

Transparency International Sri Lanka v. Prime Minister's Office (RTIC Appeal/05/2017)

Appellant: Transparency International Sri Lanka

Public Authority: Prime Minister's Office

Appeal Part-Heard on: June 12th, 2017

Appellant (TISL) represented by:

Mr. Asoka Obeysekera, Director - TISL

Mr. Gehan Goonetilleka, Board Member - TISL as legal counsel

Ms. Sankhitha Gunaratne, Manager, RTI

PA (PMO) represented by:

Mr. Saman Ekanayake: Secretary to the Prime Minister

Ms. Bimba Tillekeratne (President's Counsel): Additional Secretary (Legal Affairs), PMO

Ms. Hashini Jayasekera : Information Officer, PMO

Matter fixed for Continuation of Appeal on August 8th, 2017 in order for the PMO to obtain legal representation from the Department of the Attorney General.

Next date of hearing: August 8th, 2017

Transparency International Sri Lanka v. Presidential Secretariat (RTIC Appeal/06/2017)

Appeal Part Heard On: June 19th, 2017

Appellant: Transparency International, Sri Lanka

Public Authority: Presidential Secretariat

Appellant (TISL) represented by:

Mr. Asoka Obeysekera, Director - TISL

- Mr. Gehan Goonetilleka, Board Member - TISL as legal counsel
- Ms. Sankhitha Gunaratne, Manager, RTI
- Ms. Priyadarshini Paulraj, Programme Officer - TISL

Public Authority (Presidential Secretariat) represented by:

Ms. Lakshmi Jayawickrema, Attorney-at-Law, Additional Secretary to the President (Legal) (representing the Designated Officer, Secretary to the President)

Mr. B.K.S. Ravindra, Additional Secretary to the President

Additional Secretary to the President (Legal) requests for time to obtain legal representation for the Public Authority given the complex matters of law in issue.

The Commission queries from the Appellant whether any objection is being raised to this request. The Appellant responds that there is no objection on their part. The Commission accedes to the request made by the Public Authority.

Further, the Commission considers the failure on the part of the Appellant to plead the fact of citizenship as required by Section 3 (1) of the RTI Act, No. 12 of 2016 read with Section 43 of the said Act. Section 3 (1) of the RTI states that “Subject to the provisions of Section 5 of this Act, every citizen shall have a right of access to information which is in the possession, custody or control of a public authority.” Section 43 defines a ‘Citizen’ as “a body whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens.”

In the instant case the fact of the organisation coming within the ambit of Section 43 of the RTI Act in re the requisite membership has not been averred before the Public Authority in the information request filed on 3rd February 2017, before the Designated Officer, or before the Commission at the second stage of Appeal with the relevant documentation to establish that fact.

Preliminary Questions of Law for Determination of the Commission: - Written submissions called for regarding the below two preliminary questions of law by the Appellant and the Public Authority to be filed two weeks before the next date of hearing i.e. August 8th, 2017;

1. Whether the requirement of averment of citizenship on the part of the information requestor in terms of Section 3 (1) of the RTI Act No.12 of 2016 read with Section 43 of the said Act is a mandatory requirement?
2. Is the said requirement a fatal irregularity or a curable defect at the second stage of appeal before the Commission?

The hearing of the appeal is adjourned for Continuation in order for the Commission to determine the aforesaid two preliminary questions of law and in accordance with the request of the Additional Secretary to the President (Legal) to obtain legal representation for the Public Authority for August 8th, 2017.

Next date of hearing: August 8th, 2017

TISL v. Prime Minister’s Office/Presidential Secretariat

RTICAppeal/05/2017 & RTICAppeal/06/2017

Appeal Part Heard on: August 8th, 2017

Appellant: Transparency International, Sri Lanka

Public Authority: Prime Minister’s Office/ Presidential Secretariat

Appellant (TISL) represented by:

Mr. Asoka Obeysekera, Executive Director - TISL

Mr. Gehan Goonetilleka, Board Member - TISL

Ms. Sankhitha Gunaratne, Manager, RTI

Mr. Daniel Fernandez, Intern, RTI

Ms. Priyadharshini Paulraj, Programme Officer

PA (PMO/Presidential Secretariat) represented by:

Mr. Nerin Pulle, Deputy Solicitor General

Mr. Suren Gnanaraj, State Counsel

Mr. Muditha Dissanayake, Legal Officer, Presidential Secretariat

Both appeals against the Prime Minister's Office (RTICAppeal/05/2017) and the Presidential Secretariat (RTICAppeal/06/2017) heard by agreement of parties together. Written Submissions filed by both parties filed of record. Oral submissions on jurisdictional questions part-heard.

Appeal adjourned for further hearing on September 25th, 2017.

Further Written Submissions of the Public Authority to be filed by the 8th of September 2017.

Further Written Submissions of the Appellant to be filed by the 15th of September 2017.

Appeal Part Heard on: September 25th, 2017

Appellant: Transparency International, Sri Lanka

Public Authority: Prime Minister's Office/ Presidential Secretariat

Appellant (TISL) represented by:

Ms. Sankhitha Gunaratne, Manager, RTI

PA (PMO/Presidential Secretariat) represented by:

Mr. Suren Gnanaraj, State Counsel

The Commission records a motion for adjournment by the Public Authorities on the basis that Counsel for the Public Authorities has stated that his appearance is required at a specially fixed case being taken up in the Supreme Court on the day of this hearing before the Commission. In the absence of any objection from

the Appellant, the adjournment is granted in terms of Rule 20 (9) of the RTI Commission Rules of Gazette No 2004/66 dated 03.02.2017.

Ms. Sankhitha Gunaratne Manager - RTI of TISL, requested permission from the Commission for the Appellant to submit written submissions two weeks before the next date. Permission was granted.

On application of Counsel for the Applicant made on his behalf by Ms. Gunaratne requesting a date in November since Counsel is away from the country, the next date of hearing is fixed for November 6th 2017. Written Submissions of the Appellant to be filed two weeks prior to the next date of hearing.

Appeal Part Heard On: November 6th, 2017

Appellant: Transparency International, Sri Lanka

Public Authority: Prime Minister's Office/ Presidential Secretariat

Appellant (TISL) represented by:

Mr. Gehan Goonetilleka, AAL, Board Member – TISL

Mr. Sanjit Dias, TISL

Ms. Navodanie Ratnatilake, TISL

Ms. Priyadharshini Paulraj, TISL

PA (PMO/Presidential Secretariat) represented by:

Mr. Nerin Pulle, Deputy Solicitor General

Mr. Muditha Dissanayake, Legal Officer, Presidential Secretariat

Oral submissions on jurisdictional questions were completed. Further written submissions by both parties to be submitted. Appeal adjourned for Delivery of Order on Preliminary Points of Law on Jurisdiction.

Next date of hearing: January 8th, 2018
