

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST REPUBLIC
OF SRI LANKA**

In the matter of an Appeal under and in terms of Section 34 of the Right to Information Act No. 12 of 2016.

CA NO.RTI/01/2025

RTIC Appeal No.509/2024

Ramakrishna Thenabadu,
Sri Vishnu Maha Dewalaya,
Devinuwara.

APPELLANT

Vs.

People's Bank,
No. 75,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 2.

PUBLIC AUTHORITY

AND NOW

People's Bank,
No. 75,
Sir Chittampalam A. Gardiner Mawatha,
Colombo 2.

PUBLIC-AUTHORITY-APPELLANT

Vs.

Ramakrishna Thenabadu,
Sri Vishnu Maha Dewalaya,
Devinuwara.

APPELLANT-RESPONDENT

Before: **R. Gurusinghe J.**

&

Dr. Sumudu Premachandra J.

Counsel: Kapila Liyanagamage, AAL instructed by Deepika Pramadasa, AAL for the Public-Authority-Appellant.

R. Serasinghe with Ms. Shiara Sellamuthu for the Appellant-Respondent.

Written Submissions: By the Public-Authority Appellant filed on 16/03/2026
Appellant Respondent- Not filed.

Argued On: 05/02/2026.

Judgement On: 02/04/2026.

Dr. Sumudu Premachandra J.

1] The dispute originated in February 2024 when the Respondent requested information regarding two bank accounts held by the Devinuwara Uthpalawanna Sri Vishnu Maha Dewalaya. The Bank's Information Officer and Designated Officer both refused the request, citing that it pertained to personal information of a third party, a stance supported by the Dewalaya's Basnayake Nilame, who formally objected to the disclosure (Annexures P1 through P5).

2] Following these refusals, the Respondent appealed to the RTI Commission (P6). After hearings in August and October 2024 and the filing of written submissions (P7, P8), the Commission issued a decision dated 12/12/2024, directing the Bank to provide the requested information. This decision was communicated to the Bank in late January 2025 (P9, P10). The Bank is now seeking to have this decision set aside, arguing that the Commission erred in law by failing to recognize the Dewalaya as a "third party" under Section 29 of

the RTI Act and by failing to establish a public interest that outweighs the privacy of the account holder.

3] The Public Authority Bank further contends that the RTI Commission's order violates the Banking Act, which enforces a fiduciary relationship and a duty of confidentiality between a bank and its customers. They argue that disclosing such information would cause "grave and irreparable loss".

4] Thus, the Public Authority-Appellant prays to this Court that the Court be pleased to:-

- a) Issue notice on the Appellant-Respondent;
- b) Set aside the decision of the Right to Information Commission dated 12/12/2024, which was communicated to the Public Authority-Appellant on 27/01/2025, marked P10;
- c) Issue an interim order staying the operation of the decision of the Right to Information Commission dated 12/12/2024, which was communicated to the Public Authority-Appellant on 27/01/2025, marked P10, until the final determination of this appeal;
- d) Grant costs; and
- e) Such other and further relief as to Your Lordships' Court shall seem meet.

5] Filing objections, the Respondent argues that the Petitioner's application should be dismissed *in-limine* (at the outset) because the Petitioner failed to name the RTI Commission as a party to the case, which is a significant procedural oversight given that it is the Commission's decision being challenged. Furthermore, the Respondent accuses the Petitioner of suppressing material facts and misrepresenting information to the court regarding the nature of the bank accounts in question.

6] The Respondent's primary legal argument is that the bank accounts are not private or personal, but are held in a fiduciary capacity under the Buddhist Temporalities Ordinance. Since the funds vest in a Trustee (the Basnayaka Nilame) under the supervision of the Commissioner General of Buddhist Affairs, the Respondent contends that this information is a matter of public interest and cannot be shielded by privacy claims.

7] I now consider the merits of the case. The dispute originated from a Right to Information (RTI) request made by the Respondent seeking details regarding two bank accounts maintained by the Devinuwara Utpalawanna Sri Vishnu Maha Dewalaya (the "Dewalaya"). The Public Authority Bank initially refused the request, citing the personal nature of the information under section 29 of RTI Act and section 77(1) of the Banking Act.

