As the DO failed to respond within the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 14.03.2018.

Matters Arising During the Hearing

The Appellant was absent.

Upon being queried by the Commission, the Public Authority (PA) explained the basis on which access to the information requested had been denied by the PA. The PA submitted that there is a practice where certain finance companies in difficult financial situations looked for investors. When, local or international investors, invest in these companies, the PA requires certain assurances in relation to the investment, given the precarious situation of the companies concerned. In the foregoing circumstances, one investor, Chancental Works Gmbh had given an assurance of Honk Kong Dollars 500 million to be invested in the Central Investments and Finance PLC (CIFL) through an internationally recognized Bearer Bond issued by HSBC Bank PLC.

After conducting an inspection the Central Bank of Sri Lanka (the PA) had informed the relevant finance company of the ingenuity of the above assurance and had decided to institute criminal prosecution in relation to this false assurance. On this basis , the PA submitted that it had denied the information requested under and in terms of Section 5 (1) (h) (i) of the RTI Act, which in effect exempts from disclosure information which, *'would...cause grave prejudice to the prevention or detection of any crime or the apprehension or prosecution of offenders.'*

The matter is re-fixed for hearing on 21.08.2018 as the Appellant is absent. The Public Authority may, if it so wishes, file a further response, fully substantiating the denial of the information by demonstrating the nexus between the exemption claimed and the information requested by the Appellant.
