

**Devarajan Gajan v Central Bank of Sri Lanka (CBSL)**

RTIC Appeal (In-Person Hearing)/640/2018- Order adopted subsequent to the hearing of the Commission on 22.01.2019

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

**Director-General:** Mr. Piyathissa Ranasinghe

**Appellant:**

**Notice issued to:** Designated Officer, CBSL

**Appearance/ Represented by:**

Appellant - Devarajan Gajan  
Niranjan Arulpragasam, AAL  
PA - D M Roopasinghe  
W J S S J Keerthirathne

<b>RTI Request filed on</b>	23.05.2018
<b>IO responded on</b>	23.05.2018 Acknowledgement; No response
<b>First Appeal to DO filed on</b>	18.02.2018
<b>DO responded on</b>	No response
<b>Appeal to RTIC filed on</b>	04.09.2018

**Brief Factual Background:**

The Appellant, by a request dated 23.05.2018 requested the following items of information

*“The banks of Perpetual Treasuries Limited, namely, Pan Asia Bank, Nations Trust Bank and Bank of Ceylon have frozen and/or restricted the bank accounts of Perpetual Treasuries Limited. Upon inquiry the said banks have informed that the accounts Perpetual Treasuries Limited have been frozen and/or restricted on directives issued by the Central Bank.*

- Is there a directive issued by the Central Bank to the aforementioned banks to freeze and/or restrict the bank accounts of Perpetual Treasuries Limited?*
- What is the date of the said directive issued by the Central Bank (if any)?*
- Is there a Court Order obtained by or in possession of the Central Bank or the any other Unit of the Central Bank to freeze and/or restrict the bank accounts of Perpetual Treasuries Limited?*
- If any such Court Order is in operation what is the case number and the date of the Order?”*

As the IO failed to respond within the time period stipulated under the Act the Appellant on 18.02.2018 lodged an appeal with the DO. As the DO too failed to respond with the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 04.09.2018

#### **Matters Arising During the Course of the Hearing:**

Counsel for the Appellant submitted that the Appellant is a dealer and an employee of Perpetual Treasuries Limited (PTL). The employer has had no access to its bank accounts since January of 2018, and as such, the employees have not been paid. Furthermore statutory payments such as EPF and ETF had not been made and the company has ceased to function. Counsel further submitted that salaries had not been paid to the Appellant since February 2018, and when he inquired from his employer as to why he had not been paid, PTL had stated that payments cannot be made due to its bank accounts having been frozen/ restricted. This grievance led the Appellant to file an RTI request with CBSL.

In its response, the PA submitted that the Appellant had filed a request for information addressed to the CBSL, and not the Financial Intelligence Unit (FIU) of the CBSL which operates as a separate entity although the two institutions are administratively linked. The FIU is an independent authority established by the Financial Transactions Reporting Act No. 6 of 2006. The PA further submitted that, while initially this caused a delay in its response, the FIU has subsequently responded to the request. This response had been returned to the FIU due to an incorrect address provided by the Appellant. The Appellant denying the provision of an incorrect address, stated that he never received such communication.

Counsel for the Appellant further submitted that he was not aware of the PA having two branches providing information independent of each other, given that the initial acknowledgement dated 23.05.2018 was on a CBSL letterhead.

In response, the FIU stated, at the time of filing the request, the FIU didn't have an independent RTI Unit set up as it does now, and the existing unit was shared between both entities. However,

the FIU submitted that the request was forwarded to it by the CBSL when it was determined that the relevant PA for this request was in fact the FIU.

Upon the Commission's query with regard to the FIU's position in relation to the provision of the information, the FIU submitted that it denies the provision of information under section 5(1)(h) of the RTI Act.

**Order:**

Prior to addressing the substantial issue contained in the information request of the Appellant, it is important that the FIU establish its functioning independent of the CBSL, which is the PA against whom this Appeal has been lodged.

The PA is therefore directed to file written submissions within two weeks of today addressing the above issue clarifying its authority and position with regard to the ability to be represented as the PA in this appeal. The Appellant may respond on or before the lapse of two weeks thereafter if he so wishes.

Based on the fact that on the date the information request was filed, both the CBSL and FIU operated as one PA that representatives of the CBSL are directed to be present at the next hearing.

The Appeal is hereby adjourned.

.....  
Mahinda Gammampila – Chairman

.....  
Kishali Pinto – Jayawardena – Commission Member

.....  
S.G. Punchihewa – Commission Member

.....  
Selvy Thiruchandran – Commission Member

.....  
R. Walgama – Commission Member