

D M L de Silva v. National Insurance Trust Fund

RTIC Appeal(In-Person) /305/2018 - 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 14.08.2018

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

Present: Director-General Piyathissa Ranasinghe

Appellant: D M L de Silva
Notice Issued to: Designated Officer, National Insurance Trust Fund

Appearance/ Represented by:

Appellant - Rajpal Abeynayake (AAL for the Appellant)
Public Authority - Absent

RTI Request filed on	05.01.2018
IO responded on	17.01.2018
First Appeal to DO filed on	15.02.2018
DO responded on	No response
Appeal to RTIC filed on	16.03.2018

Brief Background Facts

The Appellant had requested the following items of information with regard to the Retrocession Programme to cover 30percent Reinsurance Cession for the period 01.01.2018 to 31.12.2018, by an information request dated 05.01.2018.

1. *Minutes of the Bid Opening Committee on the above Programme*
2. *Minutes of the Cabinet Appointed Procurement Committee for the Procurement for the Retrocession Programme to cover 30percent Reinsurance Cession for the period 01.01.2018 to 31.12.2018*
3. *The letter of intent to the broker awarded the above tender*
4. *Broker of Record letter awarded to the broker*
5. *Details of the bid submitted by J B Boda and Co. (S) Pte. Ltd. regarding the same programme on 12.12.2017*

The IO responded by letter dated 17.01.2018 denying the request of the Appellant. The letter stated;

"The procurement process of the Retrocession Programme to cover 30% compulsory Reinsurance Cession for the period from 1st January 2018 to 31st December 2018 is in progress. Accordingly, the requested information is very sensitive and critically affected to the objectives of the procurement process. Therefore, we kindly inform you that, we are not in a position to release the requested information as the procurement process has not been completed. Further, please kindly note that we will take steps to submit the requested information once the process is completed"

Dissatisfied with the response, the Appellant appealed to the DO on 15.02.2018. As the Do failed to respond, the Appellant preferred an appeal to the Commission on 16.03.2018

Matters Arising During the Hearing:

The PA was absent.

The AAL on behalf of the Appellant submitted that the Appellant was the Principal Officer of strategic Insurance Brokers (SIB), which was one of the bidders for the above mentioned programme, which Counsel for the Appellant submitted legitimates the request for information on the bidding process.

It was further submitted in behalf of the Appellant that the requested information had not been denied under the provisions of the Right to Information Act No. 12 of 2016 and that in any event the information does not fall under any exemptions under Section 5 of the Act.

Order:

The PA's attention is directed to Section 39(1)(c) of the Right to Information Act No. 12 of 2016, which states as follows;

Every person who...fails or refuses to appear before the Commission when requested to do so by the Commission;...commits an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.”

In light of the above mentioned, the PA is directed to be present at the next hearing..

The Appeal is adjourned.

Next date of hearing: 16.10.2018