8] The Appellant's argument rests on the Buddhist Temporalities Ordinance. Under Section 20 of this Ordinance, all property, monies, and profits belonging to a temple or Dewalaya are legally vested in the trustee (in this case, the Basnayake Nilame). The Appellant contends that because these assets are legally tied to the trustee, the account information constitutes the personal information of a "third party." They argue that the Dewalaya remains a private institution despite general supervision by the Commissioner General of Buddhist Affairs, thus making its financial records private rather than public.

9] The Appellant invokes Section 5(1)(a) of the Right to Information Act, which mandates the refusal of requests involving personal information that has no relationship to any public activity or interest. The said section enacts;

"5. (1) Subject to the provisions of subsection (2) a request under this Act for access to information shall be refused, where–

(a) the information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the larger public interest justifies the disclosure of such information or the person concerned has consented in writing to such disclosure;"

10] The Public Authority Bank argues that the Respondent failed to demonstrate any public interest that would justify the invasion of privacy. Furthermore, the Bank asserts that under Section 29(1), the third party (the Dewalaya) has a private interest in refusing disclosure. The submission maintains that the Information Officer and the Designated Officer acted correctly in their initial refusals because the criteria for "public interest" disclosure were not met.

11] When considering Section 29 of the RTI Act, it says;

"29. (1) Where a request made to an information officer by any citizen to disclose information which relates to, or has been supplied by a third party

and such information has been treated as confidential at the time the information was supplied, the information officer shall, within one week of the receipt of such request, invite such third party by notice issued in writing, to make representation for or against such disclosure, within seven days of the receipt of the notice.

(2) An information officer shall be required in making his decision on any request made for the disclosure of information which relates to or has been supplied by a third party, to take into consideration the representations made by such third party under subsection (1), and shall, where the third party-

(a) does not respond to the notice, disclose information requested for; (b) responds to the notice and agrees to the disclosure of the information requested for, disclose such information;

(c) responds to the notice and refuses to the disclosure of the information requested for, deny access to the information requested for:

*Provided however, the Commission may on the application made in that behalf by the citizen making the request, **direct the disclosure of the information in question notwithstanding any objections raised by such third party against its disclosure, where the release of the information concerned demonstrably outweighs the private interest in non-disclosure.*** [Emphasis is added]

12] The Public Authority Bank highlights the fiduciary relationship between a bank and its customer. They cite Section 77(1) of the Banking Act, which imposes a strict statutory duty of secrecy on bank employees regarding customer transactions and account states, except when ordered by a court of law or required by specific written law. The Appellant argues that Section 5(1)(g) of the RTI Act which protects information required to be kept confidential due to a fiduciary relationship which acts as a standalone justification for refusal.

13] When I consider section 77(1) of the Banking Act, it says;

“77. (1) Every director, manager, officer or other person employed in the business of any licensed commercial bank or licensed specialised bank shall observe strict secrecy in respect of all transactions of the bank, its customers and the state of accounts of any person and all matters relating thereto and shall not reveal any such matter except-

(a) when required to do so - (i) by a court of law; (ii) by the person to whom such matter relates;

(b) in the performance of the duties of the director, manager, officer or other person; or

(c) in order to comply with any of the provisions of this Act or any other written law”

14] However, I see that these provisions do not give blanket coverage for non-disclosure of information, and it is subject to the provisions of the RTI Act, which is supreme over all these provisions. This section says;

“4. The provisions of this Act shall have effect notwithstanding anything to the contrary in any other written law and accordingly in the event of any inconsistency or conflict between the provisions of this Act and such other written law, the provisions of this Act shall prevail.”

15] As I noted above, this clause, section 4 of the RTI Act, establishes the supremacy of the Act, ensuring its provisions take precedence over any conflicting or contrary laws. It acts as a "notwithstanding" clause, meaning the Act's rules apply even if other written laws provide differently, rendering them subject to this Act. Thus, the objections which were taken cannot be an excuse for non-disclosure.

