

The Right to Information Commission

A.R.M Asath,
196,
New Beach Road,
Pottuvil - 03

-Appellant-

RTIC App/No : - 200/2021

Vs.

Department of Archeology,
532,
Sir Marcus Fernando Mawatha,
Colombo-07

-Public Authority-

Before :

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

Appearance : The Appellant participated via T.P No. 077 3049393.

The Public Authority is absent.

Written Submission : The Appellant : Not submitted

The Public Authority : 06.01.2021, 23.02.2021 & 28.07.2021

Date of Hearing : 26.07.2021, 23.03.2022 & 25.07.2022

Decided on : 25.07.2022

Decision of the Commission

Factual Background:

The Appellant by request dated 13.01.2020 requested the following information;

- “According to the Gazette notification dated 19.05.1965, has the land of 30 acres, 3 roods, 2 perches in Pottuvil-3 Grama Niladhari Division been allotted to the Department of Archaeology?”
- Are Somasree, a clerk, and his wife in the Divisional Secretariat of Pottuvil running a confectionery centre setting up constructions on this land?
- Has permission been granted by the Department of Archaeology to construct a confectionery centre for Somasree and his wife? If yes, can the documents for permission be submitted?
- Have any steps been taken to evict Somasree and his wife from this land belonging to the Department of Archaeology if permission is not granted?

The Information Officer responded on the above date stating that,

“By this letter you have inquired about ‘Muhudu Maha Vihara Archaeological Land’. There is an on-going court proceeding in connection with the said land. It has been proposed to take action in relation to this land after the court proceedings are concluded. As court proceedings are on-going information cannot be released.”

Dissatisfied with the response of the Information Officer, the Appellant appealed to the Designated Officer on 25.02.2020. As the Designated Officer failed to respond within the time period stipulated in the Act, the Appellant appealed to the Commission on 20.07.2020.

In response to the notices issued by the Commission, Public Authority has sent a letter dated 06.01.2021 stating that, they have not received any letter from the Appellant as attached to the Commission’s notice, but will be taking necessary action to provide the requested information. The Public Authority further stated that, they will have to send the letter to the Department of Official Languages to get the information request translated since they do not have relevant officers who can understand Tamil Language.

Subsequently, by letter dated 23.02.2021 the Public Authority stated that, they have received the translation of the information request and the relevant Officer of the Department has been informed to send the requested information to the Appellant within 5 days.

The Commission in its order dated 26.07.2021 directed the Public Authority to release the information requested by the Appellant under registered cover and that a copy of the postal article receipt thereof and the cover letter to be sent to the Commission, or if the Public Authority is unable to provide the information due to said information falling under an exemption laid down in Section 5 of the Act, to deny the same indicating the exact exemption relied upon.

The Public Authority sent another letter on July 28, 2021, stating that the Sinhala translation of the information request had been forwarded to the Ampara Archeology Office. In response, the Public Authority received a letter dated 22.03.2021 from the Ampara Office, and it was informed to the information requestor by his letter dated 29.03.2021, which included the requested information. The informed letter, on the other hand, was written in Sinhala. Again, the PA received two copies of letters dated March 29, 2021, which were sent to the information requestor, Mr. K A R Asath. However, because those letters were in Tamil, they were sent for translation and have yet to be received.

Consideration:

The Public Authority has failed to comply with the said order made by this Commission on 26.07.2021. We note that the Public Authority, at least, has not taken any effort respond to the Appellant as directed by the Commission.

Also, we observed that, the information requested by the Appellant does not fall within the meaning of Section 5 of the Right to Information Act. Therefore, we decide the information requested by the Appellant should be released by the Public Authority before 25.08.2022, with copies to the Commission.

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.