

The Right to Information Commission

M.A.M.Z Aboobucker,
23/2,
Madarsa Road,
Natpiitimunai,
Kalmunai

RTIC App/No :-340/2021

-Appellant-

Vs.

Municipal Council
Kalmunai

-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 is present.

The Public Authority is absent and unrepresented.

Written Submission:

Appellant : 10.08.2022

Public Authority : 14.10.2020 & 28.03.2022

Date of Hearing : 03.03.2022, 12.05.2022, 14.07.2022, 09.08.2022, 13.10.2022,
23.11.2022, 26.01.2023, 16.02.2023 & 26.04.2023

Decided On : 26.04.2023

Decision of the Commission:

Factual Background:

The Appellant by the request dated 04.08.2019, requested the below information,

- “1. With regard to The Municipal Council Ordinance,*
 - (1) The copy of the Gazette notification which published the order issued by the Minister under Section 2 of the Ordinance*
 - (2) The details of the immovable properties owned by the Municipal Council under section 35 and 37*
 - (3) The copy of the documents (Vesting Order, Certificate or records) indicating the ownership of the Provincial Council of the properties mentioned in the 2nd paragraph as mentioned by section 36 the properties mentioned in the paragraph (2).*
 - (4) The copies of the Gazette notification published for the year 2015, 2016, 2017 and 2018 under section 190*
 - (5) The copies of the Gazette notification published for the year 2015, 2016, 2017 and 2018 under section 212 and 214*
 - (6) Details of the issuance of the Annual Permit Bonds and the Temporary Permit Bonds and the fees charged for them and the grounds for the authority vested upon the Kalmunai Municipal Council to levy such fees.*
 - (2) Copies of Gazette Notifications issued under Section 7 (2).*
 - (3) A copy of the register maintained by the Municipal Council under Section 13;*
 - (4) Copies of the Gazette Notices issued under Section 17*
 - (6) The details of the jobs for which the licence issued by the Municipal Council is required and the admission fee charged for it under section 247*
 - (7) The jobs that require paying taxes to the Kalmunai Municipal Council under section 247 (a) and 247 (c)*
 - (8) The copy of the Gazette Notification of the Government published under section 270*
 - (9) The copies of the Gazette Notification of the Government under section 289 in which the rules made by the Minister was published.*
- 2. The copy of the sub-rules that are authorized by the Kalmunai Municipal Council and the copy of the Gazette Notification published in relation to those sub rules as per section 268*
- 3. The Details of all immovable properties under the ownership of or maintained by of the Kalmunai Municipal Council.*
- 4. Details of the licences issued by the Municipal Council of Kalmunai for the following jobs in the years of 2015, 2016, 2017, 2018 and 2019 and the amount charged for each of such licenses and the copies of the written laws*

regarding the granting of powers to Kalmunai Municipal Council charge for licenses.

- (1) Beef shop*
- (2) Mutton shop*
- (3) Chicken Shop*
- 5. In the years of 2015,2016,2017,2018 and 2019 according to the Butches Ordinance:*
 - (1) Yearly license issued under section 4*
- 6. The details of the lands and buildings owned by the Municipal Council which are allocated or used for the beef shop, mutton shop and chicken shop.*
- 7. Under Rating and Valuation Ordinance of No 30 of 1946:*
 - (1) The copy of the Gazette notification in which the order published by the Minister on behalf of the Kalmunai Municipal Council under section 2.*
 - (2) The copy of the Gazette notification in which the Local Government Commissioner in relation to the Kalmunai Municipal Council under section 21.*
 - (3) The copy of the Gazette notification of the Government in which the order was published by the Minister Under section 44.*
 - (4) He copy of the Gazette notification of the government in which the regulations are published under section 74.”*

The Information Officer responded on 09.08.2019 stating that;

“Regarding the RTI 2 sent by us to you on 09/08.2019,

Though we decided to provide the information requested by you through the application indicated by the registration number 143 dated 04.08.2019, we are unable to comply with the time frame of 14 days as mentioned in our previous letter. Therefore, we decided to extend the time duration to provide the information till 09.09.2019.

Reasons for the time extension:

- 1) Many requested has been sought.*
- 2) Not receiving the information that has to be received from the heads of the respective divisions.”*

Dissatisfied with the response of the IO, the Appellant appealed to the Designated Officer on 22.08.2019. The Designated Officer forwarded the information request to the Secretary, Accountant, and Administrative Officer of the Municipal Council by his letter dated 20.08.2019 by requesting them to provide copies of the documents which could be provided by them before 27.08.2019.

However, the Designated Officer failed to respond within the time period stipulated in the Act, the Appellant preferred an appeal to the Commission on 08.02.2020.

In response to the notice issued by the Commission, the Public Authority has sent a letter dated 28.03.2022 with a copy to the Appellant stating follow;

1. We have provided the Information to the applicant via the letter bearing the same number dated 2020.10.14
2. Details of the immovable properties owned by the Municipal Council under section 35 and 37 have been annexed. (Annex -1)

In addition to this, we have to list out the details of some properties belongs to Kalmunai Municipal council. Hence, the appropriate actions are being conducted.

