

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC OF
SRI LANKA**

In the matter of an Appeal under and in terms of Section 34(1) of the Right to Information Act No. 12 of 2016 read with Court of Appeal (Appellate Procedure) Rules, 1990 in relation to the Decision of the Right to Information Commission communicated undercover of Letter as dated 07.09.2023.

**CA Case No: RTI/09/2023
RTIC Appeal No. 1200/2022**

D. Sarathchandra,
No. 513 A,
Second Stage,
Anuradhapura.

Applicant

Vs.

People's Bank,
Head Office,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

Public Authority

AND NOW BETWEEN

People's Bank,
Head Office,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 02.

Public Authority – Appellant

Vs.

1. Right to Information Commission,
Room No. 203-204,
BMICH,
Buddhaloka Mawatha,
Colombo 07.

Respondent

2. D. Sarathchandra,
No. 513A,
Second Stage,
Anuradhapura.

Applicant - Respondent

Before: **R. Gurusinghe J.**

&

M.C.B.S. Morais J.

Counsel: Kaushalya Nawaratna, PC with Gimhani Jayaweera for the
Public Authority- Appellant- Petitioner.

Himalee Kularathna for the 1st Respondent.

Sandamal Rajapaksha with Lakmali Sooriyagoda for the
Appellant- Respondent.

Written Submissions: By the Public Authority- Appellant- Petitioner – on
18.10.2024

By the Appellant- Respondent – on 15.10.2024

Argued on: 18.09.2024

Decided On: 26.11.2024

JUDGMENT

M.C.B.S. Morais J.

This is an appeal under and in terms of section 34(1) of the Right to Information Act No. 12 of 2016 read with Court of Appeal Rules.

The Public Authority-Petitioner (hereinafter referred to as the “Petitioner”) is a Licensed Commercial Bank operating pursuant to the provisions of the Banking Act No. 30 of 1988, and constituted as a body corporate in accordance with the People’s Bank Act No. 29 of 1961. The 1st Respondent Commission is a statutory body corporate established under and by

virtue of Section 11 of the Right to Information Act No. 12 of 2016. The Appellant–Respondent is the individual who has submitted the request for the information at issue.

The Appellant–Respondent, through an information request dated 25th July 2022, sought specific details pertaining to the expenditure incurred in connection with the 2022 ‘Poson Poya almsgiving’ and the ‘Poson Bathi Gee’ event organized by the Buddhist Society of the Anuradhapura Regional Branch of the Petitioner Bank.

The Information Officer of the Petitioner, by letter dated 9th August 2022, responded to the aforementioned request and denied the providing of the requested information. This refusal was made allegedly in pursuant to and in accordance with Section 5(1)(a) of the Right to Information Act No. 12 of 2016 (hereinafter referred to as the “RTI Act”), on the grounds that the information sought constituted ‘third-party information’.

The Appellant–Respondent subsequently lodged an appeal with the Designated Officer of the Petitioner Bank through an application dated 15th August 2022, pursuant to Section 31 of the RTI Act. The Designated Officer formally acknowledged receipt of this application by way of a letter dated 17th August 2022.

The Designated Officer, through a letter dated 19th September 2022, affirmed the decision rendered by the Information Officer.

Dissatisfied with the decision of the Designated Officer, the Appellant–Respondent submitted an appeal dated 27th October 2022 to the RTI Commission, pursuant to Section 32 of the RTI Act. The RTI Commission served the notice of appeal on 13th January 2023.

The RTI commission entered decision dated 31.08.2023 which was communicated to the Petitioner Bank by letter dated 07.09.2023 which was delivered to the Petitioner on 13.09.2023 and directed the release of all information stipulated in the Information Request of the Appellant-Respondent.

The Petitioner, being aggrieved by the decision of the RTI Commission appealed to this court in terms of section 24(1) of the Right to Information Act No.12 of 2016 under the following grounds.

