The Right to Information Commission

Kamal Vithanage
34/1, Sri Wimalasiri Road.
Kalubowila
Dehiwala

-Appellant-

RTIC App/No : 815/2021

Vs.

Bar Association of Sri Lanka
No. 153,
Mihindu Mawatha
Colombo 12

-Public Authority-

Before : 1. Justice Upaly Abeyrathne (Rtd.) - Chairman
2. Justice Rohini Walgama (Rtd.) - Commissioner
3. Ms. Kishali Pinto-Jayawardena (Attorney-at-Law)- Commissioner
4. Mr. Jagath Liyana Arachchi (Attorney-at-Law) - Commissioner
5. Mr. A.M Nahiya - Commissioner

Appearance : The Appellant is present

The Bar Association of Sri Lanka (BASL) represented by; Mrs. Suranee Samarasekera, Administrative Secretary / CEO of BASL, Mr. Suren Gnanaraj, AAL, Ms. Rashmi Dias, AAL

Written Submissions : Appellant - 02.02.2022, 14.02.2022

BASL - 03.02.2022, 07.03.2022

Date of Hearing : 08.02.2022, 30.03.2022

Decided on : 29.08.2023

Decision of the Commission

Brief Factual Background

By Information Request dated 29.03.2021, the Appellant requested the below information;

1. *"Certified copies of decisions and actions taken with respect to the Complaint/Petition dated 8th March 2019, marked 'D 1', made by the requestor to the Hon. President of Bar Association of Sri Lanka.*
2. *Certified copies of decisions and actions taken with respect to the Complaint/petition dated 10th March 2021, marked, marked 'D 2', made by the requestor to the Hon. President of Bar Association of Sri Lanka.*
3. *Certified copies of documents related to the procedure adopted in processing a Complaint/petition received against Attorney-At-Law, including how complains/Petitions are categorized at the inception based on the "seriousness' of a complaint and the consequent steps taken in expediting the Complaint, if it is found to be 'serous.'*
4. *Provide the following statistical data regarding the Complaints/Petitions received by the Bar Association of Sri Lanka against Attorney-At-Law from the year 2011 to the year 2020.*

Year	*(i)*	*(ii)*	*(iii)*	*(iv)*	*(v)*	*(vi)*
2011						
2012						
2013						
2014						
2015						
2016						
2017						
2018						
2019						
2020						

Headings for the statistic 'Number of Complains/Petitions' are as follows;

i. *Received against Attorney-At-Law*
ii. *Withdrawn by the Complainant/Petitioner*
iii. *Dropped/ rejected without referring to a committee*
iv. *In the process of being referred to a committee*
v. *Pending in the committee stage*
vi. *Found not guilty by committee proceedings*
vii. *Found guilty by committee proceedings."*

The Administrative Secretary/CEO of the Bar Association of Sri Lanka (BASL) on 29.04.2021 responded as mentioned below;

"We acknowledged receipt of your letter dated 29th March 2021 on the above captioned matter.

As the Bar Association of Sri Lanka does not fall within the RTI Act as per section 43 therein. Accordingly we regret to inform you that we are unable to provide you with the requested information."

Dissatisfied with the above response, the Appellant lodged an appeal with the BASL on 05.05.2021. The BASL failed to respond within the time period stipulated in the Act and therefore the Appellant preferred the present Appeal to the Commission on 09.07.2021.

