

N Munasinghe v. People's Bank

RTIC Appeal(In-Person) /50/2018 - 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 05.06.2018

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: Mr N Munasinghe
Notice Issued to: Designated Officer, People's Bank

Appearance/ Represented by:

Appellant - Absent
Public Authority - Mr D P M I Dissanayake, Legal Officer, People's Bank
Ms N G T Kalpani, Assistant Manager – Compliance, People's Bank

RTI Request filed on	13.08.2017
IO responded on	22.09.2017
First Appeal to DO filed on	14.09.2017
DO responded on	No response
Appeal to RTIC filed on	13.11.2017

Brief Background Facts

The Appellant had requested the following items of information, by an information request dated 13.08.2017

1. Annual turnover of the bank for the years 2014, 2015 and 2016
2. Amount of taxes paid to the government and bonus allowances paid to the employees
3. Monthly salary allowances paid to the General Manager, Assistant General Manager, Chief Auditor, Chief Legal Officer and Chief Managing Executives respectively
4. Do the above mentioned get paid on a contract basis or as permanent staff?
5. Amount spent by the bank with regard to the Hedging Contract

The Appellant received a response from the IO by a letter dated 22.09.2017, providing information for requests 1, 2 and 4. Item 3 had been denied on the basis of private information of the above named officers, and the request made under item 5 was denied reasoning an ongoing court case with regard to the particular agreement. Dissatisfied with the IO's response the Appellant appealed to the DO on 14.09.2017 with no success. Following which the Appellant preferred an appeal to the Commission on 13.11.2017

Matters Arising During the Hearing

The Appellant was not present for the hearing.

Noting that responses for request Items 1, 2 and 4 were provided to the Appellant, the PA submitted that most salary payments pertaining to item 3 are made on contract basis and these contracts include a confidentiality clause between the bank and the relevant official. The PA further submitted that these contracts of employment do not exceed a maximum of 3 years and if the relevant information was to be disclosed, the bank could be sued in court for breach of contract. In response to the Commission's question of the exemption pleaded, the PA submitted the exemption of section 5(2)(a) and 5(2)(b). The Commission stated that Regulation 20 of the Act warrants for proactive disclosure of information and the salary scales of executive officials are to be readily available for public perusal. In responding to it, the PA submitted that the scales of salaries of such officers will be made available to the Appellant by a submission made to the Commission.

The PA also submitted that the Appellant had not provided his NIC details upon requesting for information. The Commission, in response to the submission stated that submission of a NIC number is not a requirement as long as it could be ascertained that the Appellant is a citizen of Sri Lanka. In response to this, the PA prayed to the Commission to ascertain the Appellants nationality and eligibility to request for information.

Questioning on the PA's refusal to grant information requested under item 5 of the request, the Commission stated that sub judice does not warrant for an exemption in the Act and if the PA wishes to plead for the exemption under section 5(1)(j) of the Act, It must show that there is could be an infringement according to section 5(1)(j) in disclosing requested information.

Order

The PA is directed to make submissions in providing the salary scales of executive officers as requested by the Appellant. It is to be noted that, the confidentiality of the contracted salaries are to be balanced against the disclosure of expending public funds. The PA is hereby directed to submit to the Commission's perusal the employment contracts of the officers of whose information has been requested under item 3 of the request.

The PA is further directed to make submissions justifying its reason to deny the information requested under item 5 of the request. These submissions are to be made to the Commission on or before 17.07.2017.

The Appeal is adjourned.
Next date of hearing: 17.07.2018

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

Appearance/ Represented by:
Appellant (for) - Sankhitha Gunaratne, Attorney-at-Law – TISL
Public Authority - W M D S Nisansala, Assistant Legal Officer, People's Bank
N G T Kalpani, Assistant Manager – Compliance, People's Bank
W T I Ambepitiya, Legal Officer, People's Bank

Matters Arising During the Hearing

The PA informed the Commission of its intention to appeal the previous order (dated 05.06.2018) of the Commission. The Commission noted that the previous order was an interim order following submissions made by counsel appearing for the Public Authority during the course of which counsel agreed to provide the salary scales and the relevant employment contracts for the Commission's perusal following discussion with the Public Authority.

Order

The Appeal is adjourned in order to enable counsel for the Public Authority to appear at the next hearing.

Next date of hearing: 28.08.2018
