

Shermal Hemaka Jayasuriya v National Selection Committee, Ministry of Provincial Councils, Local Government and Sports

RTIC Appeal (In-Person Hearing)/ [745/2018]- (*Order adopted as part of a formal meeting of the Commission on 20.02.2019*)

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

Appellant: Shermal Hemaka Jayasuriya
Notice issued to: Kamal Pathmasiri, Secretary, Ministry of Provincial Councils, Local Government and Sports

Appearance/ Represented by:

Appellant - Shermal Hemaka Jayasuriya
PA - M.M. Wijayasena, Ministry of Provincial Councils, Local Government and Sports

RTI Request filed on	23.08.2018
IO responded on	No response
First Appeal to DO filed on	12.09.2018
DO responded on	No response
Appeal to RTIC filed on	27.09.2018

Brief Factual Background:

The Appellant by request dated 23.08.2018 had requested the following,

1. Minutes of the meetings held by the National Selection Committee to select athletes for the Asian Games 2018 from 15th June 2018 to 15th August 2018.
2. Final list of Squash players selected for the Asian Games 2018 and the date list approved by the National Selection Committee and
3. Final list of Kabaddi players selected for the Asian Games 2018 and the date list approved by the National Selection Committee.

As the IO failed to respond within the time period stipulated under the Act, the Appellant on 12.09.2018 lodged and 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 27.09.2018.

Matters Arising During the Course of the Hearing:

Upon being queried, the Appellant submitted the following with regard to his information request,

1. With regard to item No. 01, the Appellant submitted that the PA has informed him that it does not maintain the minutes of the meetings held by the National Selection Committee,
2. With regard to items No. 02 and 03, the Appellant submitted that the PA handed over the names of the final lists of Squash players and of Kabaddi players selected for the Asian Games without the date list approved by the National Selection Committee.

In response the Officer from the Ministry of Provincial Councils, Local Government and Sports submitted that the National Selection Committee consists of five volunteer officers appointed by the Minister in charge and that no public officer is involved in this Committee. Therefore, it was the PA's submission that no public funds were involved or provided by the Ministry of Provincial Councils, Local Government and Sports to this Committee.

Upon being queried as to the criteria followed by the National Selection Committee (NSC) on which it made the final selection for the Asian Games 2018, the PA submitted that a selection criteria is followed by the committee appointed for each sport (Tennis Committee, Squash Committee etc.) in selecting player(s) or a team and such lists are forwarded to the NSC. Thereafter, based on the above-mentioned lists the NSC will make the final decision.

Order:

The PA is directed to inquire from the National Selection Committee (NSC) as to the criteria followed by it to change or amend the lists forwarded by the committees appointed for each sport and the final lists of Squash players and of Kabaddi players selected for the Asian Games 2018 with the date list approved by the National Selection Committee. The PA is also directed to provide reasons as to why the NSC does not maintain minutes of its meetings.

RTIC Appeal/ 1013/19 was brought to the attention of the Commission as it is related to the present appeal. Both appeals will be considered on 23.04.2019.

The Appeal is adjourned.

Next Date of Hearing: 23.04.2019

RTIC Appeal (In-Person Hearing)/ [745/2018]- (*Order adopted as part of a formal meeting of the Commission on 06.08.2019*)

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
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Appellant: Shermal Hemaka Jayasuriya
Notice issued to: Kamal Pathmasiri, Secretary, Ministry of Provincial Councils, Local Government and Sports

Appearance/ Represented by:

Appellant - Shermal Hemaka Jayasuriya

PA - M.M. Wijayasena, Assitant Secretary- Ministry of Provincial Councils, Local Government and Sports

K.D.A. Shalika Kariyawasam, Assistant Director

Matters Arising During the Course of the Hearing:

Although the appeal was fixed for hearing on 23.04.2019, due to the unforeseen security situation prevalent in the country, this appeal was re-fixed for hearing on 06.08.2019.

On 06.08.2019 both the Appellant and the Public Authority were present.

The Appellant stated that through his information request he is seeking the minutes of the meeting held by the National Selection Committee to select squash and kabaddi players for the Asian Games 2018 from 15 June 2018 to 15 August 2018. The representative of the Ministry responded, as stated in the previous appeal hearing, that it does not maintain minutes of the meeting.

The Appellant stated that he received part of the information requested from the Ministry of Sports. By way of a letter dated 15.02.2019, the Secretary of the National Selection Committee wrote to the Ministry of Sports providing the list of selected sportsmen/sportswomen who participated in the 2018 Asian Games in Indonesia. According to this letter, the relevant National Association of Sports selects the relevant sportsmen/sportswomen to participate in a sporting event and submits the list of names to the National Olympic Committee. Thereafter, the list of names is submitted to the National Selection Committee which approves the selected sportsmen/sportswomen by placing their signature. This list is then forwarded to the Ministry of Sports. The National Selection Committee in its letter has stated that it does not intervene when selecting sportsmen/sportswomen to participate in competitions. It is only in the event that there is an irregularity in the selection process that the National Selection Committee intervenes.

Responding to the query on the composition of the National Selection Committee, the Appellant stated that according to the Sports Law, the President and Secretary of NOC are included in the National Selection Committee. Furthermore, three other members are selected at the discretion of the Minister. The Ministry confirmed that the National Selection Committee consists of the President and Secretary of the NOC.

The representative of the Ministry of Sports submitted before the Commission that the Ministry receives the final list of selected players after it was submitted to the National Selection Committee and the National Olympic Committee. The Ministry stated that it has already released the final list that is in their possession and they are unaware of any changes that may have taken place to the list during the selection process. The Ministry stated that it can provide all the details of the members of the National Selection Committee to assist the Commission to ascertain the composition of the National Selection Committee.

The Ministry representatives further submitted that the Appellant has gone before the Court of Appeal challenging the selection process which was adopted in selecting players for the 2018 Asian Games. The Court of Appeal held that the Appellant's daughter should be included in the

list of players. The decision of the Court was adhered to by the Ministry together with the consent of the Olympic Committee.

The Appellant stated that during the Court proceedings, the National Olympic Committee and the National Selection Committee confirmed in Court that the final list of selected players was finalized by 30 June 2018, as this was the deadline for the submission of selected players. However, the Appellant stated that the final list approved which he received was dated in or about August 2018. While the Appellant concedes that the list of names could be approved by the Minister on a later date, he stated that allegedly certain names were included into the list in July 2018.

The Appellant reiterated that he received the final list of selected Kabadi players and Squash players selected for Asian Games. However, he has not received the minutes of the meeting and the date of approval of the National Selection Committee.

Order

Notwithstanding the fact that formal notice was issued through registered posts to all parties in this Appeal on 08.07.2019, as this is the second occasion in which the National Selection Committee has failed to be represented before the Commission, attention of the Secretary, National Selection Committee is drawn to section 39 (1)(c) of the RTI Act.

Section 39 (1)(c) of the Act states that, every person who “fails 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.”

As stated in the connected appeal of RTIC 1013/2019, Mr. Maxwell de Silva, who appeared before the Commission in his capacity as the Secretary General of the National Olympic Committee is apprised to take notice on behalf of the National Selection Committee of which he is an ex-officio member. Notices are re-issued on the Secretary of the National Selection Committee through registered post.

The Ministry of Provincial Councils, Local Government and Sports is directed to release the names of the members of the National Selection Committee. Furthermore, a direction is issued to the Ministry to specify the role played by the National Olympic Committee in the functioning and process of the National Selection Committee.

Next date- November 19, 2019