The Appellant on 02.02.2022 filed Written Submissions, stating *inter alia* that,

1. *The respondent is a body established under the written Law, namely, the Administration of Justice Law No 44 of 1973 in the context of the respondent being established 'pursuant to the enactment' of the Administration of Justice Law, No 44 of 1973 and thus the respondent is a Public Authority within the scope of Section 43(b) of the RTI Act.*
2. *At least for a portion of the work of the Respondent, the Respondent is either directly or indirectly providing a public service, by being in partnership with government or its agencies and thus the Respondent is a Public Authority within the scope of Section 43(g) of the RTI Act.*
3. *The information under items 1, 2, 3 and 4 of the Information Request, fall within the scope of the activities covered by the component of public service rendered by the Respondent either directly or indirectly and thus the information cannot be withheld to the Appellant even if the Respondent is held to be a Public Authority under 43(g) of the RTI Act, rather than under Section 43(b) of the RTI Act.*

In response, the PA filed Written Submissions on 03.02.2022, stating *inter alia* that;

1. *The advocates of Sri Lanka and the members of the Incorporated Law Society of Sri Lanka have through a General Meeting resolved to form an Association called the Bar Association of Sri Lanka. It is for this purpose that a joint Committee was created to draft a Constitution for the BASL.*
2. *The BASL is therefore, not incorporated or established under a statutory provision and/or government body.*
3. *The Administration of Justice Law No. 44 of 1973 makes no reference to the BASL of any association that can be remotely inferred to be a reference to the BASL. Therefore, under no construction of statutory interpretation can it be said that the BASL was created or established by or under the Administration of Justice Law No. 44 of 1973 and the words, 'any body or office created or established under any written law' in Section 43 (b) cannot be equated to a situation where a body comes into being 'pursuant to the enactment of' a particular law*
4. *The BASL functions as a body which acts in the interests of a niche group of professionals, and that those functions cannot be construed to mean that the Respondent performs a public function.*

Pursuant to the direction given by the Commission on 08.02.2022, the Appellant filed further Written Submissions dated 14.02.2022 stating *inter alia* that, BASL has been recognized by the Legislature, Judiciary and Executive as an organization which is carrying out a statutory or public function or service under a partnership.

The BASL submitted Further Written Submissions dated 07.03.2022 stating *inter alia* the below,

1. *The BASL does not carry out a statutory or public function or service under a contract, partnership or license from the government or its agencies or from a local body.*
2. *It is a body established by its own Constitution, and which provides services for its members who subscribe to its Constitution by the payment of subscription fees;*
3. *It does not exist for the benefit of the general public;*

4. *It presently does not have any contracts, partnership or licenses from the government or its agencies to carry out any statutory or public functions or services;*
5. *Therefore, it does not carry out any functions which will be covered by the provisions of Section 43(g) of the RTI Act.*

Hearings were held in this appeal on 08.02.2022 and 30.03.2022. On 08.09.2022, the Commission directed the respondent body to furnish the Constitution of the respondent body as well as all relevant rules and regulations relating to the conducting of disciplinary inquiries into members of the respondents. The relevant documents were submitted by the respondent body on 13.09.2022.

On 17.11.2022, the Commission instructed the Administrative Officer (Acting) to write to the respondent body, stating the following;

'Consequent to the hearing of the above stated Appeal in regard to which the order has been reserved and pursuant to the examination of the papers in the aforesaid appeal in order to assess whether the respondent falls within the meaning and definition of the term 'Public Authority' in Section 43 of the Right to Information Act, No 12 of 2016 (RTI Act), the following questions have become pertinent for the determination of the same;

1) Does the functioning and/or activities of any one or more of the zonal branches/branch associations/members of the respondent utilize court premises/state buildings for the purpose of fulfilling the aims and objectives of the respondent in terms of the Constitution of the respondent?

2) If yes to the above, do the respondent's zonal branches/branch associations/members of the respondent as aforesaid enjoy the benefit of rent-free premises along with accompanying utility services inclusive of water and electricity supply provided by the State/Ministry of Justice?'

In the same communication, it was directed that a response be furnished regarding the aforesaid in terms of Section 15 (d) of the RTI Act by 12.12. 2022.

By letter 08.12. 2022, the Secretary of the respondent body replied to the said direction of the Commission, stating that, as there are over 90 branch associations of the BASL located throughout the island, a minimum period of four months will be required to obtain the information so requested, ie; by 31st March 2023.

