

V. Subramaniam v Divisional Secretariat, Oddusudan

RTIC Appeal (In-Person Hearing)/ [1254]/ [2019] - Order adopted as part of the formal meeting of the Commission on 27/08/2019.

Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure).

Chairperson: Mr. Mahinda Gammampila

Commission Member: Ms.Kishali Pinto-Jayawardena

Commission Member: Mr.S.G. Punchihewa

Commission Member: Dr. SelvyThiruchandran

Commission Member: Justice RohiniWalgama

Appellant: V. Subramaniam

Notice issued to: Designated Officer, Divisional Secretariat, Oddusuddan

Appearance/ Represented by:

Appellant –V. Subramaniam, Dr. P.Nirela

PA–T. Akilan, Divisional Secretary, K. Inthirakumar, AO for Divisional Secretary, S. Mohanarajah, D.A.

RTI Request filed on	12/06/2018
IO responded on	13/06/2018
First Appeal to DO filed on	30/09/2018
DO responded on	No response
Appeal to RTIC filed on	11/02/2019

Brief Factual Background:

The Appellant by information request dated 12/06/2018 requested the following documents concerning the Accounts of the *ThantontriEasvararKovil*.

1. *The Accounts submitted by the Treasurer of the temple Board of Management*
2. *Audit Reports (Name of Auditor and position)*
3. *The estimated expenditure report for repair work*
4. *Details of funding both local and foreign, the funds given by the government (receipt book numbers, receipt numbers, name of donors, address, amount given, temples that gave funds)*
5. *Manner in which money was sent from abroad (through the bank, tills, personal account, other)*
6. *Bank statements*
7. *Details of persons who collect money for the temple from abroad, the manner in which funds are handled*

8. *Details of the iron rods(kambi) which were discarded during the renovations and sold. Amount it was sold for. (Was it sold by auction or otherwise?)*
9. *Tender bids for the repair work*
10. *Receipts of expenditure*
11. *Details of the how standards of technicians were confirmed (names of technicians)*
12. *Other documents relating to the above*

The IO on 13/06/2018 responded stating that the following documents were being provided to the Appellant, namely:

1. *The Accounts submitted by the Temple Board of Management*
2. *The expenditure from 01/01/2016- 31/03/2016*
3. *Half-year expenditure (01/01/2016-30/06/2016)*
4. *Details submitted by the Development Assistant(Hindu Culture)*

Furthermore, the PA stated that it requested the *Thantontri Easvarar* Temple Board of Management to provide the remaining items of the information request. Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 30/09/2018. As the DO failed to respond with the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 11/02/2019.

The Divisional Secretariat Oddusuddan, by letter dated 13/08/2018 further informed the Appellant that it had no objection to provide the information requested. However, the information was not within its “possession.” Therefore the PA had requested information from the *ThantontriEasvarar* Temple Board of Management who had failed to respond. By letter dated 12/03/2019, the PA informed the Commission that all information provided by the temple had been forwarded to the Appellant. However, the information requested cannot be provided in its entirety because of the failure of the Temple’s Board of Management to do so. Further, the PA stated that there has been an ongoing dispute for the past 4 years between the Department of Cultural Affairs and the Governing Board of the *ThantontriEasvarar* Temple regarding the inclusion of women as successors in a context where the general administration has been traditionally entrusted with men. Therefore amidst such circumstances obtaining the information requested has proven difficult. The PA forwarded letters dated ..06/2018, 14/07/2018 and 19/09/2018 directing the Oddusuddan *ThantontriEasvarar* temple to provide the accounts of the temple, as requested by the Appellant.

Matters Arising During the Course of the Hearing:

The Appellant clarified that a meeting had been held in August 2016 comprising of the Oddusuddan *Thantontri Easvarar* Temple Board of Management, members of the public, the Grama Sewaka, Cultural Officer and Administrative Officer wherein the statement of accounts of the *Thantontri Easvarar* Temple Board of Management was read out, where approximately 1 lakh was spent on refurbishing the temple. The details requested by the Appellant, were concerning this. The Appellant alleged that incomplete information was provided by the PA concerning her information request and that information also on the auditing of that component of funds given by the Public Authority was needed, in the minimum as that was also comprised within the information request relating to inter alia, ‘estimated expenditure report for repair work.’

