

# The Right to Information Commission

A. M Fouzan,  
No. 47,  
Vammiyadi Road,  
Addalaichenai - 12

**RTIC App/No : - 115/2021**

**-Appellant-**

Vs.

District Secretariat,  
Ampara

**-Public Authority-**

**Before :**

1. Justice Upaly Abeyrathne (Rtd.) - Chairman
2. Kishali Pinto-Jayawardena (Attorney-at-Law) - Commissioner
3. Mr. Jagath Liyana Arachchi (Attorney-at-Law) - Commissioner

**Appearance :** The Appellant is absent.

The Public Authority participated via Zoom Technology. Mr. W. Senevirathne, Asst. District Secretary.

**Written Submission :** The Appellant on : Not submitted

The Public Authority on : Not submitted

**Date of Hearing :** 05.07.2021 & 16.03.2022, 25.05.2022

**Decided on :** 25.05.2022

## **Decision of the Commission**

### **Factual Background:**

**The Appellant by request dated 12.07.2019 requested the following information;**

“Agricultural lands such as Kudakkarai Kizhal Kandam and Kalladipatru (Ibrahim Weli) under the Addalaichenai Pradeshiya Sabha are being illegally filled with soil and constructed illegal houses.

1. Certified copy of the action taken by the District Government Agent regarding the illegal filling and housing of the aforesaid field lands
2. Proof of the action taken by you on the complaint made by me regarding the landfill housing in the Kudakkarai Kizhal Kandam on 26.04.2019
3. Certified copy of the action taken against Ibrahim Hubli on the complaint made by me regarding filling the field land and constructing housing scheme on 21.05.2019.

The Information Officer responded through a letter dated 18.07.2019 stating that;

- Information request 01 & 02: He had sent a letter dated 21.05.2019, No. AMP/ADMN/DISP/12, requesting the Secretary, Divisional Secretariat, Addalaichenai, with a copy to the Appellant, to take appropriate action and notify him.
- Information request 03: He did not receive the letter mentioned by Appellant and thus took no action

Dissatisfied with the response of the Information Officer, the Appellant lodged an Appeal with the Designated Officer dated 10.08.2019 .The DO failed to respond within the time period stipulated in the Act, the Appellant preferred an appeal to the Commission dated 10.03.2020.

### **Consideration:**

We observe that the Public Authority has been directed by this Commission to provide the information in his possession, custody and control in terms of Section 3 of the Right to Information Act or deny the information citing the exact exemptions denied under and in terms of Section 5 of the Act, by order dated 05.07.2021. We note that the Public Authority has failed to adhere to the said direction given by the Commission.

At the hearing of this appeal the Public Authority took up the position that the requested information are not within the possession, custody and control of the District Secretariat, Ampara and the same is available at the Divisional Secretariat, Addalachenai.

We are not in agreement with the position taken up by the Public Authority at the hearing of this appeal. It is very clear that the Appellant has sought certain information with regard to a complaint made by him to the District Secretariat, Ampara on 26.04.2019 and on 21.05.2019. It is apparent that the said complaint has been based on filing of certain paddy lands. Therefore, the matters complained of by the Appellant could be inquired by the District Secretariat, Ampara although such powers may also be exercised by the Divisional Secretariat. Under any circumstances, when such complaints are received by the District

Secretariat, it is their paramount duty to inquire in to such complaints irrespective of any such obstacle.

Considering the said circumstances, the Public Authority is directed to take immediate actions to the said complaints made by the Appellant by this information request dated 12.07.2019. We further note that the Public Authority is not entitled to make any application of the provisions contained in Section 3 and Section 5 of the Right to Information Act No.12 of 2016. Accordingly the Public Authority should respond to the Appellant, with copies to the Commission, before 20.06.2022.

The Commission further decides that, if the Public Authority fails to comply with the said decision of the Commission before the said date, the Information Officer and the Public Authority shall be prosecuted before the relevant Magistrate's Court under Section 39 of the Right to Information Act No.12 of 2016.

The Director-General is directed to convey the decision to the Appellant, the Information Officer and the Public Authority.

Appeal concluded.