It was however stated in that letter that, matters concerning zonal branches or members cannot be the basis for determining if the BASL is a 'Public Authority' and that, therefore the information so requested falls outside the scope and jurisdiction of the Commission as provided for by the RTI Act. Accordingly, it was reiterated that the BASL is not a Public Authority and that, the request for an extension of time to provide the information was 'without prejudice' to that position and acceding to the same was in deference to the Commission.

By letter dated 01.05.2023, the respondent body requested a further extension of time till 31st July 2023 given that the new Executive Committee of the BASL had been appointed with the commencement of the new term 2023/2024, on 29.03.2023. That request was allowed by the Commission.

By letter dated 31.07. 2023, the respondent body replied as follows;

‘The Members of the Branch Associations of the BASL do not utilize Court premises/state buildings for the purpose of fulfilling the aims and objectives of the BASL in terms of the Constitution.’

Consideration

In order for this Commission to exercise its appeal powers under Section 32 of the Right to Information Act, No 12 of 2016 (‘the RTI Act’ or ‘the Act’), the respondent Bar Association of Sri Lanka must be held to fall within one or more of the definitions of a ‘Public Authority’ as contemplated by Section 43 of the Act.

It was the Appellant’s contention made severally in his Written Submissions, that, the respondent falls within the below definition of a Public Authority

a) The respondent is a Public Authority by virtue of Section 43 (b) of the Act on the basis that it was established ‘pursuant’ to the Administration of Justice Law, No 44 of 1973 and/or that, the respondent is ‘part of the’ Legal Aid Commission by virtue of some of its members being nominated to that Commission and/or that, under Section 43 (g), the respondent is in ‘partnership’ with the Legislature, the Judiciary and the Executive.

b) He has also submitted that, in terms of Section 43 (g), the respondent carries out a ‘statutory or public function or service’;

These contentions were strongly rejected by counsel appearing for the respondent who reiterated, *inter alia*, the Bar Association of Sri Lanka has not been created or established under any written law (Section 43 (b)). Further, it was stated that it has no such ‘partnership’ with any organs of the State purely by virtue of some of its members serving in such state bodies (Section 43 (g) and that, the relevant definition of a ‘Public Authority’ thereto is similar to the ‘extension of public authorities to include private entities and organisations carrying out statutory and public functions in public law’ (*vide*, Written Submissions of the BASL dated 03/02/2022, paragraph 16).

Accordingly it was submitted that the respondent body does not carry out any statutory or public service and that, Attorneys-at-Law are ‘professionals who provide professional services, not a public function’ (*vide*, Written Submissions of the BASL dated 03/02/2022, paragraph 29 (c)).

In consideration of the above submissions of both parties, we note that a Public Authority’ is defined by the respective Sections of the RTI Act as follows;

Section 43 (b) - ‘any body or office created or established by or under the Constitution, any written law, other than the Companies Act No 7 of 2007, except to the extent specified in paragraph (e), or a statute of a Provincial Council.’

Section 43 (g) – ‘a private entity or organisation which is carrying out a statutory or public function or service, under a contract, a partnership, an agreement or a licence from the government or its agencies or from a local body, but only to the extent of activities covered by that statutory or public function or service.’

We are inclined to accept the submissions of the respondent that both Sections do not apply to the respondent body in a manner that brings it within the meaning of Section 43. Accordingly, we decide that Section 43(b) is inapplicable in the extended meaning as proposed by the Appellant. Where Section 43 (g) is concerned, we do not find that, a 'partnership' exists between the respondent and the 'Government or its agencies...' as detailed in that Section.

Through an abundance of caution, it must however be noted that the question of whether a 'public service' is carried out by the respondent within the meaning of that Section and the basis on which the respondent rejects the same, is not in consonance with the view of this Commission.

The terms 'public service' cannot be equated to the terms 'public function' in accordance with the plain meaning of that Section.

