

The Right to Information Commission

RTIC Appeal No: 808/2021

Kamal Vithanage

34/1, Sri Wimalasairi Road,
Kalubowila,
Dehiwala

-Appellant-

Vs.

Sri Lanka Police

Police Head Quarters,
Colombo 01

-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
5. Mr. Mohamed Nahiya - Commissioner

Appearance : The Appellant participated via T.P No. 071 8074580
The Public Authority represented by ASP Pushpakumara via T.P
No. 071 8591667

Written Submission: The Appellant on : 2022.01.22
The Public Authority on : Not Submitted

Date of Hearing : 07.04.2022, 15.06.2022, 27.06.2022, 21.09.2022

Decided on : 21.09.2022

Decision of the Commission:

Brief Factual Background:

The Appellant by information requests dated 04.03.2021 requested for the following item of information.

1. *“Certified copies of the notes/entries made by the investigation officers with respect to complaints made by the requestor under MCR 2352/14, MCR 1478/15 & MCR 3307/15 to the Police Station – Dehiwala. (Clue: For MCR 2352/14, notes may be available under CIB 2 330/79 on the 7th September 2014).*
2. *Certified copy of the actions taken/reports submitted by the Senior Superintendent of Police under IGP/PAC/0/1134/19, marked ‘D1’. (Order was made based on the request made by the requestor).*
3. *Certified copy of the actions taken for the requests made by the requestor through letters dated 6th of July 2020 and 25th of February 2021 to the officer in charge of the Police Station – Dehiwala which are marked as ‘D2’ and ‘D3’ respectively.”*

As the Information Officer failed to respond within the time period stipulated in the Act, the Appellant lodged an appeal with the DO on 01.04.2021. As the Designated Officer too failed to respond within the time period stipulated in the Act, the Appellant preferred an appeal to the Commission on 11.05.2021.

The PA has sent a letter dated 22.12.2021 stated as follows;

“... අභියාචනය මඟින් ඉල්ලා ඇති තොරතුරු හෝ තොරතුරු නිලධාරියා පිළිබඳ විස්තර ලබා දී නොමැත.

ඒ අනුව, අදාළ තොරතුරු ලබා ගැනීමෙන් පසු, 2016 අංක 12 දරණ තොරතුරු දැනගැනීමේ අයිතිවාසිකම් පිළිබඳ පනතේ ප්‍රතිපාදන ප්‍රකාරව ඉදිරි පියවර ගනිමි.”

In response to the PA's letter dated 22.12.2021, the Appellant stated that such attempts are merely 'delaying tactics' being used by Designated Officer and that if the Designated Officer is genuine, he should have raised these issues when the Appeal was lodged with the Designated Officer in April 2021.

At the hearing dated 27.06.2022 Appellant had stated that he had received information with regard to item No.01 and Commission noted that item No. 03 of the information request cannot have and maintained since the Appellant has sought “certified copies of the actions taken for the requests....” which does not fall within the meaning of “information” set out in Section 43 of the Right to Information Act.

Accordingly, the present inquiry now rests on item no. 02 of the information request dated 04.03.2021.

Consideration:

The PA submitted that the information requested by the Appellant is now subjudice and a case bearing no. 83673/MC Mount Lavinia is pending before the Mount Lavinia Magistrate Court and the next date of hearing is 26.09.2022. Therefore, the said information requested by the Appellant cannot be released in terms of Section 5 (1) (j) of the Act. The Appellant too admitted the pendency of the said case in the Magistrate Court of Mount Lavinia.

We carefully considered the said submission and make order to conclude the appeal before us.

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

Appeal concluded.