The PA affirmed that all the information within its “possession, custody and control” had been provided to the Appellant as per the terms of the information request. While the Divisional Secretariat had a Hindu Cultural Officer, this information was not within his scope nor did he have the power to obtain the information requested. The Commission noted that at the meeting concerned held in August 2016, the AO of the Divisional Secretary had not indicated dissent to the approval of this budget. It was therefore incumbent upon the PA to keep a copy of the accounts.

The PA stated, that the *ThantontriEasvarar* Temple Board of Management had refused to disclose the accounts by way of letter dated 17/09/2018. Therein the Board had stated that the Appellant was requesting this information in bad faith and that she was engaged in spreading false allegations about the temple on social media. Furthermore, the information she requested has no relevance to a personal individual but was instead asked in order to bring the temple to disrepute and disrupt the funds received by the temple. Therefore, the Board had decided that the information should not be released.

The PA submitted that certain activities of the Temple are funded by Government projects such as Gamperaliya. It was observed that the temple can be directed to provide information concerning the activities funded by the Divisional Secretariat, such as funds allocated through the Gamperaliya project. The PA clarified further that Items 1 and 2 are in the “possession, custody and control” of the temple.

Order:

The PA is directed to provide information regarding the funds given by it to the *ThantontriEasvarar* temple with relevant accounts explaining how the said funds were utilised by the temple and specifically if any were utilised for repair work as aforesaid

The PA is also directed to write to the Board of Management of the *ThantontriEasvarar* Temple, informing the Board that an appeal concerning an information request pertaining to the accounts of the temple is being heard before the Commission and to furnish the relevant records to the said PA with a copy of this order for the perusal of the Commission under and in terms of Section 15(c) of the Act. Failure to adhere to this directive may give rise to an action under and in terms of Section 39 (1)(e) of the RTI Act.

It is of note that the said information provided directly by the Board of Management of *ThantontriEasvarar* temple will not be released directly to the Appellant at this stage but will be only consequent to an Order being made in regard to the said release at the next hearing. The PA is directed to respond to the same on or before the next date of hearing.

The Appeal is adjourned.

Next date of hearing: 17/12/2019



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Matters Arising During the Course of the Hearing:

Following Audit reports in relation to the funding of the Kovil by the PA were submitted to the Commission in accordance with the previous order.

- *Cost report of the Rs.100, 000/= given by the Department of Cultural Affairs in 2016.*
- *Cost report on the fund given by Hon.Minister Santhi Srikandharaja under Gamapereliya Scheme in 2019*
- *Cost report of the fund given by the Hon.Minister Selvam Adikalanadhan.*
- *Cost report on the funding by the Ministry of Resettlement in 2018.*

While pointing out such documents the Appellant stated that information requested is related to 2013 and Divisional Secretariat has failed to provide her the requested information even though it is in possession of such information. The Appellant stated that in the General Meeting of the Kovil which was held on 2016, the cultural affairs officer representing the Divisional Secretariat stated that the “documents related to the funding’s given by the Government to the Kovil has been included in contracts, certified by the technical officers and properly filled.” The Appellant stated that, as per the statement made it’s evident that the documents requested by the Appellant are within the custody of the PA.

The PA submitted that in the year 2013 no funds were allocated to the Kovil by it and that it is not in possession of any documents in relation to such funding other than those already produced before the Commission. Further PA explained that the office which was mentioned in 2016 was the Katchri and not the Divisional Secretariat.

The Kovil administration board in compliance with the order previously made by the Commission presented the documents to the PA related to government funding made within

19.12.2016- 04.09.2018 for the construction of Ottusuddan Thaanthondrieeswarn temple and Irajagopuram. These documents were presented to the Commission by the PA.

Order

The PA is directed to transfer the information request to the Katchri according to Regulation 4 (6) of the regulations promulgated under the Right to Information Act, No. 12 of 2016 (Gazette No. 2004/66 -03/02/2017). Regulation No 4(6) states that,

If the request relates to information which the Information Officer is aware is held by another Public Authority, the Information Officer shall duly in written format transfer the request to the concerned Public Authority and inform the citizen making the request accordingly within 7 days from the date of receipt of the request.

Further Kovil Administration is directed to issue the rest of the information as directed by order dated 27.08.2019.

The Appeal is adjourned.

Next date of hearing 21.01.2020