'Public function' and 'public service' are two different terms; it is clear that the Legislature intended that effect by stating 'statutory <u>or</u> public function or service' in Section 43 (g) (emphasis ours). As would be dealt with later in this decision, the question before us must be resolved by the application of the term '<u>service rendered to the public'</u> (emphasis ours, Section 43 (i)) in the context of right to information principles rather than, imported from variously different factual contexts elsewhere. That term cannot also, as state above, be equated to what a public or statutory function means.

In determining disputed questions of the applicability of the RTI Act, it is the duty of the Commission in terms of Section 14 of the RTI Act, to examine the relevance, if at all, of other limbs of Section 43 to the disputed question as to whether the respondent is a Public Authority, even if not specifically pleaded by the appellant. Accordingly, we proceed to examine the applicability of Section 43 (definition of 'non-governmental organization') and Section 43 (i) in order to determine if the respondent is encompassed within that limb of the definition of a 'Public Authority.'

Section 43 defines 'non-governmental organizations' generally as follows;

> *"Non-governmental organization" means any organization formed by a group of persons on a voluntary basis and receiving funds directly or indirectly from the Government or international organizations and is of a non-governmental nature"*

The above definition has three limbs; first, the organization must be formed on a 'voluntary basis', secondly, it must receive funds directly or indirectly from any of the entities mentioned therein and thirdly, it must be of a 'non-governmental nature.' We note that, it is only on this definition being satisfied that, the further specific detailing of the manner in which a non-governmental organization becomes a public authority in Section 43 (i) becomes relevant.

Section 43 (i) reads as follows;

('Public Authority' means)

(i) Non-governmental organizations that are substantially funded by the government or any department or other authority established or created by a Provincial Council

or by a foreign government or international organization, rendering a service to the public in so far as the information sought relates to the service that is rendered to the public.'

We further note that, at no point in either of these two (interpretative) provisions is the term 'non-governmental organization' restricted to the traditional definition of a voluntary social services organization as contained in the VSSOs Act, No 31 of 1980. As such, it is clear that the Legislature intended Section 43 to be read expansively and not narrowly in this regard.

Accordingly applying the criteria on a plain reading of Section 43, it is evident that, the first limb is satisfied. On the respondent's own acknowledgement, it is formed voluntarily of its members.

The second limb relates to the question as to whether the respondent receives funds directly or indirectly from the Government or any international organization. Regarding the question as to whether the respondent receives 'indirect' support from the Government of Sri Lanka, that would be relevant if the offices of the zonal branches/branch associations of the respondent formed in terms of the respondent's constitution, are located in Court premises, with the respondent enjoying the benefit of rent free premises along with accompanying utility services inclusive of water and electricity bills paid by the relevant courts or the Ministry of Justice.

It is further relevant thereto, that delegate members representing branch associations form part of the Bar Council of the respondent in terms of Article 7.2 of the constitution of the respondent, thus bringing them firmly into the ambit of the respondent.

For comparative guidance thereof, it is useful to note that, the Indian Supreme Court has, in an appeal filed by several private schools/colleges in 2019 asking for a declaration that they fall outside the ambit of the Indian RTI Act (2005) laid down illustrative principles in this regard. In holding that the private schools/colleges are 'public authorities', the Court stated that, 'Substantial financing can be both direct and indirect. To give an example, if a land in a city is given free of cost or on heavy discount to hospitals, educational institutions or such other body, this in itself could also be substantial financing.

The very establishment of such an institution, if it is dependent on the largesse of the State in getting the land at a cheap price, would mean that it is substantially financed' (*DAV College Trust and Management Society and Others v Director of Public Instructions and Others,* Civil Appeals 9828/2013 with 98449845/2013, 98469857/2013 and 9860/2013, September 17th, 2019).

It was pointed out by the Bench that the 'indirect financial value' must be given due consideration and further, that the said valuation must be assessed at the date on which the question arises as to whether the said body is 'substantially financed' so as to bring it within the RTI Act.

