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Former minister S Iswaran has been sentenced to 12 months' jail in a landmark case. No public servant can stay ignorant of the expectation not to accept valuable gifts from people with whom they have official dealings, says SMU associate professor of law Eugene K B Tan.



The paramount importance of trust and confidence in public institutions was writ large on Thursday (Oct 3), in the criminal case against former minister S Iswaran that has made headlines around the world. It should go some way too in affirming Singapore's reputation.


Justice Vincent Hoong sentenced Iswaran to 12 months' jail for obtaining gifts as a public servant from two businessmen. The custodial sentence meted was nearly twice the six to seven months sought by the public prosecutor and far more than the eight weeks the defence had argued for during the trial last week, either of which would result in a "manifestly inadequate sentence" in the judge's view.



With remission for good behaviour, Iswaran might serve eight months in jail.

This underscores the zero tolerance approach the court took and which was reiterated throughout his judgment. For the judge, the sting of Iswaran's conduct over the course of seven years lies in "the damage to the trust in and integrity of public institutions stemming from the perception that the patronage of public servants may be cultivated by offers of valuable items".

Iswaran's jail term: What was sought, what was given



 Sentences to run consecutively

Charges	 Prosecution sought	 Defence sought	 Judge gave
Obtained 10 Singapore F1 tickets worth S\$42,265 from Ong Beng Seng in Sep 2017	4 months	5 weeks	6 months
Obtained expenses - paid trip to Doha worth S\$20,848 from Ong Beng Seng in Dec 2022	3 months	3 weeks	3 months 3 weeks
Obstructed justice in May 2023 by repaying cost of Doha-Singapore flight	2 months	1 week	4 months
Obtained whisky and wine worth S\$3,256 from Lum Kok Seng in Jan 2022	1 month	2 weeks	2 months
Obtained a Brompton T-Line bicycle worth S\$7,908 from Lum Kok Seng in Jun 2022	1 month	2 weeks	3 months
Total sentence	6-7 months	8 weeks	12 months

Note: Figures are rounded off to the nearest whole number

Infographic: Clara Ho

Photos: CNA, AGC, Singapore Courts

Source: Court documents



SIGNAL OF STRONG DISAPPROVAL

There is no doubt that the court placed a premium on maintaining the integrity of the public sector. From interests relating to the outcomes of legal proceedings to interests in business transactions with public institutions, a public servant who accepts gifts in circumstances that call into question their integrity constitutes an abuse of power.

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Thus, it was necessary for the courts to signal its strong disapproval of the serious offences in Iswaran's case. And that the judge did, by imposing a higher penalty than what the public prosecutor had sought.

The judge is not bound by the arguments of either the prosecution or the defence. He noted that the nature of the office and the functions that were at risk of being or had in fact been compromised were pertinent.

A LEGAL PRECEDENT ON LONG-STANDING RULES

This case is precedent-setting as the first Section 165 Penal Code case since independence in 1965. It establishes that general deterrence and a custodial sentence are the starting point for such offences.

No public servant can stay ignorant of the expectation not to accept valuable gifts from people with whom they have official dealings, or the consequences otherwise.

Section 165 is, in substance, no different from long-standing public service rules on gifts and expected conduct of public servants. The difference is that it has a criminal sanction and penalty.

In the latest development, Ong Beng Seng, one of the two businessmen who had given Iswaran gifts, is expected to be charged on Friday, indicating that gift givers can be sanctioned under the law.

HOW WE DO THINGS IN SINGAPORE

This case had raised concerns that it would be difficult for the private sector to work with the public sector. However, the reach and impact of this case should not be overstated.

Arm's length dealing is and must be the established norm in the public sector. This need not lead to both sides being unable to work well together. Valuable gifts have no place where public sector decision-making is concerned. That has always been clear.

The way Singapore approaches public sector integrity, such as the giving or receipt of gifts, may strike some as unduly austere with little or no room for customary practices and business norms elsewhere.

The reality is that a gift may not be a gift but a prelude to more serious offences such as corruption.

Our way works well for us and, more importantly, enjoys public legitimacy. Ultimately, public trust and confidence in our public institutions is non-negotiable and must not be taken for granted.

If gifts are needed to "lubricate" official dealings, we would be on our way down where incorruptibility is concerned. And where gifts are unavoidable, there are longstanding and clear rules on what then needs to be done, including making the necessary declaration and/or recusal from decision-making.

The essence of Section 165 is to avoid putting oneself, as a public servant, in a position of a conflict of interest, whether real, apparent, or potential, in official dealings. This is a very important rule to have if we are to maintain public trust and confidence in our public

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institutions. The stiff penalty, unexpected to some, handed down to Iswaran underscores this.

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Source: CNA/ch