

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

In the matter of an Appeal and/or Revision,
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 as dated 14.12.2022.

Case No. CA/RTI/0003/2023

RTIC Appeal No.713/2022

Sri Lanka Telecom PLC,
Lotus Road,
Colombo 01.

PUBLIC AUTHORITY - PETITIONER

Vs.

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

RESPONDENT

2. G. Surendran,
No. 39/2,
Edmonton Road,
Kirillapone,
Colombo 6.

APPELLANT-RESPONDENT

Before: **R. Gurusinghe J.**

&

Dr. Sumudu Premachandra J.

Counsel: Kaushalya Nawarathna, P.C. with Prabudda Hettiarachchi instructed by Halidja Begum for the Petitioner.

T. Sivanandarajah for the Appellant-Respondent.

Himali Kularathne with Aruni Senarathna for the 1st Respondent.

Written Submissions: By the Petitioner- 03.06.2025
By the Respondents – Not filed.

Argument On: 09.05.2025

Judgment On: **03.07.2025.**

Dr. Sumudu Premachandra J.

1] The Petitioner, the Public Authority, by this appeal, seeks to set aside the RTI Commission's decision dated 14 December 2022, marked X-10.

2] The Petitioner is a public listed company incorporated under the Companies Act No. 07 of 2007 and listed on the Colombo Stock Exchange (CSE). The Petitioner challenges RTIC's directive to release information relating to Mr. Priyantha Fernandez's foreign business travels from 2010 to 2019, including approvals and expenses, as initially requested by the Appellant-Respondent through an RTI application dated 03.01.2022. Those are precisely;

- Achievements of Mr. Priyantha Fernandez since he was appointed to the COO position to date (January 3rd, 2022)
- All foreign business travel of Mr. Priyantha Fernandez sponsored by SLT during the period of January 2010 to December 2019
- Name of the officer/officers who approved Mr. Priyantha Fernandez's business travels during the period January 2010 to December 2019
- Business justification for each travel mentioned above
- Details of expenses (breakdown including Air Fare, per diem, etc., for each travel mentioned above)

3] The Petitioner claims exemption under Sections 5(1)(a) and (g) of the RTI Act. The Petitioner contends that the RTIC acted in violation of statutory procedure by directing the release of information before the expiration of the statutory appeal period under Section 34(1) of the RTI Act. Furthermore, the Petitioner argues that the Commission misapplied the law and failed to consider the legal protections and commercial sensitivities applicable to a listed company governed by the CSE's public disclosure rules. It submits that the decision was arbitrary, contrary to law, and violated constitutional rights, specifically Article 14A (2) on access to information and Article 28(E) concerning the duties of citizens, particularly where third-party interests and confidentiality obligations are involved.

4] The Petitioner contends that the RTI Commission erred in both fact and law by mandating disclosure of sensitive information in a manner that violates the principle of proportionality, undermines the petitioner's competitive advantage, and infringes Article 12(1) of the Constitution. The Petitioner argues that there is no overriding public interest justifying the release of the contested information, which includes personal and confidential data protected under Sections 5(1A) and 5(1G) of the RTI Act. It further claims the disclosure risks unwarranted invasion of privacy, harms employee performance, and may expose officials to harassment, contrary to Section 5(4). The Commission also failed to consider the confidentiality obligations under the petitioner's Articles of Association, thereby misapplying statutory exemptions and constitutional protections.

5] By objections, the Appellant-Respondent raises several preliminary objections, stating that the Public Authority Petitioner's application is based on false and forged facts, lacks a valid affidavit, and constitutes a misuse of the legal process, warranting its dismissal in limine. The Appellant-Respondent argues that the application is legally misconceived and non-compliant with the Court of Appeal Appellate Rules. Without prejudice to these objections, the Appellant-Respondent admits certain paragraphs of the Petition and confirms his long-term employment with the Petitioner.

6] Further, the Appellant-Respondent emphasizes that under the Right to Information Act No. 12 of 2016, the Petitioner is required to uphold principles of transparency and accountability. The Appellant-Respondent reiterates that his revised request limited to details of foreign travels, approvals, and expenses related to Mr. Priyantha Fernandez is not exempt under Sections 5(1A) or 5(1G) of the RTI Act, contrary to the Petitioner's position, and that the refusal to disclose the requested information is unlawful.

7] It is seen that in the written submission, the Petitioner acknowledges that the right to access information under Article 14A(1) of the Constitution is a fundamental right but emphasizes that it is not absolute and is subject to limitations detailed in Section 5 of the RTI Act. The Petitioner says that the Act recognizes while promoting transparency and accountability in public administration, certain categories of information must remain confidential. Thus, the requested information comes under the purview of section 5 of the RTI Act.

8] The Petitioner said that as a Listed Company, they submit that the disputed information concerns foreign business travel expenses, which are included under the broader category of operating costs covering day-to-day expenses such as direct costs, sales, marketing, and administration in the annual financial statements disclosed to the public.

9] The Petitioner argues that the Right to Information (RTI) Act must be interpreted in line with Article 14A of the Constitution, which balances the right to information with necessary democratic restrictions, including individual privacy and broader public interest considerations. The Petitioner states that the specific request for details of the COO's foreign travel expenses does not serve any larger public interest, as all such expenses are already disclosed in aggregate under "Operating Costs" in the publicly available financial statements. Disclosing individual expenses would amount to an unwarranted invasion of the COO's privacy and fall within the RTI Act's exemptions under Section 5(1)(a). The Petitioner emphasizes that its employees are contractually bound by confidentiality as per Article 116(5) of its Articles of Association, and the information requested relates to internal business decisions, not public activity. Therefore, the refusal of the request was justified under Sections 5(1)(a) and 5(1)(g) of the RTI Act.

