



HIGH COURT OF AUSTRALIA

6 December 2013

KAREN KLINE v OFFICIAL SECRETARY TO THE GOVERNOR-GENERAL & ANOR

[2013] HCA 52

Today the High Court unanimously dismissed an appeal from a decision of the Full Court of the Federal Court of Australia, which held that documents relating to nominations of a person to the Order of Australia were not subject to disclosure under s 6A(1) of the *Freedom of Information Act* 1982 (Cth) ("the Act").

The appellant made a request under the Act for access to certain categories of documents held by the first respondent, the Official Secretary to the Governor-General of the Commonwealth of Australia ("the Official Secretary"). The categories of documents requested related to two nominations of a person to the Order of Australia, submitted by the appellant. Section 6A(1) of the Act provides that the Act does not apply to any request for access to a document of the Official Secretary, unless the document "relates to matters of an administrative nature". By letter, the Official Secretary refused the appellant's request, informing her that no documents relating to matters of an administrative nature had been identified, although she could be provided with copies of her two nomination forms.

The appellant applied for review of the Official Secretary's decision by the Australian Information Commissioner, who affirmed the decision to refuse the appellant access to the balance of documents requested. The appellant appealed to the second respondent, the Administrative Appeals Tribunal ("the Tribunal"), which affirmed the decision of the Official Secretary. On appeal, the Full Court of the Federal Court upheld the Tribunal's decision.

By special leave, the appellant appealed to the High Court. The High Court held that documents relating to the Governor-General's substantive powers and functions were excluded from disclosure by operation of s 6A(1) of the Act. The exception of a class of documents which related to "matters of an administrative nature" referred to documents concerning the management and administration of the office resources of the Official Secretary, or the provision of logistical support, which the Official Secretary was required to disclose.

The High Court held that the documents sought by the appellant were excluded from disclosure by s 6A(1) of the Act. Relevant criteria for the making of awards in the Order were already available to the public. Further, the Official Secretary accepted that any documents relating to review processes, if such documents existed, would be publicly available without recourse to the Act.

- *This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*