

Gamini Kinigama v People's Insurance PLC

RTIC Appeal (**In-Person Hearing**)/ [680/2018] - **Order** adopted subsequent to the hearing/ consideration at a part of the formal meeting of the Commission on [05.02.2019]

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: Gamini Kinigama

Notice issued to: Designated Officer, People's Insurance PLC

Appearance/ Represented by:

Appellant - Gamini Kinigama

PA - Was present

RTI Request filed on	25.03.2018
IO responded on	No response
First Appeal to DO filed on	18.07.2018
DO responded on	13.08.2018
Appeal to RTIC filed on	24.08.2018

Brief Factual Background:

The Appellant by request dated 25.03.2018 had requested the following,

Names, academic and professional qualifications, memberships and experience of all loss adjusters to whom People's Insurance assigned loss adjustments since inception of business operations of People's Insurance (PA).

As the IO failed to respond within the time period stipulated under the Act the Appellant on 18.07.2018 lodged an appeal with the DO. The DO responded on 13.08.2018 stating the following,

1. *The Appellant is aware that appointment of all Loss Adjusters are not permanent cadre appointment of the Company,*
2. *According to clause No.4 of the Appellant's letter of appointment it is very clear that the company reserves the right to remove the Appellant's name from its Panel of Loss Adjusters without any notice given,*
3. *Also that the appellant is aware that the PA is not in a position to divulge bio-data information and payments made to others loss adjusters without the prior permission of such other loss adjusters,*
4. *If the PA divulge such information to the Appellant which is unwarranted invasion of the privacy of such individuals who are working for the PA,*
5. *For the payments made to the loss adjusters purely based on the discretion of the company and amount of work assign to them by the company,*
6. *As the Appellant allege in the appeal if the Appellant has a personal problem with a senior manager of the company, the Appellant can sort that issue by complaining to the management of the company even without having the information requested by the company.*

Dissatisfied with the response of the DO the Appellant preferred an appeal to the Commission on 24.08.2018

Matters Arising During the Course of the Hearing:

Upon being queried as to the basis on which access to the information requested had been denied by the Public Authority (PA), the PA responded stating it had refused the disclosure of the same on the basis that the DO denied it i.e. *the PA is not in a position to divulge bio-data information and payments made to others loss adjusters without the prior permission of such other loss adjusters, If the PA divulges such information to the Appellant it is an unwarranted invasion of the privacy of such individuals who are working for the PA.*

Order:

Under and in terms of the RTI Act, No. 12 of 2016, upon a Public Authority deciding to refuse to disclose information, the precise subsection of Section 5 of the Act must be cited in order to justify non-disclosure.

Furthermore the PA has not followed the procedure laid down in Section 29 of the RTI Act whereby it is required to request the third party's consent to the release of the information.

At the Right to Information Commission of Sri Lanka

The PA is directed to ascertain from the relevant third parties as to whether they consent to the disclosure of the information supplied in confidence by themselves to the PA, as required under and in term of Section 29 of the RTI Act.

The matter is re-fixed for hearing on 12.03.2019 for further action thereafter.

The Appeal is adjourned.
