

Access to Information Act 2018 (ATIA)

Appeal Case to the Information Commission, Seychelles

Statement of Recommendations, Findings, Orders, Decisions and Directives as per Part VII, Section 64

Public Body: Judiciary of Seychelles

Address: Registrar of the Supreme Court, Ile Du Port

Scope of the Case

- 1. The requestor, Mr. Patrick Ernesta, wrote to the Information Commission on November 29th 2022, to appeal the decision of the Judiciary of Seychelles of failure to release the information requested.
- 2. The Commission has considered whether the Judiciary has complied with its obligations in relation to the Right of Access under Section 8, and 9, the response to a request under Section 11(1) of the ATIA.
- 3. The Commission has considered the case as per Section 59 of the Access to Information Act, 2018 where it states that "a requestor, who requests access to information reasonably believed to be necessary to safeguard the life or liberty of a person and is refused access to the information within 48 hours of the request, may appeal directly to the Information Commission."

Request and Response

- 4. On November 28th 2022, the requestor wrote to the Information Officer (IO) and requested information in the following terms:
 - 4.1"I am writing requesting for permission to have a copy of the audio and notes taken and used in the compilation of the certified typed records of the 13 of July 2022".
- 5. On November 29th 2022, the Information Officer of Judiciary acknowledged and denied access to information on the grounds of "the practice and precedent of the supreme court not to allow public access to ongoing, sub justice, cases". However, he advice the requestor to seek legal procedures and apply to have the record rectified.

Orders

6. On November 30th 2022, the Commission request access to the information to review before making a decision in the matter.

Directives

7. Pursuant to Section 60 of the ATIA states that: "The Information Commission shall notify the head of the information holder concerned of the intention to carry out an investigation or hearing with a copy of the appeal before commencing an investigation or hearing under this Act."

Decision and Conclusion (including any steps ordered)

- 8. On November 2nd December 2022, the Head of Information Holder informed the Commission that this case is still ongoing. In addition, the request is governed by and subject to other existing written laws of the Republic.
- 9. Upon Commission investigation, it has also concluded that the requestor got access with the audio recording.
- 10. On December 13th 2022, the requestor was informed of the Decision.
- 11. The case closed and resolved on December 13th 2022.

Reasons for Decision

- 12. Section 8 of ATIA states that: "Subject of this Act, every person has a right to access to information from a public body is the case"
- 13. Section 9 (1) of the ATIA States that: "A person who wishes to obtain access to information under this Act may make a request in writing to the Information Officer of the concerned public body: Provided that no such request shall be made if any other written law provides for accessing such information."
- 14. Section 11(1) of ATIA states that: "Subject of subsection (2), the Information Officer to whom a request is made under section 9 shall, as soon as reasonably possible, but in any event within 21 days after the request is submitted
 - (a) Determine whether to grant the request;
 - (b) Notify the requestor of the decision in writing.
- 15. Section 27 of ATIA states "An Information Officer may refuse to grant access to information, if such access would cause prejudice to
 - (a) the prevention or detection of crime;
 - (b) the apprehension or prosecution of offenders;
 - (c) the administration of justice;
 - (d) the assessment or collection of any tax or duty; or
 - (e) the security and life of an informant relating to a crime or investigation."