

K. DileepAmuthan v District Secretariat-Mullaitivu

RTIC Appeal (In-person) **729/2021** – Order adopted as part of the formal meeting of the Commission on **22.12.2021**

Order under Section 32 (1) of the Right to Information Act, No. 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure).

Chairman: Rt. Justice Upali Abeyratne
Commissioner: Ms.Kishali Pinto-Jayawardena, Attorney-at-Law
Commissioner: Rt. Justice Rohini Walgama

Appellant: K. Dileep Amuthan
Notice issued to: Designated Officer, District Secretariat–Mullaitivu

Appearance/Represented by:
Appellant: K. Dileep Amuthan
PA: K. Kanakeshwaran, Additional GA

Information request filed on	15.04.2021
IO responded on	05.06.2021
First Appeal to Designated Officer filed on	05.07.2021
Designated Officer responded on	No response
Appeal to Right to Information Commission filed on	05.08.2021

Brief Factual Background:

By above dated information request, the Appellant requested the below information,

“Provide a copy of the report of the district land use committee meetings held from 01.01.2010 to 01.04.2021. (Which departments, in which areas, extent of the land and the for which purpose it was requested, and whether it has been recommended or not)”

The Information Officer responded on 05.06.2021, by requesting the Assistant Director of the Land Use Policy Planning Department of District Secretariat, Mullaitivu to send the details to them, relating to the information request of the Appellant.

Dissatisfied with the response of the Information Officer, the Appellant appealed to the Designated Officer on 05.07.2021. The Designated Officer failed to respond within the time period stipulated in the Act, the Appellant preferred an appeal to the Commission on 05.08.2021.

Matters Arising at the Hearing:

The PA stated that the requested information was with the Land Use Policy Planning Department (which functions under the purview of the Mullaitivu District Secretariat). Therefore, the PA had requested the said Department’s permission to disclose the requested information. Further the PA stated that, as a response to PA’s letter dated 05.06.2021, the Assistant Director of the said Department had sent a letter on 28.07.2021 asking the Appellant to state the reasons for filing his information request.

The Commission observed that the PA has acted in a manner contrary to the RTI Act by asking the Appellant to provide the reasons for filing the information request.

Further, the Commission noted that the said Department is functioning under the PA, and that the internal administrative divisions within a Public Authority is immaterial for the intents and purposes of the RTI Act, and that therefore, the Mullaitivu District Secretariat is the authorized PA, under whose purview the Department in question functions, to consider the information request.

The PA stated that, it could provide the reports requested by the Appellant, except those of 2010 and 2016 as the PA is not in the possession of the reports for these two. Accordingly, the requested information was provided to the Appellant at the hearing before the Commission and a copy of the same was given to the Commission. Upon the query of the Commission, the Appellant stated that he was satisfied with the provided information.

Order:

The Commission notes that the PA has not adhered to the timelines set out in Section 31 (3) of the RTI Act within which the PA must respond to information request/appeals to DO thereto. The attention of the PA is thus drawn to the aforementioned section which is reproduced below;

Section 31(3) states that:

The decision on any appeal preferred under subsection (1), shall be made by the designated officer within three weeks of the receipt of the appeal and shall include the reasons for the said decision including specific grounds for the same.

In view of the information requested being handed over to the Appellant, the Appeal is concluded. Further, the PA is warned by the Commission to refrain from acting in a manner that is contrary to Section 24 (5) (d) of the RTI Act in asking the Appellant to give reasons for filing the information request.

Appeal concluded.

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).