

**M. A. M. Z. Aboobucker v Agrarian Service Centre, Neelawanai**

RTIC Appeal (In – Person Hearing)/ 2178/2020 - **Minute** adopted as part of the formal meeting of the Commission on 03.11.2020

**Chairperson:** Mr. Mahinda Gammampila  
**Commission Member:** Ms. Kishali Pinto-Jayawardena  
**Commission Member:** Mr. S.G. Punchihewa  
**Commission Member:** Dr. Selvy Thiruchandran  
**Commission Member:** Justice Rohini Walgama

**Appellant:** M. A. M. Z. Aboobucker

**Notice issued to:** Designated Officer, Agrarian Service Centre, Neelawanai

<b>RTI Request filed on</b>	20.09.2019
<b>IO responded on</b>	No Response
<b>Appeal to DO filed on</b>	22.10.2019
<b>DO responded on</b>	No Response
<b>Appeal to RTIC filed on</b>	08.02.2020

**Brief Factual Background:**

The Appellant filed above dated information request, as below,

1. *“Information as to how and when the Land called Naviyan Kulam become the property of the Department of Agrarian Development; (The Assistant Commissioner of Agrarian Development and the Mr. Harlik, Senior Agrarian Development Officer of Amparai District Office of the Department of Agrarian Development have declared the said Naviyan Kulam is the property of Agrarian Development)*
2. *Information as to whether the Commissioner General of Agrarian Development has any power or authority to alienate or dispose to any person or organisation or to release or transfer to another Government Department, Provincial Council, Local Authority or any other State Institution, any Land in the possession or under the control or care of the Department of Agrarian Development in contravention of the Article 33(d) of, and the Appendix 1 (Land and Land Settlement) of the Ninth Schedule to, the Constitution of the Democratic Socialist Republic of Sri Lanka and*

*At the Right to Information Commission of Sri Lanka*

*the other laws governing the matter including but not limited to the State Land Ordinance, Land Development Ordinance, Land Encroachment Ordinance, Land Resumption Ordinance, Land Grants (Special Provisions) Act, State Lands (Recovery of Possession) Act, Land (Restriction on Alienation) Act; and*

- (i) If yes, a copy of the Legal Instrument (any written law) that vests in or imposes or confers on or assigns or delegates to, the Commissioner General of Agrarian Development, any power or authority to alienate or dispose to any person or organisation or to release or transfer to another Government Department, Provincial Council, Local Authority or any other State Institution, in contravention of, otherwise than in accordance with the provisions of, the Article 33(d) of, and the Appendix I (Land and Land Settlement) of the Ninth Schedule to, the Constitution of the Democratic Socialist Republic of Sri Lanka and the other laws governing the matter including but not limited to the State Land Ordinance, Land Development Ordinance, Land Encroachment Ordinance, Land Resumption Ordinance, Land Grants (Special Provisions) Act, State Lands (Recovery of Possession) Act, Land (Restriction on Alienation) Act;*
- (ii) If No, can the unlawful transfer of the said land, be considered as a corruption within the meaning of Section 70 of the Bribery Act?*

*(h) Survey map or other document depicting the Boundaries of the land given to Km/Km/Al Manar Central College, Maruthamunai by the letter of the Commissioner General of Agrarian Development.*

*(i) Copies of the Certificate of Release issued by or under the authority of the Commissioner General of State Lands (including Minor Tanks and other Minor Irrigation works) situated within the administrative area of Neelawanau Agrarian Service Centre in the Amparai District and releases or transferred to the Department of Agrarian Development;”*

As the Information Officer failed to respond within the time period stipulated within the Act, the Appellant appealed to the Designated Officer. As the Designated Officer too failed to respond within the time period stipulated within the Act, the Appellant preferred an appeal to the Commission on 08.02.2020.

However, there has been a correspondence between the Appellant and the PA in the meantime. By writing dated 11.10.2019, the PA has requested the Appellant to send the request in Tamil, as the original request was in English. Responding to this on 18.10.2019, the Appellant has referenced relevant Constitutional provisions as well as gazette circulars to point out that the PA is under an obligation to provide the information in the requested language as a Public Servant, and any translation should be internally carried out at their own expense.

**Matters Arising During the Course of the Hearing:**

In view of the prevailing situation in the Western Province from October 27<sup>th</sup> – November 23<sup>rd</sup> 2020 with curfew imposed in certain areas due to the threat posed by COVID 19, and as such in order to minimize interaction between persons, the appeals scheduled for in-person hearings in terms of Rule 20 of the Commission's Rules on Fees and Appeal Procedures of the RTI Commission's Appeal (Gazette No. 2004/66, 03.02.2017) were postponed during the aforementioned period.

**Order:**

Accordingly, this Appeal will be taken up for an In – Person hearing on 23.02.2021 in regard to which formal notices of the RTI Commission will be sent to both parties in due course.

Order is conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

*The Appeal is adjourned.*

**Next date of hearing: - 23.02.2021**

\*\*\*\*\*