

EMPLOYMENT RELATIONS TRIBUNAL

ORDER

ERT/RN129/18

Before

| | | |
|-------------------------------|----------|------------------|
| Rashid Hossen | - | President |
| Raffick Hossenbaccus | - | Member |
| Abdool Feroze Acharauz | - | Member |
| Kevin C Lukeeram | - | Member |

In the matter of:-

ERT/RN 129/18 - Artisans and General Workers Union (Applicant)
And
Sugar Investment Trust (Respondent)

This is an application for an Order for access to information under Section 41(4) of the Employment Relations Act 2008, as amended.

The Artisans and General Workers Union by way of a letter dated 12 October 2018 requested that certain information pursuant to Section 41(4) of the Employment Relations Act 2008, as amended in relation to the percentage increase granted in terms of salary to the Chief Executive Officer in the revision of his basic salary effected in February 2017 and also that of five employees effected in June 2018.

The Representative of the Union stated that the information is required for the purpose of negotiation. However, he confirmed that there has been no engagement in collective bargaining so far.

Counsel for the employer stressed that since no collective bargaining has started, Section 41 of the act (*supra*) is of no application.

We reproduce the relevant provision governing access to information:-

41. Access to information

- (1) Where an employer is engaged in collective bargaining with a recognised trade union or a joint negotiating panel, either party shall provide to the other party all relevant information required for the purposes of collective bargaining.

- (2) A request made for the purposes of subsection (1) shall –
 - (a) be in writing;
 - (b) specify the nature of the information requested in sufficient details to enable the information to be identified;
 - (c) specify a reasonable time within which the information is to be provided.

- (3) No party shall be required to disclose information that –
 - (a) is prohibited to be released by law or by order of any court;
 - (b) may cause prejudice to the interests of the enterprise or to a worker;

- (c) is personal information relating to the privacy of a worker, unless the worker consents to the disclosure of that information.
- (4) Where any party refuses to provide information under this section, the other party may apply to the Tribunal for an order and the Tribunal shall, where it is satisfied that the information requested does not fall within the purview of subsection (3), make such order requiring that the information be provided.
- (5) An application made under subsection (4) shall be determined within 30 days of the date of receipt of the application.
- (6) Any information provided under this section shall be used only for the purposes of collective bargaining, unless otherwise agreed by the parties.
- (7) Any party shall comply with an order of the Tribunal under subsection (4) within 14 days of the date of the order.

It is being clearly stipulated that where an employee is engaged in collective bargaining, either party shall provide a required information.

Since the engagement in collective bargaining has not started, Section 41 above cannot be invoked.

The application is set aside.

(Sd) Rashid Hossen
President

(Sd) Raffick Hossenbaccus
Member

(Sd) Abdool Feroze Acharauz
Member

(Sd) Kevin C Lukeeram
Member

06 November 2018