



## 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: Seychelles Tennis Association (STA)  
Address: Roche Caiman, Mahe, Seychelles

#### Scope of the Case

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1. The requestor, Vanessa Georges, wrote to the Information Commission on 31<sup>st</sup> January 2022 to appeal the Seychelles Tennis Association's (STA's) failure to fully respond to her request for information held by the STA as a public body.
2. The Commission has considered whether the STA met its requirements under the ATIA's Section 8 right of access and Section 11(1) response to request.

#### Request and Response

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3. On 26<sup>th</sup> November 2021, Vanessa Georges who is a member of the STA requested some documents to prepare for the scheduled 18<sup>th</sup> December 2021 STA AGM. The documents related to annual returns, minutes of meetings for the years 2019-2021, accounts from 2018-2021, all AGM minutes since the 28th August 2013, travel and hospitality detailed expenses and/or sponsorship details, copies of any contracts where STA is a party, list of employees and details of a lost cheque from NSC amounting to SCR 40,000.
4. On 24<sup>th</sup> December 2021, the Information Officer (IO) Lineda Samson, released the documents in part. On 4<sup>th</sup> January 2022 the requestor filed for a review with the Head of Information Holder (HOIH) Fatime Kante and upon failure to receive a response, appealed to the Information Commission on 31<sup>st</sup> January 2024. As per Section 48 of the ATIA, an investigation was undertaken and determined HOIH Fatime Kante in breach of the following:

*4 a: Section 11(1) read with section 63(1) for failure to provide the requestor with the relevant information pertaining to Seychelles Tennis Association within the specified timeframes stated by the Act and abide to further directives given by the Commission.*

*4b: For the contravention of Section 12(1) & (3) for failure to respond to the request where the period to respond has been extended.*

*4c: Section 67(b) for failure to provide the information being requested despite having the necessary records in hand.*

## **Orders and Directives**

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5. Pursuant to Section 63 (1) (d) and in conjunction with Section 48 (4) of the ATIA, the Commission ordered the HOIH Fatime Kante to release all available information in her possession on 2<sup>nd</sup> March 2022 and 20<sup>th</sup> October 2022 to the Information Commission and requestor.

## **Reasons for Order and Directives**

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6. Section 4 states that “ every public body shall create, keep, organise and maintain its information in a manner which facilitates access to information”.
7. Section 8 of ATIA states that: “subject of this Act, every person has a right to access to information from a public body”.
8. 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.
9. Section 35 (1) and in conjunction with Section 48 (4)(a to e) of the Access to Information Act, 2018, “the head of the information holder to whom a review application is submitted in accordance with Section 34 shall as soon as reasonably possible, but in any event within 15 days after the review application is received by the Information Officer —
  - (a) make a decision; and
  - (b) notify the requestor or the third party, as the case may be, of that decision in writing.”
10. Section 67 of ATIA states that: “A person who with intent to deny a right of access to information under this Act —
  - (a) destroys, damages or alters information;
  - (b) conceals information;
  - (c) falsifies information or makes a false record;
  - (d) obstructs the performance by an information holder of a duty under this Act;
  - (e) interferes or obstructs the work of the Information Commission; or
  - (f) directs, proposes, counsels or causes any person in any manner to do any of the above, commits an offence and is liable on conviction to imprisonment for a term of 5 years and a fine of SCR200, 000 or with both imprisonment and fine.

## **Decision**

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11. On 16<sup>th</sup> November 2022, the Information Commission took a decision to file a complaint with the Seychelles Police, the enforcement body responsible for acting upon breaches of Section 67 (b) of the ATIA, as per the written general guidance on 10<sup>th</sup> November 2022 of the Attorney General, Frank D. R. Ally.

## **Conclusion**

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12. On 1<sup>st</sup> December 2023 the police informed the Information Commission that their investigation concluded a no prima facie case against HOIH Fatime Kante.

13. Further due diligence and guidance from the Attorney General's office represented by George Thatchett concluded no grounds for prosecution.
14. The complete information requested to be released to the requestor Vanessa Georges remains outstanding and the HOIH Fatime Kante failed to act in good faith to the directives of the Information Commission.
15. It is evident that weaknesses in the law and supporting systems inhibit the Information Commission from fully carrying out its mandate with integrity. The matter has been brought to the Attorney General's Office for legislative remedy and relevant bodies for administrative re-structuring.
16. The Information Commission having pursued all avenues at its current disposal and having no further way, informed the requestor and concluded the case on 23<sup>rd</sup> July 2024.