

## Bahirathy Rasanen v Zonal Education Office, Valikamam Zone

RTIC Appeal (In-Person Hearing)/[1404]/[2019]- Minute adopted as part of the formal meeting of the Commission on [05/07/2019]

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

**Commission Member:** Ms. Kishali Pinto-Jayawardena

**Commission Member:** Dr. Selvy Thiruchandran

**Appellant:** Bahirathy Rasanen

**Notice issued to:** Designated Officer, Zonal Education Office, Maruthanarmadam

### Appearance/ Represented by:

Appellant – Bahirathy Rasanen

PA –Gnanalingam Aathavan, DDE(Ad) Zonal Education Office, Valikamam

<b>RTI Request filed on</b>	28/01/2019
<b>IO responded on</b>	01/02/2019
<b>First Appeal to DO filed on</b>	14/02/2019
<b>DO responded on</b>	No response
<b>Appeal to RTIC filed on</b>	18/03/2019

### Brief Factual Background:

The Appellant by information request dated 28/01/2019 requested the following information.

1. *Copy of annual document called “Calculation of the Teaching in Government approved unaided private schools” or a similar document that states the student/teacher ratio of Jaffna College and contains the approval of Private School Branch of ratio for year 2019.*
2. *A list of government approved teachers active in any capacity and status at Jaffna College valid 28/01/2019*
3. *A list of teachers not approved by government active in any capacity and status at Jaffna College valid 28/01/2019*
4. *Copy of the annual timetable for Jaffna College sent to Zonal Office of Education has approved for 2019.*
5. *Copy of the latest annual expense income report for Jaffna College sent to Zonal Office of Education for Valikamam Zone.*

6. *Details of any government run pension scheme or similar for teachers of unaided government approved private schools and a list of all teachers at Jaffna College participating in such schemes valid at 28/01/2019. Examples of these schemes are school teachers Contributory Pension Scheme and the Widows /Widowers and Orphans Pension Scheme.*
7. *Copies of all correspondence Zonal Office of Education for Valikamam Zone has filed regarding Jaffna College since 01/01/2018 until 28/01/2019*
8. *Copies of the Appointment and the Private School Branch approval letters of all teachers of Jaffna College who have been appointed by the school since 29/07/2018 until 28/1/2019 in any capacity and status. The appointment letters should include approval given by the Manager.*
9. *Copies of degree and diploma certificates of all teachers who have been appointed by the school in any capacity and status since 29/07/2018 until 28/01/2019. This is in reference to universities, teachers' colleges, colleges of education and all other institutions of education.*
10. *Copies of certificates of Ordinary and Advance levels of all teachers of Jaffna College who have been appointed by the school since 29/07/2018 until 28/01/2019 in any capacity and status.*

The IO on 01/02/2019 responded stating that J/Vaddukoddai Jaffna College is a fully unaided Private School & the teacher recruitment of the School is self-oriented by only conducted to private school branch of Ministry Of Education, Isurupaya.

- *Replies for the question 1,2,3 and 6: J/Vaddukoddai Jaffna College has still not submitted any request through Zonal Education Office Valikamam, to Ministry of Education, Isurupaya for their teacher cadre Approval [Which also wasn't done for past four years]*
- *Replies for the question 4,5,6,7,8,9,10: The documents you mentioned have not been received by the Zonal Education Office Valikamam from the School.*

Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 14/02/2019. As the DO failed to respond within the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 18/03/2019.

### **Matters Arising During the Course of the Hearing:**

With regard to item number 1, the Commission questioned whether the PA maintained a classification as such of private schools considering the supervisory role it performs over these schools. The PA stated that the schools provided a calculation to the Zonal Office of Education yearly. The PA stated that there were 2 private schools within its purview, Uduvil Girls College and Vaddukoddai Jaffna College. Uduvil Girls College in 2019 gave the cadre approval for the year 2018, stating the number of students and teachers recruited, and requested cadre approval to

recruit more teachers. However Jaffna College had not done so after the year 2014. Therefore Items 1, 2 and 3 were not within its “possession, custody or control.”

The PA stated that information requested in Item 5, was not within its “possession, custody and control,” adding further that permission can be obtained directly from the Ministry of Education Isurupaya, and it need not be obtained from the Zonal Office of Education.

