

File: 01 14 44
Date : 20030807

Commissioner : M^e Christiane Constant

Mr. X

Applicant

vs

Ministère de l'Éducation

Public Body

DECISION

APPLICATION FOR REVIEW IN TERMS OF ACCESS

[1] The Applicant requested from Ministère de l'Éducation (the « Ministère »), on August 14, 2001, access to the English version of the decisions bearing the numbers S.A. 1699-1700; 1672-73; 994, 0225, 1405, 1839. He also requested access to the legal diplomas of two persons he identifies and who retired from Lester B. Pearson School Board.

[2] On August 28, 2001, Mrs. Diane Gagnon, responsible of access to documents and the protection of personal information, forwarded to the Applicant the English version of two arbitration decisions: S.A.E. 0225 and S.A.E. 1405. She also indicated in her letter that there is no English translation of the other arbitration decisions (1699, 1700, 1672, 1673, 994 and 1839).

[3] As for the access to the diplomas concerning the two retirees, Mrs. Gagnon refuses to grant Applicant access to these documents, because they contain

confidential informations which cannot be communicated without the consent of these persons, according to article 53 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*¹ (the « Act »). Mrs. Gagnon also refers to article 14 of the Act, which stipulates, among other things, that a public body may deny access to a document where the information forms the substance of this document.

[4] On September 20, 2001, the Applicant asks the intervention of the Commission d'accès à l'information (the « Commission ») to review the Ministère presumed decision.

DECISION

[5] On November 4, 2002, M^e Stoddart requested that the Applicant sends to the Commission and to the Ministère his comments regarding Mrs. Gagnon's letter no later than November 22 of the same year. The Applicant did not provide his comments nor in writing or by telephone within the time limits set out by the Commission. At the time of this decision, the Applicant still does not respond.

[6] The undersigned considers that according to the writing evidence submitted to the Commission, the Ministère forwarded to the Applicant, on August 28, 2002, copies of the English version of the two arbitration decisions that it has in its possession; it does not have English translation for the others (1699, 1700, 1672, 1673, 994 and 1839).

[7] According to article 1 of the Act, a public body grants access to a document in the exercise of its duties.

1. This Act applies to documents kept by a public body in the exercise of its duties, whether it keeps them itself or through the agency of a third party.

This Act applies whether the documents are recorded in writing or print, on sound tape or film, in computerized form, or otherwise.

[8] As for the diplomas, the Ministère cannot release the nominative informations concerning the two retirees from Lester B. Pearson School Board, since it is understood that such documents contain nominative informations concerning personally each retiree, according article 53 of the Act. Furthermore, it was not proven that these retirees consent to the release of the nominative informations concerning themselves.

¹ R.S.Q., c. A-2.1.

53. Nominative information is confidential, except in the following cases:

1) where its disclosure is authorized by the person concerned by the information; in the case of a minor, the authorization may also be given by the person having parental authority;

2) where it relates to information obtained in the performance of an adjudicative function by a public body performing quasi-judicial functions; the information remains confidential, however, if the body obtained it when holding a sitting *in camera* or if the information is contemplated by an order not to disclose, publish or distribute.

[9] **FOR THESE REASONS, THE COMMISSION:**

REJECTS the application for review in terms of access of the Applicant against the Ministère de l'Éducation;

CLOSES the present file bearing the number 01 14 44.

CHRISTIANE CONSTANT
Commissioner

Montreal, August 7, 2003

M^e Jean Émond
Attorney for Ministère de l'Éducation