16] The Respondent has raised a preliminary objection that the Appellant failed to add the necessary party, the Right to Information Commission. Before going further, I must address this issue first. In **Hewa Baddage Gunaratne Vs. The RTI Commission CA/RTI/01/2020**, decided on 28/06/2023 division of this court held that the Right to Information Commission is not required to be made a party to defend its decision in higher courts. In that H/L Iddawala – J stressed;

“Therefore, the RTI Commission as a legal entity is equipped with locus standi by the Act, however one needs to identify at what instance the Commission should be made a party. This is a pertinent consideration as the consequences of being named as a party involves the allocation and use of resources and time that would otherwise be spent on furthering the

democratic goals of the Commission. The legal personality does not infer that the Commission has to be made respondent in every appeal. In deciding whether the Commission is required to be made a party, the ‘purpose’ of the action is inherent. At this appeal the purpose of the action is to set aside the Commission’s order and ultimately to obtain information the appellant has been yearning for years. Therefore, the Public Authority, in this case the Uva Department of Education, should be the respondent of the case in addition to the Commission. The action cannot proceed without such alteration as it is a major flaw in the application. This Court finds that making the Commission a respondent in appeals which are to obtain information from public authorities do not serve any purpose and it rather impedes the functioning of the Commission established to serve a vital democratic role by entangling it with a plethora of cases unnecessarily. Making the relevant authority a respondent will suffice at the appeal stage to satisfy the purpose of obtaining information. This does not by any means infer that the Commission is shielded from judicial accountability. The Court of Appeal is constitutionally equipped with the writ jurisdiction under Article 140 to question the functioning of the Commission.”

17] In view of the above findings, this court is of the view that the RTI Commission is not a necessary party and, as a quasi-judicial institution, it does not defend its own decisions. Thus, the said preliminary objection is overruled.

18] In the instant case, the Public Authority refused the information sought on the premises that it belongs to a third party. In fact, the Public Authority bank sought consent to release the information from Devinuwara Basnayake Nilame, where he refused the sanction.

19] It should be stressed at the outset that the information refused is not private bank details of the Basnayake Nilame of Devinuwara Devalaya, it is a general account of Devinuwara Utpalawanna Sri Vishnu Maha Dewalaya. The Basnayake Nilame has been appointed by the Public Trustee under the powers given by the Buddhist Temporalities Ordinance, No.19 of 1931.

20] On careful consideration of the provisions of the Buddhist Temporalities Ordinance, No.19 of 1931, it is pertinent that in the context of Sri Lankan

Buddhist places of worship, Basnayaka Nilames or custodians are responsible for managing financial accounts and activities in accordance with regulations as a trustee which thereby holds a public trust for its devotees.

21] The following sections deeply contemplate the above public trust concept. Section 2 of the Buddhist Temporalities Ordinance, No.19 of 1931, interprets trustee and temple as follows;

“trustee” means a trustee of a temple appointed under the provisions of this Ordinance, and includes the Diyawadana Nilame, a Basnayake Nilame, and the Atamasthana Committee;

” temple ” means vihare, dagoba, dewale, kovila, avasa, or any place of Buddhist worship, and includes the Dalada Maligawa, the Sripadasthana, and the Atamasthana of Anuradhapura;”

22] Thus, it is clear that the trustee includes Basnayake Nilame and the temple includes ewale and kovil, etc. Thus, Basnayake Nilame of Devinuwara Utpalawanna Sri Vishnu Maha Dewalaya cannot be treated as a private party. The collection of donations, incomes from the properties of Devinuwara Utpalawanna Sri Vishnu Maha Dewalaya and monies has been done by Basnayake Nilame of Devinuwara Utpalawanna Sri Vishnu Maha Dewalaya, and those transactions cannot be treated as private transactions of the Basnayake Nilame.

23] Section 20 of the Buddhist Temporalities Ordinance says;

*“20. All property, movable and immovable, belonging or in anywise appertaining to or appropriated to the use of any temple, together with all the issues, rents, moneys, and profits of the same, and all offerings made for the use of such temple other than the pudgalika offerings which are offered for the exclusive personal use of any individual bhikkhu, **shall vest in the trustee** or the controlling viharadhipati for the time being of such temple, subject, however, to any leases and other tenancies, charges, and incumbrances already affecting any such immovable property.”*[Emphasis is added]

24] Section 8(1) of the said Ordinance enacts the appointment of Basnayake Nilames as;

*“The trustee for a dewale for which it has been customary to appoint a Basnayake Nilame shall be the Basnayake Nilame thereof. **The trustee for every other dewale shall be a person appointed by the Public Trustee.**”* [Emphasis s added]

25] Further, section 15 of the Ordinance provides that a devotee can sue a Basnayake Nilame or controlling Viharadhipathi for specific performance, damages, decree for removal of a trustee with the sanction of Public Trustee as;