It is with the intention of clarifying the above question that the Commission instructed its Administrative Officer (Acting) to obtain answers from the respondent body to the following two questions;

1) Does the functioning and/or activities of any one or more of the zonal branches/branch associations/members of the respondent utilize court premises/state buildings for the purpose of fulfilling the aims and objectives of the respondent in terms of the Constitution of the respondent?

2) If yes to the above, do the respondent's zonal branches/branch associations/members of the respondent as aforesaid enjoy the benefit of rent-free premises along with accompanying utility services inclusive of water and electricity supply provided by the State/Ministry of Justice?'

An answer was provided to the above in the negative by the respondent body through letter dated 31.07.2023. On his part, the Appellant has furnished no evidence in rebuttal of the same.

However, a further consideration which arises is whether the respondent is financed directly or indirectly by an international organization' or 'foreign government' in terms of the aforesaid two Sections. When this question was directed to counsel for the respondent at the oral hearings before us, it was stated that, if at all, the respondent is 'sponsored' by international organizations for the purpose of conducting workshops and seminars for its members. That, it was argued, cannot be taken to mean 'substantially funded' in order 'to render a service to the public' as detailed in Section 43 (i) (Vide; Paragraph 5(d) of the Written Submissions dated 07/03/2022).

Conducting of workshops by the respondent with the support of international organizations is therefore not a matter in dispute in this appeal. Such activities have been regularly evidenced in legitimate furtherance of the objective of the respondent to enhance professional standards of its members. Even so, it is our view that examination of the manner in which the respondent has received funding from international organizations reveals that, such support has gone beyond 'sponsorships' of seminars and conferences.

For example, a formal notification issued by the United States Agency for International Development (USAID) dated Thursday. January 16, 2014 states that, its support for the respondent, through a Memorandum of Understanding, included not only legal and judicial level education, legal aid services *inter alia*, but also, the renovation of the law library and the refurbishment of the respondent's auditorium (vide; https://2012-2017.usaid.gov/sri-lanka/press-releases/us-government-support-bar-association-sri-lanka).

Thus, material support of the respondent by international organizations 'directly' (as contemplated by Section 43) and/or from an 'international organization or foreign government,' (as contemplated by Section 43 (i)) is also established thereto.

The question of whether the funding thereto is 'substantial' arises in consequence thereof. It is relevant that, the meaning of what is 'substantial' in percentages of the budgets of entities have not been specified in Section 43 (i). This is unlike, for example in Section 43 (e), where in relation to companies incorporated under the Companies Act, No 7 of 2007, it is specified that, 'twenty five per centum or more of the shares' must be held either by the State or a public corporation or the State and a public corporation together.

We are inclined towards the view that, the term 'substantial' cannot be read as 'majority' financing but must be read purposively as including support that is not 'trivial.' In other words, the degree of financing must be, as set out in Black's Law Dictionary (6th Edn.) 'Substantial' in that, it is 'of real worth and importance; of considerable value; valuable. Belonging to substance; actually existing; real: not seeming or imaginary; not illusive; solid; true; veritable.'

In that respect, we find that, the 'indirect' as well as 'direct' support by an international organization to the respondent, based on the respondent's own media releases in the public forum, is not only in regard to 'sponsorship' of activities but constitutes institutional support of a 'substantial' nature so as to bring it within the ambit of Section 43/the first limb of Section 43 (i).

That view is taken with the larger public interest in mind as inherent in that Section itself as well as the overall objective of promoting accountability in 'society' (vide preamble, RTI Act). We must repeat that no negative consequences flow from such support, rather that support only helps the respondent to fulfill its societal purpose and objective more fully, viz, foster the Rule of Law and maintain the professional standards of attorneys-at-law. As such, principles of transparency and accountability will apply with greater force therein. It must be particularly noted that, the activities carried out with the said support directly relate to the upholding of the Rule of Law and the enabling of Attorneys-at-Law to carry out the 'service rendered to the public' in informing and educating the public in general regarding the governance process. This is an important point that we will reiterate later in this decision.

