

The Right to Information Commission

A.L.M Aslam,
No.61, Beach Road,
Addalaichenai-11

-Appellant-

RTIC App/No: 786/2022

Vs.

Ministry of Public Administration,
Home Affairs, Provincial Councils
and Local Government,
Independence square,
Colombo-07

-Public Authority-

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

Appearance : The Appellant participated via Zoom Technology.
The Public Authority represented by Mr. P.M.M.N Marasinghe,
Director of Combined Services.

Written Submission : Appellant - Not submitted
Public Authority - Not submitted

Date of Hearing : 03.11.2022

Decided on : 03.11.2022

Decision:

Factual Background:

The Appellant by request dated 18.12.2021 requested the following information;

“When I was working as Assistant Planning Director in Addalaichenai Divisional Secretariat, I had faced a preliminary investigation for some baseless allegations, which was conducted by the Divisional Secretary of Uhana. As the preliminary investigation was not conducted based on the establishment code, I had informed such shortcomings to you through relevant Departments and Ministry. Accordingly the State Ministry of Home Affairs by its letter no. HA/RTI/05/11/166 dated 30.04.2021 has informed me that the investigation report against Divisional Secretary, Uhana conducted based on my complaint has been sent to you with the concurrence of the Secretary of Home Affairs. Therefore, I wish to know what action has been taken on such reports sent by Home Affairs to you. Thus, please give me valid document to prove that action has been taken on the report sent by the state Ministry of Home Affairs under the Right to Information Act (letter sent by state Ministry of Home Affairs is annexed herewith for easy reference)”

As the Information Officer failed to respond within the time period stipulated in the Act, the Appellant lodged an Appeal with the Designated Officer dated 15.03.2022. As the Designated Officer too failed to respond within the time period stipulated in the Act, the Appellant preferred an Appeal to the Commission dated 04.05.2021.

Consideration:

We observed that the Information Officer of the Public Authority has not responded to the said information request in terms of Section 25 of the Right to Information Act No. 12 of 2016.

Also, the Designated Officer of the said Public Authority has not responded to the appeal preferred by the said Appellant in terms of Section 31 of the said Act.

Said conduct of the Information Officer and the Designated Officer of the Public Authority is in violation of the said provisions contained in the said Act. It must be noted that the law does not condone such violations of citizen's Right to Information. Hence, they must be aware of the fact that such conduct of the Information Officer and the Designated Officer of the Public Authority give rise to initiate legal proceedings against the Public Authority and the Information Officer in terms of Section 38 of the said Act.

Therefore, we emphasize that the Information Officer and the Designated Officer of the Public Authority should adhere to the said provision contained in the said Act No. 12 of 2016.

We do not see any valid legal provision under Section 5 (1) of the Act which prevents the Public Authority releasing the said information to the Appellant. Considering the said

circumstances, we make order to release the said information to the Appellant before 25.11.2022, 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 Order to the Appellant, the Information Officer and the Public Authority.

Appeal concluded.