



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: Employment Department

Address: Independence House Annex, 4th Floor Victoria, Mahe

Scope of the Case

1. The requestor, Mr. Ralph Amelie, wrote to the Commission on April 9th 2021, to appeal the Department of Employment's failure to respond and release his request.
2. The Commission has considered whether the Employment Department has complied with its obligations in relation to the Right of Access at Section 8 and the response to a request as per Section 11(1) of the ATIA.

Request and Response

3. On December 11th 2020, the requestor wrote to the Information Officer (IO) and requested information in the following terms:
 - 3.1 "I wish to request access to a copy of the letter dated June 15th 2016, written by the Dept. of Legal Affairs and signed by Mr. Govinden, which was addressed to the Minister back then, Ms. Edith Alexander."
4. The Information Officer of the Employment Department acknowledged the request on December 11th 2020.
5. On December 28th 2020, the Information Officer denied access to the Information requested based on Section 28 of ATIA of part 3 of the exemption "Privileged Document".
6. Mr. Amelie requested a review with the Head of Information Holder (HOIH) on March 23rd 2021, against the decision of the Information Officer under Section 34 of ATIA, after expiry of the 60 days' timeframe as per Section of 34 (4). Where it states, "an application for review under subsection (2) shall be filed with the Information Officer of the public body within 60 days of the receipt of the relevant decision of an Information Officer".
7. Following an investigation, the Information Officer informed the commission that she had accepted the review on April 26th 2021, but that there had been a delay in response because the head of information holder was not available.

Orders

8. On April 23rd 2021, the Commission request access to the information to review before making a decision.

Directives

9. Pursuant to Section 63 (1)(d) and in conjunction with Section 48 (4)(a to e) of the Access to Information Act, 2018, the Commission orders the Employment Department to provide the Commission the document for the purpose of deciding whether it is an exempt document as stated to the requestor.

Decision and Conclusion (including any steps ordered)

10. The requested document is confirmed to fall inside the purview of the aforementioned Section 28 of the ATIA and is regarded as privileged.
11. The Commission informed all parties of this decision.
12. No further step required.
13. The case closed on May 7th 2021.

Reasons for Decision

14. Section 8 of ATIA states: "Subject of this Act, every person has a right to access to information from a public body."
15. Exemption Part III of ATIA states: "An Information Officer may refuse to grant access to information if it —
 - (a) consists of confidential communication between a medical practitioner and his or her patient;
 - (b) consists of confidential communication between a lawyer and his or her client;
 - (c) consists of confidential communication between a journalist and his or her source; or
 - (d) would otherwise be privileged from production in legal proceedings,
 - (e) unless the patient, client, source or person, as the case may be, entitled to the privilege consents to the release or has waived the privilege."