*“15 (2) The Public Trustee or any person interested in a temple may, without joining as plaintiff any of the other persons interested therein, sue before the court having jurisdiction for the area within which such temple is situated the trustee or controlling viharadhipati of such temple for **any alleged misfeasance, breach of trust or neglect of duty committed by such trustee** or controlling viharadhipati in respect of property belonging to such temple; and such court may after trial-*

(a) direct the specific performance of any act by such trustee or controlling viharadhipati,

(b) decree damages in favour of such temple and costs against such trustee or controlling viharadhipati, and

(c) direct the removal of such trustee:

Provided that no plaint submitted by any person interested shall be accepted by any court unless it is accompanied by a certificate from the Public Trustee to the effect that he has inquired into the subject-matter of the complaint and that the same is in his opinion suitable for the consideration of the court.”

26] The locus standi of such actions has been clearly mentioned in section 15(3) as;

“15(3) Any person who has a right of attendance at any temple or who has been in the habit of attending at the performance of the worship at any temple shall be deemed to be a person interested in such temple within the

meaning of this section. (4) Proceedings may be taken under this section in respect of every alleged misfeasance, breach of trust or neglect of duty by any trustee or viharadhipati whether committed before or after the commencement of this Ordinance and in respect of such proceedings the Public Trustee may exercise all the powers vested in him for the investigation of the conditions and accounts of trusts by the Public Trustee Ordinance, as amended from time to time.”

27] Trusteeship of religious and cultural institutions is deep-rooted. It is entangled with the belief of devotees, and thereby, trustees hold a public trust for devotees. Very recently, affirming the judgment of Kerala High Court, the decision that the Malabar Devaswom Board cannot hold deposits in cooperative banks, the Chief Justice of India, Surya Kant and Justice Joymalya Bagchi held on 05/12/2025 that temple funds belong to the deity and cannot be used to bail out struggling cooperative banks. The Supreme Court upheld the Kerala High Court order directing banks to return deposits to the Thirunelly Temple Devaswom. The Court held;

“Temple money, first of all, belongs to the deity. Therefore, this money has to be saved, protected and utilised only for the interests of the temple. It can’t become a source of income or survival for a cooperative bank.”¹

28] To protect the systems in ancient era, Kings of Sri Lanka ordered services (rajakariya) and lands to have income to perform services. In ***Herath v. Attorney General*** 60 NLR 193, Basnayake C.J. stated the history of this ancient system in the following manner:

“A village or gama in respect of which services (rajakariya) were performed are of four kinds, viz., gabadagama, nindagama, viharagama, and dewalagama. A gabadagama is a royal village which was the exclusive property of the Sovereign. The Royal Store or Treasury was supplied from the gabadagama, which the tenants had to cultivate gratuitously in consideration of being holders of praveni panguwas. A nindagama is a

¹ <https://www.freelaw.in/legalnews/-Temple-money-first-of-all-belongs-to-the-deity-it-can-t-become-a-source-of-income-or-survival-for-a-cooperative-bank-says-the-Supreme-Court> (accessed on 31/03/2026)

village granted by the Sovereign to a chief or noble or other person on a sannasa or grant. **Similarly, a village granted by the Sovereign to a vihare is a viharagama and to a dewale is a dewalagama.**” [Emphasis is added]

29] Thus, the impugned Devinuvara Upulwan (Vishnu) Dewalaya comes within the purview of said definition. The History says²;

“An ancient temple dedicated to god Upulvan was situated at devinuvara in Matara, the southernmost area of the country. According to the recorded history, the Devinuvara multi-religious complex, the Buddhist temple and the Upulvan devale (shrine) was started by King Dappula I (Dappula-sen) in the 7th century AD. The origin of the Esala festival of Devinuvara goes back to the times of King Parakramabahu II who had reconstructed the dilapidated temples during his reign. Kings Parakramabahu VI, Vijayabahu VII and Bhuvanekabahu VII of Kotte made further grants to the temple. The sacred shrine is mentioned in the Kokila Sandesaya ("Message 5 carried by Kokila bird") written in the 15th century with reference to the exploits of Sapumal Kumaraya. The temple complex was visited by Ibn Battuta in the 14th century and Zheng He in the 15th century.