As we have observed previously, the ambit of Section 43 (i) cannot be restricted to the traditional definition of 'non-governmental organizations.' On the contrary, the reading of Section 43 (i) must be purposive, as much as the definitions of 'State' entities 'purposively' include corporates and private entities within the four corners of the RTI Act, (Sections 43 (e) and (g). But the applicability of Section 43 (i) in this appeal rests also on the applicability of its second limb to the facts of the case, viz; important qualifications that the respondent must render 'a service to the public' and that the information in issue must relate to that 'service.'

Prima facie, it is indisputable that the regulator of the legal profession in any country performs a vitally important task. Ruling on the fact that, the Bar Council of India (BCI) as statutorily established, is governed by India's Right to Information Act, No 22 of 2005, and the Central Information Commission of India held that the BCI has a duty to inform the people about their activities (*Harinder Dhingra v. Bar Associations,* 2016 SCC OnLine CIC 2207, and 17-03-2016).

In principle, information on disciplinary processes of the members of professional/industry bodies has been ruled to be released to appellants by this Commission (Vide; *Lionel Dissanayake v Institute of Chartered Accountants,* RTIC 600/2021, RTIC Minute, 04.01.2022).

However, the respondent is not a statutorily established body unlike its counterpart in India and unlike other professional/industry bodies in Sri Lanka such as the Institute of Chartered Accountants. Here, the regulator of the legal profession is the Supreme Court and the Chief Justice, (vide Section 44, Judicature Act). The respondent's counsel took up the position that,

although members of the respondent comprise the disciplinary committees established in terms of Section 44, the respondent has no authority in regard to the same. Thus, the 'decision maker' in this respect is the Supreme Court to which the information requestor must apply under the RTI Act, if information is required.

During oral submissions before us, counsel for the respondent emphasized that it functions purely for the 'benefit' of its members, on account of it being a 'voluntary' organization of attorneys; viz; an attorney-at-law is not mandatorily required to be a member of the respondent unlike the case in other countries. Further, attorneys-at-law, as adverted to by the respondent, deliver a gamut of services in academia, practice and other professional capacities. Thus, the respondent, as an entity, is distinct from individual attorneys-at-law who enter the profession.

That being the case, the question before us does not relate to information regarding attorneys-at-law in other capacities but strictly in regard to those attorneys-at-law who are members of the respondent. It is in respect of the disciplinary process thereto that the Appellant is requesting information and not in regard to disciplinary inquiries conducted under the aegis of the Supreme Court in terms of Section 44 of the Judicature Act or attorneys-at-law who are part of other entities.

If so and in order to satisfy the second limb of Section 43 (i), does the members of the respondent render a 'service to the public' when they engage in their professional duties, within the meaning of that Section? The respondent disputed that position on the basis that, its members engage in their individual professional capacities in the practice of the law, distinct from the respondent as an entity.

On the facts before us, it was established that the respondent conducts its own inquiries in respect of members against whom disciplinary complaints are received in terms of the constitution of the respondent and the procedures laid down thereto.

A direction was made by the Commission on 08.09. 2022 to provide a copy of the constitution of the respondent and the disciplinary inquiry procedures of its members, to the Commission with a copy to the appellant. While the covering mail to that effect referred to the respondent as the 'respondent', we note that, inadvertently, the respondent was referred to as a 'Public Authority' in the relevant minute by the office of the Commission thereto.

In answer, the respondent, by letter dated 13.09.2022 headed 'Strictly Confidential,' signed by the President of the respondent, furnished the requested documents to the Commission, emphasizing further in the text of the letter that, the said documents were provided to the Commission only in 'strict confidence' and reiterating that, *inter alia*, the respondent was not a Public Authority.