3. Kalmunai Municipal council is operating as a Municipal Council since 2002 following the upgrade to Municipal Council status. According to 1987 Pradeshiya Sabha Act, the new council was established with the amalgamation of 3 village councils which were located surrounding the Kalmunai Urban Council. All the documents of properties belong to each village councils were maintained by the particular village councils. All the maintained documents were destroyed during the terrorist attacks happened in the Island. As the Village Council building (which is now acting as Kalmunai Municipal Council building) was subjected to terrorist attacks, we have lost several documents and most of the documents were destroyed. However, the details of immovable properties belongs to Kalmunai Municipal Council have been collected and listed out by the information gathered from several ways like retired senior officers. Relevant actions have been taken to receive deeds for the recognized properties through Divisional Secretariat from Deputy Land Commissioner. Therefore, we will be able to respond you once we receive the documents from the Divisional Secretary.
4. Any gazette notifications have not been published yet under section 190.
5. Also, no any gazette notification was published under section 212. But there are advertisement and budget. Supplementary budget has not been prepared under Section 214. Therefore, not published in a gazette.
6. The details of the jobs which require the license issued by the Municipal Council have been attached. (Annex 2)

The details of fee charged for licensing process as follows;

Annual value of the particular	Admission fee
Business premises	

1. Does not exceed Rs.1500	Rs.2000
2. Exceeds Rs,1,500 but does not exceed Rs.2500	Rs.3000
3. Exceeds Rs.2500	Rs.5000

1% of the annual profit is charged from Hotel, Restaurants and Lodge House which are registered with the Sri Lanka Tourist Board according to The Tourism Development Act, No. 14 of 1968.

7. Under section 247, business tax is being charged according to question no1.6 (above mentioned). Also, the details of jobs that require paying taxes to the Kalmunai Municipal Council under section 247 are annexed. (Annexure-3)
8. Regarding to this, 'Local Authorities (Standard By-Laws) Act, No.6 Of 1952' is in implementation.
9. Regarding to this 'Local Authorities (Standard By-Laws) Act, No.6 Of 1952' is being implemented.

2. Pay the proper amount and receive the copy of 'Local Authorities (Standard By-Laws) Act, No.6 of 1952'.

3. We have attached on hand details related to immovable properties owned by Kalmunai Municipal Council since full details of them were destroyed during the terrorist attacks.

4.

➤ Details of charged fees

Fee charges from beef stall located in the main street	Rs.200, 000
Fee charges from beef stall located in secondary road	Rs.100, 000
Fee charges from Mutton stall	Rs.20, 000
Fee charges from Chicken stall	Rs.20, 000

➤ Copies of the written documents- obtain by paying the proper payment.

5.

1. Pay the proper amount and obtain
2. Has not been filed in file
3. Pay the proper amount and obtain
4. Has not been filed in file

6. Pay the proper amount and shall receive

7. We have applied for deeds of the lands through the Divisional Secretary. We haven't received yet. Once we receive them, we will be able to respond you.

8.

1. Not documented
2. Not documented
3. Not documented
4. Not documented

Accordingly, the Commission in the hearing dated 03.03.2022 directed the Appellant to make his comment on the said responses.

In response to the letter dated 28.03.2022 filed by the Public Authority, the Appellant has filed his written submission dated 10.08.2022 stating that;

- The Appellant satisfied with the given information for items 1 & 2 of the paragraph 1, however not satisfied with the information given for items 3, 4, 5, 8 & 9 of the paragraph 1, and paragraph 2 & 3 since the furnished information in those items are false, inaccurate and misleading.
- Further, the Appellant rejected the Annexure 2 set out in item 3 and Annexure 3 set out in item 7 of paragraph 1 of that letter for since the furnished information in those items are false, inaccurate and misleading.
- Further, he rejected the contents of item 2 and 4 of paragraph 5, paragraph 7, and items 1, 2, 3 and 4 of Paragraph 8, as the Information furnished in those paragraphs are **false**, inaccurate and misleading and contravenes Section 172 of the Municipal Councils Ordinance.
- Furthermore, he stated that despite he paid the amount of Rs. 150/= determined by the Information Officer, he was provided only a portion of the *Gazette* in which the Standard By-Laws made under the Local Authorities (Standard By-Laws) Ordinance; but not provided the Information requested by him under paragraphs 02, 04, 05(1) and (3), and 06 of his respect albeit the Mayor of Kalmunai Municipal Council agreed to provide upon the payment of the prescribed fee.
- Accordingly, there are reasonable grounds to believe that information requested by him has been deformed, destroyed or misplaced in order to prevent the Appellant from having access to that information.

Consideration:

The Public Authority has provided information by their letter dated 28.03.2022. This Commission made an order to provide the copy of the said letter of the Appellant since he complains that he did not receive said letter dated 28.03.2022. In order to ascertain the views

of the Petitioner upon the said response dated 28.03.2022, the Appellant was directed to file a written submission indicating his views. We have gone through the said submissions and the response dated 28.03.2022. The Appellant's main concern was that the said response dated 28.03.2022 contained false information. If he complains that the said response contains false information, he must make a complaint to the Commission in order to initiate inquiries under Section 39 (1) of the Act. We have not yet received such complaint from the Appellant.

Considering the circumstances that the Public Authority has responded to the said information request we are of the view that the present inquiry upon the said appeal lodged by the Appellant could be concluded. Accordingly, this appeal is concluded.

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

Appeal concluded.