

RTI 10

Appeal to the Designated Officer

Mr. P. A. R. D. Pathiraja,
Acting Director – Technical,
Designated Officer,
Director Technical Office,
No. 45, Leyden Bastian Road,
Colombo 01

Public Authority: Sri Lanka Ports Authority

Appeal Form

1. Name of Person Appealing: Transparency International Sri Lanka
2. Address: 366, Nawala Road, Nawala, Rajagiriya
3. Contact No. (if any): 011 286 6777/ 0719 960 172
4. Email Address (if any): ed@tisrilanka.org
5. Date request made to Information Officer and Registration Number: 12th July 2021
6. Did you receive a reply from the Information Officer: Yes
(if Yes and you have a copy, please attach; otherwise prove details of reply)
7. Grounds of Appeal:

ii. The Information Officer refuses access to the information on the ground that such information is exempted from being granted under Section 5 (1) (h) (i)

Details:

Transparency International Sri Lanka through a RTI 01 application dated 12th of July 2021 made an information request to the Sri Lanka Ports Authority. The public authority by an email dated 27th of July 2021 has rejected the request purportedly in terms of Section 5 (1) (h) (i).

The information requested by the Appellant relates to the MV X- Press Pearl vessel disaster which occurred in the maritime boundaries of Sri Lanka. The Appellant states that it is in the interest of the public to have access to the information regarding granting approval, evaluation and inspection process carried out by the relevant public authorities. As the documents requested are required for the Appellant to verify the aforementioned information, the Appellant states that they need to be publicly available and hereby makes this appeal to the designated officer as prescribed under Section 3 (1) (c) of the RTI Act for the information requested to be provided.

The exemption cited by the Information Officer namely 5 (1) (h)(i) is unsubstantiated by the Information Officer. Reasons for refusal of information must be justified. The fact the information relates to an ongoing investigation or prosecution does not by itself constitute a reason for denial of information requested. The public authority would need to demonstrate how the disclosure of such information would cause 'serious prejudice' to the same, which has not been done by the Information Officer. Without prejudice to the previous arguments, the Appellant further states that the Information Officer has also failed to apply their mind to the question of public interest, as according to section 5(4) of the Act the Information Officer is required to divulge information that may even be refused under section 5(1), if the public interest in disclosing information is greater than any harm that may be caused thereby.

It is the right of the citizens of the country to know to what extent they are affected by this disaster, how the inspection process was conducted by the Sri Lanka Ports Authority as the responsible public authority to conduct an initial inspection into the fire which broke out in the respective vessel and whether due process was followed when granting permission for the vessel to enter the maritime boundaries of Sri Lanka. It is in the interest of the public to know the requested information because the harm was perpetrated within the maritime boundaries of Sri Lanka which is public property and there is a huge impact on the people living in coastal areas in terms of livelihood and health as well. Therefore, the Appellant does not see a legitimate reason for the non-disclosure of such information regarding the X Press Pearl vessel.

8. Brief description of information requested: Refer to the attached RTI 01 Application

9. If Appeal has not been submitted within the specified time period, cause of delay [s. 31(5)]: N/A

10. Any other details: N/A

Date: 26/08/21

Signature: 

Nadishani Perera (Attorney-at-Law),
Executive Director,
Transparency International Sri Lanka.

Dear Sir/Madam,

Registration Number :RTI/SLPA/2021/49
Date Request Received :12.07.2021
Public Authority :Sri Lanka Ports Authority

This is to inform you under Section 24(3) of the Right to Information Act No. 12 Of 2006 that we received your information request dated 12.07.2021.

This is to inform you that we have decided to reject your request for information, as it is exempted information covered by Section 5 (1) (h) (i) of the Act.

You may under Section 31 (1) or Section 25 (7) of the Act, prefer an Appeal against this decision, or on the grounds that there has been noncompliance with time frames specified in the Act, to the following Officer within 14 days.

You may, for this purpose, use Form RTI 10, although this is not mandatory as long as you provide the information contained in that Form.

Designated Officer-

Name : P. A. R. D. Pathiraja
Designation : Director (Technical)
Address : 45, Leyden Bastian Road, Colombo 01.
E-mail : ravindra@slpa.lk

Yours, Faithfully,

B L M Inas
Deputy Chief Law Officer
Information Officer
Sri Lanka Ports Authority

RTI 01

Application to Receive Information

Capt. Harsha Weerasuriya,
(Head of the Special Investigation Unit/
Deputy Chief Manager – Security)
(Information Officer),
Sri Lanka Ports Authority,
No 19, Chaithya Road,
Colombo 01.

01. Name of Requestor - Transparency International Sri Lanka
02. Address - No. 5/1, Elibank Road, Colombo 05
03. Contact No. (if any) - 011-4369781/3
04. Email Address (if any) - ed@tisrilanka.org
05. Details about Information requested
- I. Specific Public Authority - Sri Lanka Ports Authority (SLPA)
- II. Information requested:
1. Certified copy of documentation to demonstrate that the Harbour Master gave permission to the X-press Pearl ship to enter into maritime boundaries of Sri Lanka.
 2. When was the permission granted to the X-press Pearl Ship to enter into maritime boundaries of Sri Lanka?
 3. Certified copies of the communication (including dates) between the Harbour Master and any authority and/or official regarding granting permission to X-Press Pearl Ship to enter maritime boundaries of Sri Lanka.
 4. If the permission was not granted by the Harbour Master, what is the responsible authority and who is the responsible official for granting such permission?
 5. Certified copies of all the communications made between the Captain and/or any other crew officers of the X-Press Pearl ship and the Government of Sri Lanka, before and after entering into maritime boundaries of Sri Lanka.

6. Did a team attached to SLPA conduct an inspection of the X-press Pearl Ship, upon the receipt of information from the Master of the Vessel, regarding the fire inside the cargo hall?
7. If yes, a certified copy of the above inspection report.
8. A certified copy of the Stowage Plan of X-press Pearl ship.
9. A certified copy of the Cargo Manifest of X-press Pearl ship.
10. A certified copy of the Dangerous Goods Manifest of X-press Pearl ship.
11. A certified copy of the Material Safety Data Sheet (MSDS) of X-press Pearl ship.

III. Specific period information is requested - 2021

06. Manner in which information is requested -

i. inspect relevant work, documents, records

ii. Take notes, extracts or certified copies of documents or records

iii. Take certified samples of material

iv. Obtain information in the form of CD/DVD/storage media/tapes/video cassettes/ any other electronic mode/ printouts where such information is stored in a computer or in any other device.

07. Language in which requestor prefers access - English and/or Sinhala

08. Does the information request concern the life and personal liberty of a citizen? No

09. Any other details- N/A

10. Relevant documents attached –

i. Certificate of Incorporation of Transparency International Sri Lanka

11. Is the requestor a citizen of Sri Lanka? Yes

Transparency International Sri Lanka is an organisation of which 100% of the members are citizens of Sri Lanka.

Date: - 12.07.21

Signature: -


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Nadishani Perera (Attorney-at-Law),

Executive Director,

Transparency International Sri Lanka.