Regarding Item 6 of the information request the PA stated that teachers of Uduvil Girls College, previously received only EPF. However in 2015, they requested a pension. Thereafter, they acquiesced to these administrative requirements for the purpose of being able to receive this pension. However Jaffna College, had not yet requested a pension on behalf of their teachers. With regard to item 7, the PA was directed to provide the requested information, after writing to the Board of Directors of the Jaffna College as directed.

With regard to Items 9 and 10 of the information requests, the PA stated that the information was maintained by the school and not by the Zonal Office of Education. The PA further clarified that it was only after receiving the letter of appointment that these certificates can be maintained by them. Thereafter it was decided that the PA should follow up on the above after perusing the response of Jaffna College to Item 8 of the information request.

The Appellant was also advised to file an information request to the Ministry of Education-Isurupaya directly, especially in relation to Item 5.

**Order:**

The PA is directed to take the following courses of action to obtain the information which should be in the “possession, custody and control” of the PA.

The PA is directed to write to the Board of Directors of Jaffna College informing them that Items 1, 2, 3, and 8 of the information request are required to update its records and that the information has not been obtained from the principal despite having been requested. The PA is directed that Jaffna College be informed that the information be submitted urgently, within the next month.

The PA is directed to write to the Private Schools Branch of the Ministry of Education informing it that information regarding Items 1, 2, 3 and 8 had not been provided by Jaffna College, in compliance with the administrative regulations, and asking for necessary direction, considering that a RTI Appeal was presently before the RTI Commission, requesting the same.

The PA is directed to annex this order when making the aforesaid requests. The PA is advised to utilize Uduvil Girls College as a comparative example in explaining how the administrative procedures had been followed by it, as opposed to Jaffna College Vaddukodai, to highlight the difference in procedure maintained by the two schools.

The Appeal is adjourned.

Next date of hearing: 13/08/2019

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).

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RTIC Appeal (In-Person Hearing)/[1404/2019]- Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure) and Order adopted as part of the formal meeting of the Commission on 13/08/2019.

**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

**Appellant:** Bahirathy Rasanen  
**Notice issued to:** Designated Officer, Zonal Education Office, Valikamam Zone

**Appearance/ Represented by:**  
Appellant: Dr. B.J.Rasanen, Senior Lecturer Gr. I, University of Jaffna  
PA: Absent

**Matters Arising During the Course of the Hearing:**  
The Public Authority was absent. Notices re-issued on the PA to appear on the next date.  
Appeal adjourned for 10.12.2019

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RTIC Appeal (In-Person Hearing)/[ 1404/2019]- Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure) and Order adopted as part of the formal meeting of the Commission on 10/12/2019.

**Chairperson:** Mr. Mahinda Gammampila  
**Commission Member:** Mr. S.G. Punchihewa  
**Commission Member:** Justice Rohini Walgama

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

**Appellant:** Bahirathy Rasanen  
**Notice issued to:** Designated Officer, Zonal Education Office, Valikamam Zone

**Appearance/ Represented by:**  
Appellant: Dr. B.J.Rasanen, Senior Lecturer Gr. I, University of Jaffna

PA: Absent

**Matters Arising During the Course of the Hearing:**

The Public Authority was absent.

**Order:**

The PA's attention is drawn to Sections 38 of the RTI Act, which provides as follows: -

*(1) Where—*

*(a) any information officer willfully*

*(i) refuses to receive an application for information from any citizen;*

*(ii) refuses a request made for information, without giving reasons for such refusal;*

*(iv) otherwise fails to process a request in accordance with the provisions of this Act; or*

*(b) any designated officer willfully –*

*(i) under section 31 refuses an appeal, made on any ground other than a ground specified in section 5 of this Act;*

*(ii) failed without any reasonable cause to make a decision on an appeal, within the time specified under section 31(3) for making such decision,*

*the Commission shall, bring the matter to the notice of the appropriate disciplinary authority.*

The PA's attention is also drawn to Section 39 (1) (a) of the RTI Act, which states that,

*39. (1) Every person who—*

*(a) deliberately obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information; commits an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.*

The Appeal is adjourned.

Next date of hearing:28/04/2020

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).

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