We fail to understand the rationale on which the constitution of the respondent, a key professional body in Sri Lanka and the procedures that it adopts in regard to disciplining its members can be construed as 'strictly confidential.' On examining the said documents, we find that in terms of Section 3.1 of the Constitution of the respondent (as amended on 13.01.2018), the Executive Committee of the respondent is given the 'full authority' to suspend or revoke the privileges and rights attached to membership of the respondent by any attorney-at-law upon the recommendation of the Ethics Committee (EC) and/or the

Professional Purpose Committee (PPC) subject to ratification by a majority of the Bar Council.

More to the point, the procedures for disciplinary inquiries against its members, as adopted by the respondent titled 'Procedures for PPC/EC inquiries' detail a process of assessment, observations from both parties and reference to a panel for inquiry.

That process ends in one of two concluding recommendations by the said panel of inquiry. First is, 'settlement by parties'; second is 'refer to the Supreme Court.' Thus, it is clear that a link is established between the disciplinary processes adopted by the respondent towards its members and the formal regulation of Sri Lanka's attorneys-at-law by the regulator, the Supreme Court of Sri Lanka.

As such, the argument of the respondent that, nothing flows from the disciplinary inquiries of its members in terms of the regulation of Sri Lanka's attorneys-at-law, is not strictly sustainable on the facts before us.

Indisputably, when attorneys-at-law engage in the practice of the law, they render a 'service to the public' which, as aforesaid, must not be confused with the meaning of a 'public or statutory function.' Information regarding the manner in which disciplinary inquiries are conducted in regard to members of the respondent against whom complaints of non-adherence to professional standards of due diligence have been filed by citizens, are of singular public importance.

Necessarily, the terms, 'rendering a service to the public' or 'substantial' financing cannot be subjected to rigid definitions but must be decided on a case by case basis.

In this appeal, the appellant is requesting what may legitimately be referred to as 'routine' information; viz, firstly, the action taken by the respondent in regard to several complaints filed by him as detailed thereto including the expedition of complaints categorized as 'serious' and secondly, statistical data regarding complaints/petitions received by the respondent against attorneys-at-law during 2011- 2020. We do not find that considerations of 'secrecy' apply to such information; rather this is information that may be proactively disclosed by the respondent in the public interest.

In any event, by virtue of the respondent body's own activities in the public sphere, its role and function to upholding the Rule of Law in Sri Lankan society in sum is greater than the parts of the whole as constituted by its members appearing in their professional capacities in litigation. What the Appellant is asking for is general information that relates to principles of good governance which is precisely the subject of many conferences and discussion sessions that are held by the respondent body, some of which are supported and 'substantially funded' by international organizations and that information 'relates to the service that is rendered to the public' by the respondent (ie; in informing and educating the public in general regarding the governance process).

It stands to reason that the same principles of transparency and accountability must relate to the respondent body, the BASL in as much as these principles underline the conducting of public activities by the BASL in furtherance of promoting and fostering the Rule of Law.

On careful consideration of the foregoing facts, we decide that the respondent qualifies as a Public Authority in terms of the general definition of a non-governmental organization as detailed in Section 43 read with Section 43 (i). We conclude that the information so requested in this appeals falls within the information that qualifies to be released in terms of Section 43(i) being information 'relating to a service that is rendered to the public' and which is important in the public interest as contemplated by Section 5(4), with no bar to release thereof in terms of any of the sub-sections of Section 5 (1), none of which have in any case, been pleaded by the respondent.

We decide that the respondent should release the said information requested by the Appellant before 27.09.2023, with copies to the Commission.

The Commission further decides that, if the respondent fails to comply with the said decision of the Commission before the said date, the Information Officer and the Public Authority shall be prosecuted before the relevant Magistrate's Court under Section 39 of the Right to Information Act No.12 of 2016.

For the completeness of this decision, we place on record that, in terms of rule no. 11 of Right to Information Commission Rules of 2017, the Public Authority is not entitled to charge any fee from a citizen for the release of the information upon a decision made by this Commission.

The Director General is directed to convey the decision to the Appellant, the Information Officer and the Public Authority.

Appeal Concluded.