10] I now consider the merits of this appeal. The Petitioner seeks protection under section 5(1)(a) and section 5(1)(g) of the Right to Information Act, No. 12 of 2016. Those sections are reproduced below for clarity.

"5(1) (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;”

“5(1)(g) the information is required to be kept confidential by reason of the existence of a fiduciary relationship;”

11] Thus, the Petitioner says that the requested information is personal information of Mr. Priyantha Fernandez. It should be noted that Mr. Priyantha Fernandez was appointed as COO, and he was sponsored by the Petitioner, Public Authority, for business travel. The information seeker asks for business justification for each travel during the period of January 2010 to December 2019, and a breakdown of his expenses.

12] It should be noted that the Petitioner has mentioned those expenditures as “Operating expenditure” in the Annual Report. The question is, would that suffice for the public?

13] The parliament’s paramount consideration in enacting the Right to Information Act is evident in its preamble. It says;

*“WHEREAS the Constitution guarantees the right of access to information in Article 14A thereof and there exists a **need to foster a culture of transparency and accountability in public authorities** by giving effect to the right of access to information and thereby promote a society in which the **people of Sri Lanka would be able to more fully participate in public life through combating corruption and promoting accountability and good governance.**”* [Emphasis is added]

14] Section 4 of the RTI Act says;

*“4. The provisions of this Act shall have effect notwithstanding anything to the contrary in **any other written law** and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, **the provisions of this Act shall prevail.**”* [Emphasis is added]

15] Thus, it is crystal clear that public participation is sought in combating corruption and to create accountability amongst the officials of the Public Authority when using public funds. The provision of the Act supersedes any other written law when it creates an inconsistency. Thus, in considering, the Courts should not dilute the intention of the legislature.

16] In the case in hand, the refusal was made under the disclosure of personal information. It should be noted that personal information generally refers to details that have no relationship to any public activity or interest, and whose

disclosure would cause an unwarranted invasion of an individual's privacy. This includes information that is private to an individual and not relevant to their public role or the public interest. Thus, if the Public Authority spends public funds for its high officials, the reasons, performance, and breakdown of expenditures cannot be treated as private information. It is my considered view that personal information is considered to be information that is not connected to any public activity or interest. If the public essence is touched, it can no longer be treated as personal.

17] This court admits that the disclosure of personal information must not cause an unwarranted invasion of an individual's privacy. This means that information that is considered private and sensitive, such as health records or personal financial details, is generally exempt from disclosure under the RTI Act. That is what is meant by section 5(1) of the RTI Act.

18] In the modern era, the Right to Information laws are crucial for combating corruption by increasing transparency and accountability within public institutions. By granting citizens the right to access information held by public authorities, the Authorities can expose instances of corruption, maladministration, and abuse of power. This access to information makes citizens to participate more effectually in public life and hold those in power accountable. To sustain a developed country, bribery and corruption must be curtailed. Thus, the rule should be access to information, and the exemption should be refusal.

19] At this juncture, the court notes the observation made in **Chamara Sampath vs Neil Iddawala**, CA/RTI/0004/2021, Decided on: 28-02-2023, by His Lordship Sampath B Abayakoon, J. His Lordship noted;

*“It is abundantly clear that by enacting the RTI Act No.12 of 2016, the intention of the legislature had been to give effect more robustly to the provisions of the Constitution **by fostering a culture of transparency and accountability in public authorities and institutions by giving effect to the right of access to information in combatting corruption and promoting accountability and good governance**. It needs to be reminded that it is for the very purpose that the legislature by its wisdom has enacted and introduced Article 14A by the 19th Amendment to the Constitution of the Republic, where right to access to information has been enshrined as a fundamental right. **I am of the view that when interpreting the provisions of the RTI Act, it is in this spirit of the intentions of the legislature, the relevant Act or Acts should be interpreted by the relevant authority and not to take cover in order to avoid providing the information asked for**, unless such information can be denied in terms of section 5 of the RTI Act. Even in instances where the RTI Act provides for the denial of access to information, it has been*

stated that if the public interest in disclosing the information outweighs the harm that would result in its disclosure, such information should be released.” [Emphasis is added]

20] Moreover, last year, in **D.Sarathchandra v. People’s Bank** CA Case No: RTI/09/2023, Decided On: 26.11.2024., His Lordship M.C.B.S. Morais J. held that the transparency to be maintained in the use of public funds as;

*“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.” [Emphasis is added]

21] Further, in **Bihar Public Service Commn vs Saiyed Hussain Abbas Rizwi & Anr** on 13 December, 2012 (AIR ONLINE 2012 SC 452), His Lordship Swatanter Kumar, J. clarified to have an exemption that no public activity or interest should be present. His Lordship notes;

“...information which 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 would fall within the exempted category...” [Emphasis is added- para 22)

22] Thus, we see that the requested information is well within the interest and activity of the public domain. Thus, the Petitioner cannot have the shelter of section 5(1) of the RTI Act. Therefore, we affirm the decision of the Right to Information Commission and dismiss this appeal with costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL