

Chamara Sampath v Parliament of Sri Lanka

RTIC Appeal (In-Person Hearing)/719/2018- Order adopted subsequent to the hearing/ consideration at a part of the formal meeting of the Commission on 12.02.2019

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: Chamara Sampath

Notice issued to: Designated Officer, Parliament of Sri Lanka

Appearance/ Represented by:

Appellant – Chamara Sampath
PA - Tikiri K Jayathilake, Assistant Secretary General
P K D S W Wijegunathilake

RTI Request filed on	21.06.2018
IO responded on	21.08.2018
First Appeal to DO filed on	30.08.2018
DO responded on	07.09.2018
Appeal to RTIC filed on	11.09.2018

Brief Factual Background:

The Appellant, by an information request dated 21.06.2018, requested for the following item of information

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1. *The Number of Members of Parliament (MPs) who have handed over their respective Declarations of Assets and Liabilities in 2018*
2. *The list of names of MPs who have handed over their Declarations from 2010 to date”*

The IO on 21.08.2018 responded stating that in order to obtain details in relation to Declaration of Assets of Members of Parliament a request has to made to the Speaker in terms of the Declaration of Assets and Liabilities Law No 01 of 1975. Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 30.08.2018. The DO responded on 07.09.2018 reiterating the IO’s decision and further stating that in terms of Section 11 of the Declaration of Assets and Liabilities Law No 01 of 1975 (DALL), when in conflict with any other law the DALL would prevail. Dissatisfied with the response of the DO the Appellant preferred an appeal to the Commission on 11.09.2018

Matters Arising During the Course of the Hearing:

The Appellant submitted that his request was with regard to statistical data and not the contents of the Assets Declaration of respective Ministers, therefore taking up the position that the information ought to be provided in terms of the RTI Act.

In response, the PA referring to its written submission to the Commission dated 05.02.2019 submitted that the requested information falls within the ambit of the DALL, and any request in relation to it is to be made to the Speaker in terms of the Act. The PA further submitted that the requested information or the manner of it may in some ways infringe the privileges of Parliament and the Appellant, if he wishes to pursue with his request should follow the procedure already laid down in terms of the DALL.

In response the Appellant submitted that the release of statistical data could not affect the status quo of the Parliament or impact on particular assemblies. The refusal, if any must be justified in terms of the RTI Act. In response the PA submitted that the administration of the Parliament is not in a position to "give directions to the Speaker" and therefore, denied the refusal of the requested information in terms of the RTI Act.

Order:

If a PA denies the provision of information requested under the RTI Act, it must justify its decision to do so in accordance with the provisions set out in the Act, by citing provisions laid down in the Act.

In order to provide or deny an information request of an Appellant, it must be first ascertained if the information is in fact in the possession, custody or control as set out in Section 3(1) of the RTI Act. The PA is hereby directed to file further written submissions, with a copy to the Appellant stating its position with regard to Section 3(1) of the Act and provided the information is in the possession, custody or control of the PA, the reasons for refusal under and in terms of Section 5 of the RTI Act.

Order is conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

The Appeal is adjourned

Next date of hearing: 21.05.2019