...In 1587, a Portuguese army led by Thome de Sousa Arronches attacked the sacred city and destroyed the temples to distract king Rajasingha I's siege of Colombo. King Rajasinghe II managed to recapture Matara and re-built the shrine to god Vishnu, which is presently known as Uthpalawarna Sri Vishnu Dewalaya” (T.M. Kulathunga, personal communication , 2022).

30] Thus, the said Devinuvara Uthpalawanna Sri Vishnu Maha Devalaya is governed by a **Basnayake Nilame** (lay custodian), is a revered historic site in Southern Sri Lanka, traditionally dedicated to the deity Upulvan (identified as Vishnu). Thus, the said Basnayake Nilame as a custodian, is responsible for the secular administration, assets, and festivals of a *devalaya* (a shrine or temple

² “A Historical study of Devinuvara sacred area” by H.K. Pabasara, Department of History and Archaeology University of Ruhuna, Sri Lanka
https://www.researchgate.net/publication/370952317_A_Historical_study_of_Devinuvara_sacred_area#:~:text=According%20to%20Sinhala%20chronicles%2C%20the,to%20King%20Agrabodhi%20VI%20and (accessed on 27/03/2026)

dedicated to a deity). While they are deeply rooted in Buddhist tradition and cultural heritage, they are not strictly part of the monastic clergy. It is a permitted tradition in Buddhism to appoint a “Kapakaru-කැපකරු”, a lay custodian, to accept donations on behalf of the clergy to acquire “Sivupas-සිව්පස” which means Cheevara (චීවර- robes), Pindapatha (පින්ඩපාත- Alms, foods), Senasana (සේනාසන- monastery), Gelanapachcha (ගිලනපච්ච- medicines).

31] In the above context, under the Buddhist Temporalities Ordinance, the Basnayake Nilame serves as the trustee for a Devale, holding responsibility for temple property, income, and maintenance. They manage offerings and ensure the upkeep of the shrine. It is to be noted that the office of Basnayake Nilame has recently faced scrutiny on the misuse of funds. The transparency of such funds cannot be undermined by refusing such information. The expenditures of such funds cannot be held as a private account, should be available for public scrutiny.

32] The learned counsel for the Public Authority has vehemently contended if the information is sought from a Public Bank and such bank was ordered to reveal information; the public bank would be at peril as all accounts may be switched to private banks from public banks. It is to be stressed whether funds belong to a “Temple” which comes under section 2 interpretation of Buddhist Temporalities Ordinance are amenable to disclose whether it is deposited in a public bank or a private bank. The cause for the disclosure is not whether the bank is private or public, but the nature of funds deposited in the bank.

33] Further, in **Sri Lanka Telecom PLC vs Right to Information Commission**, Case No. CA/RTI/0003/2023, decided on 03/07/2025, this court considered the sections of 5(1)(a) and section 5(1)(g) of the Right to Information Act, No. 12 of 2016 and held information relating to “personal information” as follows;

“This court admits that the disclosure of personal information must not cause an unwarranted invasion of an individual's privacy. This means that information that is considered private and sensitive, such as health records or personal financial details, is generally exempt from disclosure under the RTI Act. That is what is meant by section 5(1) of the RTI Act.”

34] Thus, as per the issue in hand, funds cannot be treated as personal funds or invade somebody's privacy as there is no private and sensitive information, such as health records or personal financial details. As noted above, under Section 4 of the RTI Act, its provisions prevail over other laws like the section 77(1) of Banking Act. The right to be informed, right to know is guaranteed by Article 14A of the Sri Lankan Constitution. Section 15 of the Buddhist Temporalities Ordinance mandates prosecution for misuse of funds. In line with the above settled law, the refusal to disclose the information of the Public Authority-People's Bank is a frustration of legislative intent regarding transparency and accountability.

35] For the foregoing reasons, I find no basis to disagree with the determination of the Commission. For the reasons set out above, I find no merit in the grounds of appeal urged by the Appellant. The order delivered by the Right to Information Commission of Sri Lanka on the 12/12/2024 in the Appeal Inquiry RTI/Appeal/509/2024 is hereby affirmed. This appeal is dismissed. No Costs.

JUDGE OF THE COURT OF APPEAL

R. GURUSINGHE J.

I agree

JUDGE OF THE COURT OF APPEAL