

Centre for Environmental Justice v Ministry of Megapolis and Western Development

RTIC Appeal (In – person) 1114/2019 (*Order adopted as part of a formal meeting of the Commission on 25.06.2019*)

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)

Chairperson: Mr. Mahinda Gammampila

Commission Members: Ms Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

Justice Rohini Walgama

Appellant: Centre for Environmental Justice

Notice issued to: Designated Officer Ministry of Megapolis and Western Development

Appearance/ Represented by:

Appellant- Indika Rajapaksha, Environmental Officer, Centre for Environmental Justice

Nilmal Wickramasinghe, Director, Centre for Environmental Justice

Waruni Bamunusinghe Legal Officer, Centre for Environmental Justice

PA - Anjalie Devaraja, Additional Secretary

RTI Request filed on:	08.10.2018
IO responded on:	16.10.2018
First Appeal to DO filed on:	14.11.2018
DO responded on:	21.11.2018
Appeal to RTIC filed on:	21.01.2019

Brief Factual Background:

The Appellant had by request dated 08.10.2018 requested, *a copy of the Tripartite Agreement signed between the Ministry of Megapolis & Western Development, the UDA, and the CHEC Port City Colombo (Pvt) Ltd on the Colombo Port City Development Project in August 2016*, for study purposes. The Information Officer had responded on 16.10.2018, denying the information, on the basis that the information is that which was provided or obtained by the Government or through and International Agreement. The IO has also stated that the information has been supplied by a third party in confidence who has not provided consent to the provision of the information. Dissatisfied with the response of the IO the PA lodged an appeal with the DO on 14.11.2018. The DO has denied the information on the basis that the Director (Legal Services) of the UDA has informed her that the Agreement cannot be disclosed due to the confidentiality clauses in the Agreement. A copy of the letter sent by the Director UDA was annexed to this response. Dissatisfied with this response the Appellant preferred an appeal to the Commission on 21.01.2019. The Appellant states that there is significant public interest in the disclosure of the information.

Matters Arising During the Course of the Hearing:

At the outset it was noted that the information requested was identical to item 1 of the information request in RTICAppeal/1108/2019. The Appellant submitted that the information was request for study purposes and in order to finalise pleadings in a fundamental rights application filed by the Appellant challenging the Agreement, which is the subject matter of the information request.

Order:

At the outset it is noted that the Appellant is an organization and as such is required to aver citizenship indicating that it is a body in which three-fourths of its members are citizens of Sri Lanka (*vide TISL v. Prime Minister's Office RTICAppeal/05/2017 and TISL v Presidential Secretariat RTICAppeal/06/2017 order delivered on 23.02.2018*). The Appellant is directed to file an amended appeal indicating the same prior to the next date of hearing.

The PA is directed to file written submissions citing and demonstrating how the exemptions cited are applicable and that sufficient public interest does not lie warranting the disclosure of information on or before the 25th of July 2019. The Appellant may respond to the same on or

before the 25th of August 2019. The Attention of the PA is drawn to the order in in RTICAppeal/1108/2019 (order dated 25.06.2019, *M. F. A. Mansoor v Ministry of Megapolis and Western Development*) in relation to this appeal given that the information requests and the position of the PA are similar.

Next Date of Hearing: 24.09.2019 at 2.00 p.m.

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).
