



Commission d'accès  
à l'information  
du Québec

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**Date:** 20030114

**File:** 02 06 49

**Commissioner:** M<sup>e</sup> Jennifer Stoddart

**NELL VICTORIA ENNIS BHOLA**

Applicant

v.

**MINISTÈRE DU REVENU**

Respondent

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## **DECISION**

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### **THE REQUEST FOR REVIEW**

[1] On March 6, 2002, Mr. Richard Anthony Breakenridge requested from the Ministère du Revenu (the "Ministère"), on behalf of Ms. Nell Victoria Ennis Bhola:

- 1) Personal information concerning her;
- 2) List of persons who have consulted information concerning her;
- 3) The list of categories of persons who were exempted from registering when they consulted information concerning her.

[2] On April 5, 2002, the Ministère sent its decision and certain of the documents requested directly to Ms. Bhola.

[3] On May 2, 2002, the applicant requested the Commission d'accès à l'information (the "Commission") to revise the decision of the Ministère.

[4] On July 15, 2002, the Commission asked the Ministère to provide reasons justifying its decision.

## **THE PROOF AND ARGUMENTS**

### **i) The public body**

[5] On August 9, 2002, counsel for the Ministère, M<sup>e</sup> Alain-François Meunier, provided the following explanations.

[6] He noted first that an employee of the Ministère, M<sup>e</sup> Amy Viel, was able to clarify the exact nature of the request with Mr. Breakenridge. However, because the validity of the power of attorney purportedly given to Mr. Breakenridge by Ms. Bhola could not be verified and because the signature on the document did not resemble the signature of Ms. Bhola on her income tax returns, the Ministère chose to send the following documents directly to Ms. Bhola:

- 1) The list of personnel who consulted her file between April 1, 1996 and March 18 2002;
- 2) the log-in file;
- 3) her notices of assessment for the fiscal years 1986 to 2000;
- 4) her income tax returns for the fiscal years 1875, 1976, 1978 to 1988, 1990, 1991, 1997 to 2000 (income tax returns for the years 1966 to 1974, 1977, 1989, 1992 to 1996 were not available).

[7] However, the Ministry added that certain portions of certain documents were extracted because the information contained was obtained from a government other than the government of Quebec or because it pertained to third parties (O-2).

[8] The Ministère withheld a document of 4 pages from the applicant which was submitted confidentially to the Commission and which, it stated, was essentially composed of information of this type (O-3 confidential). It argued that under section 18 of the *Act respecting Access to documents held by public bodies and the Protection of personal information*<sup>1</sup>, it was obliged to do so, quoting several decisions of the Commission<sup>2</sup>.

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<sup>1</sup> R.S.Q., c. A-2.1.

<sup>2</sup> *Fontaine c. Québec (Ministère du Revenu)*, [1994] C.A.I. 309;  
*Ferraille et métal H.S. inc. c. Québec (Ministère du Revenu)*, [1998] C.A.I. 390.

[9] It also withheld a document (O-4 confidential) of 22 pages because of information concerning third parties. It submitted that it was obliged to do so because of section 69 of the *Act respecting the Ministère du Revenu*<sup>3</sup>.

[10] An affidavit of M<sup>e</sup> Daniel Bourassa, acting as assistant director for access to information, was submitted, attesting to the veracity of the alleged contents of the documents.

**ii) The applicant**

[11] Asked for his comments, and given an extension of time until December 15, 2002, to do so, the applicant made no further contributions to the discussion of this file.

**DECISION**

[12] I have examined the document O-3 confidential and it is clear that is a document obtained from another government. As such, it is not accessible. Section 18 of the *Act respecting Access to documents held by public bodies and the Protection of personal information* states:

18. The Government or one of its departments may refuse to release information received from a government other than that of Québec, an agency of such a government or an international organization.

[13] As for document O-4, it is also clear upon examination that certain information contained therein refers to third parties. As for information also contained therein whose third party nature is not self-evident from visual examination, the uncontested affidavit of M<sup>e</sup> Bourassa, and the similar nature of this material leads me to conclude that it also refers to third parties.

[14] The Commission has always recognized that article 69 of the *Act respecting the Ministère du Revenu* creates a strict obligation on the Ministère to protect third party information.

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

[16] **REJECTS** the request for review; and

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<sup>3</sup> R.S.Q., c. M-31.

[17] **CLOSES** the file.

**JENNIFER STODDART**  
Commissioner

M<sup>e</sup> Alain-François Meunier  
Attorney of the respondent