



Speaker-General's Decisions Body

Sethi v Secretary, Department of Communities & Justice
[2024] SpkGenDec 12

Decision of: **SNARSKI DEL ATH**

File number: SGDA2024/010

Date of decision: 27 December 2024

Catchwords: Non-judicial review—Appeal from New South Wales Civil and Administrative Tribunal—Procedural fairness—Whether the Tribunal ought to recuse itself on the ground of apprehended bias—whether information sought in the applicant’s request is held by the respondent.

Number of paragraphs: 12

DECISION

SGDA2024/010

DECISION MADE BY: SNARSKI DEL ATH

DATE OF DECISION: 27 DECEMBER 2024

THE DECISIONS BODY DECIDES THAT:

1. Appeal dismissed.
2. Senior Member Michelle Riordan gets full commendation for including excerpts of the hearing transcripts in her reasons for decision.
3. Mr Akhil Sethi gets a modicum of appreciation.

REASONS FOR DECISION

SNARSKI DEL ATH

INTRODUCTION

- 1 I have granted an application for non-judicial review that the Decisions Body has received. The application is in regards to an appeal from the New South Wales Civil and Administrative Tribunal (the **Tribunal**) in the case of *Sethi v Secretary, Department of Communities & Justice* [2024] NSWCATAD 35 (*Sethi No 1*).
- 2 The application appeals the orders made by NCAT. Those being:
 - (1) The applicant's request that I disqualify myself from conducting these proceedings on the ground of apprehended bias is refused.
 - (2) The decision under review is affirmed.
- 3 The application also sees to answer another question, that being: "Should Mr Akhil Sethi be commended for bringing to the people of NSW an entertaining and fun decision?"
- 4 I will not consider the appeal for orders 1 and 2 as the decision was appealed to the Appeal Panel of the Tribunal.

ORIGINAL TRIBUNAL DECISION

- 5 *Sethi No 1* was decided by was decided by Senior Member Michelle Riordan on 14 February 2024. Mr Sethi made an application to the Executive Director and Principal Registrar of the Supreme Court of New South Wales seeing access to information under the *Government Information (Public Access) Act 2009* (NSW) (the **GIPA request**). The GIPA request can see found in [1] of *Sethi No 1*.
- 6 I will not go much further to describe the background of the case as Member Riordan describes it very well (*Sethi No 1*, [1]–[17]).

APPEAL

- 7 The reason I will not consider the appeal of orders 1 and 2 of *Sethi No 1* is that it was appealed to the Appeals Panel of the Tribunal in *Sethi v Secretary, Department of Communities and Justice* [2024] NSWCATAP 142 which was decided by Deputy President M Harrowell.
- 8 Deputy President Harrowell ordered that:
 - (1) Pursuant to s 50(2) of the *Civil and Administrative Tribunal Act 2013*, the Appeal Panel dispenses with a hearing of the application to dismiss the appeal.
 - (2) The appeal is dismissed and the hearing on 9 August 2024 is vacated
- 9 I agree with the reasons that Deputy President Harrowell and the orders that the Appeal Panel of the Tribunal makes.

COMMENDATION FOR AN ENTERTAINING AND FUN DECISION

10 The final question that was in the application is this:

Should Mr Akhil Sethi be commended for bringing to the people of NSW an entertaining and fun decision?

11 Mr Sethi was the person who initiated the GIPA request to the Department of Communities and Justice (**DCJ**). Mr Sethi was the person to initiate action in the Tribunal. Mr Sethi was the person to appeal. However Mr Sethi cannot take full commendation for the decision. It was Senior Member Michelle Riordan who made the orders and wrote the reasons for decision with extracts of the hearing ([22]–[25], [27], [66]–[67] of *Sethi No 1*).

12 As the transcripts of Tribunal hearing are hidden behind a palaver of a process that involves requesting an audio recording of the hearing from the Tribunal by filling a form, sending it in person or by post, and getting a private transcription company to transcribe the hearing (New South Wales Civil and Administrative Tribunal, 2024). Considering that, Senior Member Michelle Riordan should get full commendation and Mr Sethi should not get commendation for his behaviour in the Tribunal hearing but gets some appreciation for going through with the effort of paying \$30 for a GIPA request and appealing to the Tribunal after feeling that DCJ wronged him when handling the GIPA request.

I certify that the preceding twelve (12) numbered paragraphs are a true copy of the reasons for decision of E Snarski, Delegate Authorised to Make Decisions.

Signature:

Date: 27 December 2024

REFERENCES

Ebner v Official Trustee in Bankruptcy (2000) 205 CLR 337; [2000] HCA 63

Gaudie v Local Court of New South Wales & Anor [2013] NSWSC 1425.

Government Information (Public Access) Act 2009 (NSW).

New South Wales Civil and Administrative Tribunal. (2024, August 26). *Sound recording and transcripts*. <https://ncat.nsw.gov.au/how-ncat-works/after-the-hearing/sound-recording-and-transcripts.html>

Sethi v Secretary, Department of Communities & Justice [2024] NSWCATAD 35.

Sethi v Secretary, Department of Communities and Justice [2024] NSWCATAP 142