

**S. M. Manoj Prasanna v Department of Forest Conservation**

*RTIC Appeal/ 155/2017 (Order adopted as part of a formal meeting of the Commission on 19.12.2017 subsequent to the proceedings of the Commission meeting held on 15.12.2017)*

**Chairperson:** Mr. Mahinda Gammampila

**Commission Members:** Ms. Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

**Appellant:** Mr. S. M. Manoj Prasanna

**Notice issued to:** S. A. Anura Sathurusinghe, Conservator General of Forests

**Present/Appearence:** S M Manoj Prasanna

W. M. H. Wijerathne, Divisional Forest Officer, Batticaloa

G. D. G. Sarath Kumar, Assistant Conservator of Forests

The Appellant was present. Mr. W. M. H. Wijerathne, Divisional Forest Officer, Batticaloa and Mr. G. D. G. Sarath Kumar, Assistant Conservator of Forests were present on behalf of the Public Authority (PA). The Appellant had by information request dated 10.03.2017 requested 7 items of information relating to the development of the area near the Southern bank of Maduru Oya (Divulapathaana Area) which are as follows.

1. The extent of land that belongs to the PA in the Maduru Oya South shore development area, including maps
2. Has the land in the map been given to some person?
3. If any land of the PA has been granted for the use of any person, since when has such use been permitted?
4. On what basis has it been given?
5. If lands of the PA are given to anyone for what purpose is such land given?
6. If any person is using the lands belonging to the PA the time taken to implement the regulations of 02.08.2016?
7. Which Section of which Act relates to the matter in item 6?

The Appellant stated that although the IO had replied on 18.04.2017, he was not satisfied with the response and therefore appealed to the DO on 04.05.2017. The DO responded on 31.05.2017. The Appellant was not satisfied with the response of the DO and appealed to the Commission by appeal dated 12.06.2017.

In relation to item 1 and 2 the PA stated that this belongs to the Mahaweli Authority of Sri Lanka and therefore the information had to be obtained from the MASL. The Appellant accepted this response.

In relation to items 3, 4 and 5 the Appellant stated that the response of the IO and DO conflicted. The PA stated that land had not been given over to anyone however cattle are allowed into the land for the purposes of feeding daily and at such times the owners are allowed to enter the land in question. The PA explained that the permitting of the cattle to enter the land daily is different from giving the land over to any person for their use and enjoyment which is why although the IO had responded stating that it is given for the purposes of cattle grazing on a daily basis where the owners along with the cattle enter and leave, the DO responded stating that the land was not given over to any person, meaning extended exclusive personal use and enjoyment. It further became evident that the District Agricultural Committee had permitted the cattle owners to allow their cattle to enter the land on a daily basis for the purposes of feeding.

The Appellant submitted that although the PA stated that no one stays on the land the cattle owners build huts and remain on the land for a period of six months and that he has photographic evidence to substantiate this fact. The Commission informed him that while this allegation maybe true it was not within the powers of the Commission to resolve such an issue. The PA stated that if that is so the Appellant may lodge a complaint with it/ any other PA who can then prevent such act if it is found to be illegal.

The Appellant had received satisfactory responses in relation to items 6 and 7.

## **Order**

Of consent items 6 and 7 have been provided to the Appellant. In relation to items one and two the relevant authority is the Mahaweli Authority of Sri Lanka which the Appellant accepts and from whom the Appellant has already requested the information. In relation to items three, four and five the PA has satisfactorily explained to the Appellant the reason behind the alleged contradictions between the IO's and DO's responses which was that the Appellant had equated the permission of cattle owners to graze the land on a daily basis with the complete alienation of the land to persons. The PA has explained the situation clearly to the Appellant. Although the Appellant insists that cattle owners stay on the land for extended periods of time such allegations cannot be dealt with and remedied within the context of the Right to Information Act, No 12 of 2016.

The Appeal is concluded.

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