- a. The impugned decision marked 'X8' is tainted with procedural impropriety as the commission has acted in gross violation of Section 34 (1) of the Right to Information Act in compelling the release of the contested information prior to the expiration of the statutory period of the appeal;
- b. The impugned decision is misconceived in law, arbitrary, contrary to law and established judicial principles and conflicts with the rights/ interests of third parties in violation of Article 14A (2) and Article 28 (e) of the Constitution.
- c. The commission has gravely erred in law by the mis-application of Section 5 (1) (a) of the RTI Act in contravention of Article 14A (2) and Article 28 (e) of the Constitution by failing to appreciate that the information request involves the release of 'personal information' of third parties.
- d. The commissioner has gravely erred in law by failing to conclude that columns 2, 3 and 4 in the Table depicted in the request for information all require disclosure of 'personal information' of third-party suppliers, including supplier details and costs charged by the suppliers for the requested products and/ or services.
- e. The impugned decision is *void ab initio* as the commission has gravely misdirected itself by failing to judicially consider the Decision of the Designated Officer as contained in Letter dated 19.09.2022 marked 'X4' which forms the basis of the appeal in terms of Section 32 of the RTI Act.
- f. The impugned decision is *ultra vires*, ill-conceived in law and fact and arrived at in breach of the principles of natural justice as it fails to *inter alia* consider and/or address the position taken up by the Public Authority in the Decision of the Designated Officer as well as its Written Submissions tendered during the inquiry before the commission.
- g. The commission has gravely erred in fact and law by failing to take cognizance of the fact that the almsgiving for the 2022 poson programme received financial contributions from various third parties unrelated to the Petitioner, as corroborated by the Letter of Request for Contributions issued by the Buddhist Society of the Anuradhapura Regional branch of the People's Bank, annexed to the written submission of the Public Authority;
- h. The commission has gravely erred in law by failing to take cognizance that all funds for the almsgiving for the 2022 Poson Programme were collected and deposited in the account maintained by the Buddhist Society of the Anuradhapura Regional branch of the People's Bank, and thereby failed to take cognizance of the fact that the requested

information was within ‘possession, custody or control’ of the Buddhist Society of the Anuradhapura Regional branch of the People’s Bank and not the Public Authority within the meaning of Section 3(1) of the RTI Act.

- i. The impugned decision is tainted with futility and unenforceable, as it is not possible to identify the amounts contributed by the Public Authority for each of the items listed in the table depicted in the request for information, as payments made to suppliers were from contributions received from all parties, including third party contributors.
- j. The commission has gravely misinterpreted the provisions of the Right to Information Act No. 12 of 2016 by failing to determine that the burden of proving the existence of any ‘relationship to any public activity or interest’ and/or ‘larger public interest’, as evidenced by Section 5 of the Right to Information Act No. 12 of 2016, is upon the Appellant- Respondent.
- k. The commission has gravely erred in law by failing to engage in the balance of competing interests of third parties as safeguarded in terms of Article 14A (2) of the Constitution and Section 5(1) (a) of the RTI Act.

Hence, the Petitioner seeks relief from this Court to;

- a) Issue notice on the Respondents;
- b) Issue an Interim Order to stay the execution of the decision of the Right to Information Commission as communicated to the Public Authority under cover of the letter dated 07.09.2023 marked “X8” until final determination of this Application;
- c) Set aside the said decision of the Right to information Commission marked “X8” dated 07.09.2023 sent under the registered cover;
- d) Grant costs; and
- e) Such other and further relief as to this court shall seem meet.

When this matter was supported *ex parte* on 13th of November 2023, the court was pleased only to issue notice as for prayer ‘a)’ above. Thereafter, the Respondents having come before this court, and having filed their objections, this matter was argued before this court on 18th of September 2024 and thereafter both parties filed their written submissions at the registry. I have duly considered the materials submitted to us orally and in writing.

According to the section 5(1)(a) of the RTI Act,

5. (1) Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where—

(a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;

The Petitioners' principal argument for withholding the requested information rests on the contention that the information sought by the Appellant-Respondent pertains to several third parties. Due to the involvement of multiple external parties and the potential implications for their rights and interests, the Petitioner asserts that disclosing such information would be improper and, therefore, deny the request on these grounds. They maintain that the dissemination of third-party information, without appropriate consent or legal basis, could infringe on privacy rights and other protections afforded to these individuals or entities. Consequently, the Petitioner argues that the request for information must be rejected to uphold these legal and ethical considerations.

However, the Appellant-Respondent, in their information request dated 25th July 2022, has sought the following details.

2022 පොසොන් පොහොය නිමිත්තෙන් මහජන බැංකුව අනුරාධපුර පුජා භූමියේ පවත්වන ලද භිල් දානය පිරිනැමීම සහ බැති ගී සංදර්ශනයට අදාළ කාර්යයන් සඳහා නොයෙකුත් පුද්ගලයින් හා ආයතන වෙත කරන ලද ගෙවීම් පිළිබඳ සත්‍ය හා නිවැරදි තොරතුරු ලබාදෙන ලෙස කාරුණිකව ඉල්ලමි.

