

N. Suhaibu v National Water Supply and Drainage Board

RTIC Appeal (In-Person Hearing)/ 1671/2019- Order adopted as part of the formal meeting of the Commission on 11.02.2020

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

Director-General: D.G.M.V. Hapuarachchi

Appellant: N. Suhaibu

Notice issued to: Designated Officer (DO), National Water Supply and Drainage Board

Appearance/ Represented by:

Appellant – N. Suhaibu

U.M. Radheef

PA - Not Present

RTI Request filed on	07.03.2019
IO responded on	Acknowledged on 14.03.2019
First Appeal to DO filed on	06.06.2019
DO responded on	Acknowledged on 19.06.2019 Responded on 26.06.2019
Appeal to RTIC filed on	15.07.2019

Brief Factual Background:

The Appellant by request dated 07.03.2019 requested the following;

“I N. Suhaibu Bearer of NIC number 792949397V wish to obtain following information with regard to the employees employed by the National Water Supply and Drainage Board in Ampara District.

- 1. Name details of the officers in the category of Management Assistant (Human Resources) in all grade who are employed in the Ampara District?*
- 2. The Current Service Station of each employees above mentioned?*
- 3. The previous Service station of each employees who are in the category of Management Assistant (Human Resources) employed in the Ampara District?*

4. *The Service Period of each employees mentioned in the question No. 01 in their current station?*
5. *The Service Period of each employees mentioned in the question No 01 in their previous station?"*

As the Information Officer (IO) failed to respond within the time period stipulated under the Act the Appellant on 06.06.2019 lodged and appeal with the DO. The DO responded on 26.06.2019 stating that,

"...2. Information holders have informed that these information is not readily available and that they have to work extra hours to compile the information to meet your request. This cost is estimated as Rs. 9387.00

3. In order to provide information please pay the necessary fee of Rs. 9387/= by cash, bank draft or pay order or postal order or postage stamps to our office.

4. We will provide you the information within 14 days of payment of the required fee..."

Dissatisfied with the response of the DO the Appellant preferred an appeal to the Commission on 15.07.2019

Matters Arising During the Course of the Hearing:

The Public Authority was not present.

Upon being queried, the Appellant submitted the following,

1. the Public Authority provided some information and alleged that it was incomplete.
2. that the Public Authority provided information pertaining to one region of the Ampara District, whereas there are 3 regions constituting the Ampara region.
3. that by letter dated 26.06.2019 the Public Authority informed him that such information could be provided upon the payment of Rs. 9387/= the cost of overtime to compile the information.

Order:

It is noted, that the payment claimed made by the Public Authority is completely contrary to the Right to information Act, No 12 of 2016.

The attention of the Public Authority is drawn to Section 25(5) of the Right to Information Act, No 12 of 2016, which provides that,

"The period of fourteen days referred to in subsection (2) for providing access to information may be extended for a further period of not more than twenty one days where-
(a) the request is for a large number of records and providing the information within fourteen days would unreasonably interfere with the activities of the public authority concerned; or

(b) the request requires a search for records in, or collection of records from, an office of the public authority not situated in the same city, town or location as the office of the information officer that cannot reasonably be completed within the fourteen days."

Therefore the Commission emphasizes that a Public Authority could only extend the number of days as provided in the Section 25(2) of the Act, where the request is for large number of records or where the request requires a search for records in, or collection of records from, an office of the public authority not situated in the same city, town or location as the office of the information officer.

Furthermore, it is brought to the attention of the parties that once an appeal is brought before the Commission the Public Authority could not charge the Appellant for discharging information. As provided in the Rule 11 of the Right to Information Commission Rules of 2017 (Gazette No 2004/66 published on 03.02.2017) states that

“Exemption of Fee Charge upon Successful Appeal: If a citizen making an information request is successful in an Appeal either to the Designated Officer or the Commission, the information requested by the citizen making the request should be provided free of charge.”

The attention of both parties is drawn to the fact that in conformity with the Commission's practices, if either party/both parties to an Appeal does not appear or file written representations on the dates of hearing despite being noticed, either/both party/parties will be reminded that it is an offence to fail to appear in terms of Section 39 (1) (c) of the Act. If such failure is manifested on three consecutive dates, the Commission will proceed to take steps under the Act, including delivering its decision notwithstanding the absence of either/both parties and will inform the parties thereof.

In the foregoing circumstances, the Public Authority is directed to respond to all the other information items of the Appellant's information request.

The Appeal is hereby adjourned.

The Next date of the hearing: 05.05.2020 at 2.30p.m.

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RTIC Appeal (Documentary Proceeding)/ 1671/2019- Order adopted as part of the formal meeting of the Commission on 21.07.2020

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

Director-General: D.G.M.V. Hapuarachchi

Appellant: N. Suhaibu

Notice issued to: Designated Officer (DO), National Water Supply and Drainage Board

Matters Arising During the Course of the Hearing:

In view of the prevailing situation in the country due to the threat posed by COVID 19, and as such in order to minimise interaction between persons, this appeal scheduled for in-person hearings in terms of Rule 20 of the RTI Commission's Appeal and Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017) was considered as documentary proceedings under Rule 19 on 21.07.2020. As such this appeal is considered by the Commission based on the documents present on file to date and the parties are notified of the directions below.

Order:

It is noted, that the Public Authority by letter dated 30.06.2020 has informed the Commission that it has released the information pertaining to item No. 01 of the information request.

If the Appellant is not satisfied with information provided by the Public Authority, the Appellant if required can make further submissions on this matter within two weeks of the receipt of the Order

The Appeal is hereby 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).
