

**Nagaretnam Narentirakumar v Provincial Ministry of Education, Eastern Province,
Trincomalee**

RTIC Appeal (Documentary Proceeding)/[1790]/[2019]- Order adopted as part of the formal meeting of the Commission on [16.06.2020]

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. Hapuarachchi

Appellant: Nagaretnam Narentirakumar

Notice issued to: Designated Officer (DO), Provincial Ministry of Education, Eastern Province, Trincomalee

Appearance/ Represented by:

Appellant –
PA -

RTI Request filed on	16.04.2019
IO responded on	No response
First Appeal to DO filed on	08.06.2019
DO responded on	No response
Appeal to RTIC filed on	07.08.2019

Brief Factual Background:

The Appellant had by request dated 16.04.2019 requested the following,

- 1. Querying information as to why the Public Authority (PA) appointed special Cadre officer to general cadre post and special cadre (Mathematics) acting?*
- 2. Querying information as to why the PA appointed a lesser qualified officer for the post of special cadre acting*

As the Information Officer (IO) failed to respond within the time period stipulated under the Act the Appellant on 08.06.2019 lodged and appeal with the DO. As the DO too failed to respond with the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 07.08.2019

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, the appeals 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) will be considered as documentary proceedings under Rule 19 in the first instance. 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. This is subject to change at a later point.

It is noted, that by letter dated 14.03.2019 the PA has disclosed relevant information pertaining to an information request filed by the Appellant himself on 27.02.2018. However, a copy of the information request dated 27.02.2018 was not available for the perusal of the Commission. It was the observation of the Commission that the information request dated 27.02.2018 has a nexus to the present information request.

Mr. I.K.G. Muthubanda, Secreatry, Ministry of Education, IT Education, Pre School Education, Sports, Cultural Affairs, Youth Affairs and Rehabilitation and Resettlement Eastern Province. by letter dated 2019.10.07 informed the following to the Appellant,

1. Explanation for item No. 1 of the information request – “Even though Zonal Deputy Director positions are belong to General Cadre, due to the shortage of senior SLEAS officers in General Cadre, Senior Officers from Special Grade was appointed as Deputy Director of Education.”
2. Explanation for item No. 2 of the information request – “Clarification had been called from Zonal Director of Education, Paddiruppu to respond to this information required by you once the report is received a reply to you will be sent in due course.”

Order:

The strict attention of the PA is drawn to the fact that the Provincial Ministry of Education, Eastern Province, Trincomalee comes within the purview of the Right to Information Act and therefore has a statutory duty to abide by its provisions, including responding within the timelines specified by the Act and to all information requests lodged by the Appellants. Persistent failure to do so may result in this Commission having to take appropriate steps under and in terms of the Act.

Section 43 of the Act is brought to the attention of the Appellant, with the emphasis on the fact that information requests should be lodged in line with the definition of information as stated in Section 43 of the Act.

As per Section 43, “information” includes any material which is

recorded in, in any form including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, correspondence, memorandum, draft legislation, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, video tape, machine readable record, computer records and other documentary material, regardless of its physical form or character and any copy thereof;

The release of the aforementioned information by letter dated 07.10.2019 will result in the satisfaction of the information requested by item no.1. Further, the information requested by item 2 has been provided by letter dated 03.03.2020. As such, it is evident that the information has been provided to the Appellant by letters dated 07.10.2019 and 03.03.2020.

The Appellant if required can make further submissions on this matter within two weeks of the receipt of the Order if not satisfied with information provided.

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 concluded.
