

The Right to Information Commission

K. Dileep Amuthan,
Vanniyasingam Road,
Thellippalai West,
Thellippalai,
Jaffna

-Appellant-

RTIC App/No : 41/2022

Vs.

District Secretariat,
Jaffna

-Public Authority-

Before :

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

Appearance : The Appellant participated via Zoom Technology.

The Public Authority represented by Mr. K. Mahesan, District Secretary & Mr. M. Piratheepan, Addl. District Secretary – via Zoom Technology

Written Submission

The Appellant : - Not submitted
The Public authority : - Not submitted

Date of Hearing : 09.11.2022

Decided on : 09.11.2022

Decision of the Commission:

Factual Background:

The Appellant by the request dated 06.07.2021, requested the below information,

1. "Staff Details to be, as per the instruction of the President's Secretary regarding the District Coordinating Committee Co-Chairman Office or District Coordinating Office, and a copy of that letter.
2. Details of the staff attached to that Office now.
 - i. Number of Development Officers
 - ii. Number of Management Service Officers
 - iii. Number of Office workers.
 - iv. Number of other employees? (Including degree holders)
 - v. Details of the Officers appointed by the Co-Chairman of the Coordinating Committee?
3. Details of the Officer-in-Charge for this Office?
4. If there are staff more than the instructed amount by the Presidential Secretariat, copy of the permission obtained letter for that.
5. Copy of duty list given to this Office staff.
6. Duties being conducted in this Office?
7. Copy of documents regarding powers given to this office to prepare beneficiaries' list for which projects?
8. Did permission give to conduct Regional Coordinating Committee Meeting by the District Coordinating Committee Co-Chairman? If so copy of that?
9. Has the Presidential Secretariat or any Ministries given instruction to include Development Officers for activities of Regional Coordinating Committee in the Divisional Secretariat? If given so copy of that?
 - i) Whether the District Secretariat has been informed the Divisional Secretariat to include the Development Officers for Regional Development Committee in the Divisional Secretariat
 - ii) Whether any duty lists has been given to the Development Officers of Regional Coordinating Committee now.
 - iii) Number of Meetings conducted in the District Secretariat to the Development Officers attached to the Divisional Secretariat for the Regional Development Committee. Copy of the invitation for the meeting given to them, and copy of meeting minutes?
 - iv) Details of the person who presides over such meetings.
10. Whether the permission has been granted, by the government, to conduct activities regarding the Coordinating Committee by the personal staff further to the Co-Chairmen? If yes, copy of that.
11. Were discussions conducted by calling the Party supporters of the Coordinating Co-Chairman, in the District Coordinating Committee Office? If so, how many discussions? Copy of meetings? Copy of Ministry's or Presidential Secretariat's Circular which allows him to conduct such discussion?"

The Information Officer failed to respond within the time period stipulated in the Act, the Appellant lodged an appeal with the Designated Officer dated 03.08.2021. The Designated Officer responded dated 09.08.2021 stating follow;

01. *"Details Letter of Presidential Secretariat's staff is attached (attachment I)*
02. (i) *Eight*
(ii) *One*

(iii) One

(iv) A degree holder has been attached

03. According to the Presidential Secretariat's letter No.PS/GPA/3/1/1 and dated 19.08.2020, the Officers are acting as a group with support of field divisions of the District Secretariat with the guidelines of Co-Chairmen of the District Coordinating Committee.

06. According to the instruction of the President's Secretary, (according to the letter No No.PS/GPA/3/1/1 and dated 19.08.2020), coordinating and carrying out all of the district-level programs that the government and NGOs are executing.

09. No.

(i) Yes. Copies of the letter are attached- Annexure I, II

Information requested items 02 (v), 04, 05, 07, 08, 09 (ii, iii, iv) 10, 11 are not within the custody of the District Secretariat. "

Dissatisfied with the response of the Designated Officer, the Appellant preferred an Appeal to the Commission dated 08.10.2021.

In response to the notice issued by the Commission the Public Authority has sent a letter dated 17.10.2022 stating follow;

- Information request received on 06.07.2021, the Appeal received on 03.08.2021 and information provided on 09.08.2021.
- In regards to the information requested in item no.9 (iii); according to the instruction given to the District Secretariat by the Presidential Secretariat by letter no. PS/GPA/3/1/1 dated 19.08.2020, it was instructed to make arrangements for administrative and official facilities in the premises of the District Secretariat for the activity of the District Coordinating Committee, and the administrative and institutional matters should be coordinated.
- Accordingly, the District Secretariat requested, at the discussion held on 23.04.2021 which arranged by the District Coordination Committee Chairman, to make arrangements for the participation of the Development Officers who are attached for the Divisional Development Committee in the Divisional Secretaries. Therefore the Appellant was informed that no information is in their custody to provide him as he requested since no personal letters were given to the said Development Officers.
- Further, the Appellant was responded that no such information is in their custody to provide him since they was informed that no meeting minutes were maintained since on 23.04.2021, there was a discussion only, not held a meeting.
- The attached letter by the Appellant (Marked as "2") is addressed to the Divisional Secretaries, not for the invitation to the Development Officers who are attached to the Divisional Secretariats, as mentioned by the information requestor.

Consideration:

We note that the Public Authority have provided several information to the Appellant. Accordingly, the Appellant admitted the receipt of information with regard to item nos. 1, 2, 3, 6 and 9.

The Public Authority has taken up the position that the information in relation to item nos. 4, 5, 7, 8, 10 and 11 are not within the possession, custody or control of the Public Authority. We carefully examined the said submission of the Public Authority and the said information requested by the Appellant. We are of the view that the information in relation to item nos. 4, 5, 7, 8, 10 and 11 should be within the possession, custody or control of the said Public Authority. Therefore, the Public Authority cannot deny the release of the said information.

Accordingly, we make order to release the said information to the Appellant by the said Public Authority before 12.12.2022, 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.

For the completeness of this decision, we place on record that, in terms of rule no. 11 of Right to Information Commission Rules of 2017, the Public Authority is not entitled to charge any fee from a citizen for the release of the information upon a decision made by this Commission.

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

Appeal concluded.