වියදම් විස්තරය	ප්‍රමාණය සංඛ්‍යාව	ඒකක මිල	ගෙවූ මුදල	ආයතනය/ පුද්ගලයා ලිපිනය
දානය ඇසුරුම් බැගය				
දිග/ පළල ප්‍රමිතිය Gsm				
බැති ගී සංදර්ශනයට අදාළ වියදම් 1. වේදිකාවේ උස/පළල/ දිග				

2. වේදිකා පසුතල දිග/ පළල/ උස 3. ශබ්ද විකාශන (Sounds) 4. වේදිකා විදුලි ආලෝකය (Lighting) (යෙදූ උපකරණ ප්‍රමාණය සහිතව) 5. ජනරේටරය (sounds සඳහා) 6. සංගීත කණ්ඩායම (වාදකයින්) 7. ශබ්දාගාර පහසුකම් (Studio) 8. වොයිස් රෙකෝඩින් මික්සින් මාස්ටර් (Voice Recording mixing master) 9. නව ගීත සඳහා තනු නිර්මාණය කිරීම 10. වෙනත් වියදම්				
බැති ගී සංදර්ශනයේ සම්පූර්ණ වියදම				

This appeal has been allowed by the Right to Information Commission; thus, our duty is to consider whether the Petitioner's appeal bears sufficient merits to quash the decision of the RTI Commission.

Under subsection 5(1)(a), it is argued that the requested information pertains to personal information. However, upon analyzing this provision in conjunction with the information sought, it becomes clear that the requested information does not fall within the scope of personal information as defined under the relevant legal framework.

Specifically, the disclosure of a name or the identity of an institution to which the Petitioner has directed payments from public funds does not, in itself, constitute an unwarranted invasion of privacy of such third party. Such information relates directly to the use of public resources, which is inherently subject to public scrutiny. Public institutions operate under the principle of accountability, and their expenditures should be transparent to ensure that they

adhere to legal, ethical, and financial standards. Consequently, the disclosure of such information should not be withheld unless there is a compelling reason to demonstrate that doing so would harm an individual's right to privacy in a manner that outweighs the public interest and transparency.

Furthermore, the financial dealings of a public institution—particularly those involving payments made from public funds—cannot be categorized as confidential or exempt from disclosure. Any claim that such information is undisclosable must be weighed against the fundamental principle that public funds must be managed openly and responsibly. Such open disclosure would serve to enhance trust in public institutions by allowing for oversight and accountability, ensuring that no illegal, undisclosable, or unaccountable expenditures occur.

The mere fact that the information in question may reveal the names of third parties involved in transactions with a public institution does not, on its own, provide sufficient justification for withholding it. Such names are relevant insofar as they pertain to activities conducted using public funds, and their disclosure is crucial to maintaining transparency in public administration. Unless the disclosure can be shown to result in an unwarranted invasion of privacy—beyond the reasonable expectation of privacy in the context of public expenditure—there is no legal or ethical basis for preventing access to this information.

In conclusion, while the protection of personal information is a legitimate concern, it must be balanced against the public's right to access information about the use of public funds. The disclosure of the requested information does not violate privacy rights in an unwarranted manner and aligns with the broader objectives of transparency, accountability, and good governance.

Therefore, providing the information requested does not constitute a violation of Article 14A (2) or 28(e) of the Constitution. Providing the information requested does not harm the rights of third parties, as the requested information does not infringe upon any individual's privacy, reputation, or other protected rights. The Right to Information (RTI) Act makes it compulsory for the disclosure of information unless it explicitly falls under exceptions that would harm the rights of others. In this case, after a careful review of the nature of the requested information, it is evident that it does not contain personal or confidential details about third parties that would undermine their privacy or reputational interests. The information pertains

to public administrative matters, and there is no indication that its disclosure would lead to any harm or breach of privacy of individuals who are not directly involved in the subject matter of the request.

The Buddhist Society of the Anuradhapura Regional Branch of the People's Bank is a part of the relevant public authority itself and is not a separate independent entity. Therefore, according to the section 3(1) of the RTI Act every citizen shall have a right of access to information which is in the possession, custody or control of a public authority. This provision ensures that any information held by any body or entity that forms part of a public authority, including subsidiaries or internal divisions, is subject to the same transparency and accountability standards as any other records maintained by the parent organization.

Just as every co-owner of a land has ownership over every square inch of that land, any amount of money spent by a public authority must be accountable and made available for scrutiny when inquired by a member of the public who is interested unless it is withheld for cogent and cohesive reasons. Moreover, such actions must be conducted with transparency.

According to the above analysis, I see no valid reason to refuse such information being released. Accordingly, we affirm the decision of the Right to Information Commission and dismiss this appeal with costs awarded to the Applicant-Respondent payable by the Public Authority- Appellant in an amount of Rs. 100,000.

Judge of the Court of Appeal

R. Gurusinghe J.

I agree

Judge of the Court of Appeal