

P.D.M. Upashantha v. University of Sri Jayawardenapura

RTICAppeal/124/2017(*Heard as part of the meeting of the Commission on 04.12.2017*)

Chairperson: Mr. Mahinda Gammanpila

Commission Members: Ms. Kishali Pinto-Jayawardena
Mr. S.G. Punchihewa
Dr. Selvy Thiruchandran

Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: P.D.M. Upashantha

Notice issued to: Vice Chancellor, University of Sri Jayawardenapura (Designated Officer)

Appearance/ Represented by: Ms. N.M. Kularathna, Legal Officer, University of Sri Jayawardenapura,
Mr. S.P.T.S De Silva, Assistant Statistician, University of Sri Jayawardenapura,
Mr. P.D. Manoj Upashantha
Mr. W.D.W. Jayathilake

The Appellant was present at the hearing.

The Public Authority was represented by Ms. N.M. Kularathna, Legal Officer, University of Sri Jayawardenapura and Mr. S.P.T.S De Silva, Assistant Statistician, University of Sri Jayawardenapura.

In this case, the Appellant had requested the following information by an information request dated 23.03.2017:

- A) The following with the notes made on such letters/ documents by the Vice-Chancellor and subsequently by other officers
1. Report of the meeting held at the Multimedia Centre on 27.11.2014.
 2. Letter sent by the Appellant to the Vice-Chancellor on 27.11.2014 with the subject line 'Photography relating to the 40th Degree Awards Ceremony'
 3. Letter dated 01.12.2014 sent by the Appellant to the Vice-Chancellor with the subject line 'Removal from the Computer Centre and placement in the Multimedia Center'

At the Right to Information Commission of Sri Lanka

4. Letters dated 08.12.2014, 08.01.2015, 02.02.2015, 05.02.2015, 01.09.2015 (The Appellant has mentioned the subject line of each in his request)
- B) The following with the notes made on such letters/ documents by the Registrar and subsequently by other officers
1. The Appellant's response to the Registrar's letter of 24.11.2014 dated 26.11.2014
 2. Letters dated 26.11.2014 (2 letters), and 03.12.2014 sent by the Appellant to the registrar (subject lines stated in the information request)
- C) Other documents:
1. Letter dated 22.11.2008 by the Appellant to the VC
 2. Letter sent by the Registrar to Prof. W M Jayasundara dated 05.01.2015 with the subject line 'Handing over of the house given for official purposes', time period the registrar occupied the house, and the amounts charged for such occupation
 3. Documents relating to the Appellant's promotion to Grade 1 as a programme compiler/ systems analyst
 - i. Copies of the decision of the Interview Board with their signatures
 - ii. The sheet/document issued to the Governing Council on the day they decided to check the authenticity of the BCS certificate
 - iii. The sheet/ document issued to the Governing Council after the authenticity was confirmed asking them to resend it to the UGC, the letter sent to the UGC, the UGC's reply
 4. 15th Housing Committee Report which decided to grant the Appellant an official house
 5. Details relating to the granting of the Appellant's official residence (12D) to Professor Jayasundara, the reversal of such, and the monetary transactions relating to such along with the time periods
 6. The initial investigation report presented to the Governing Council pertaining to the Appellant's suspension, document containing (his) competence in the field of Computer Science, document containing the charge sheet, the Governing Council document that was produced.

Upon non-receipt of response from either the Information Officer (IO) or the Designated Officer (DO) to his appeal dated 24.04.2017, an appeal was made to the RTI Commission on 01.06.2017.

Upon the Commission querying the reason as to why the information was not provided, the PA stated that it had not received an information request dated 23.03.2017 but an information request dated 15.03.2017.

At the Right to Information Commission of Sri Lanka

The PA had brought the items of information in the request dated 15.03.2017 before the Commission. Upon perusal of the information brought by the PA, it became evident that the relevant documents only addressed Part C (5) of the information request dated 23.03.2017, which was on appeal before the Commission, namely, details relating to the granting of the Appellant's official residence (12D) to one Professor Jayasundara, the reversal of such, and the monetary transactions relating to such along with the time periods. The Appellant expressed his satisfaction relating to the receipt of the information pertaining to Part C (5) of the information requested dated 23.03.2017.

The Appellant stated that he previously made an information request on 15.03.2017 and several other information requests. However, since he did not receive any response to any of such information requests, he amalgamated the information requested in such information requests and submitted the information request dated 23.03.2017 which was currently on appeal before the Commission.

Since the PA reiterated the fact that they received neither the purported information request nor the appeal to the DO, the Commission called upon the appellant to furnish the registered postal receipt pertaining to the information request dated 23.03.2017 and the appeal to the DO dated 24.04.2017 to the Commission to verify the Appellant's claim that an information request and a corresponding appeal to the DO was in fact lodged with the PA. The Appellant was unable to furnish the said postal receipt of the information request dated 23.03.2017 before the Commission. However, he categorically stated on record that the postal receipt number of the abovementioned information request was 5385 issued from Nugegoda Post Office on 23.03.2017. The Appellant produced the postal receipt, No. 5823 issued from Nugegoda Post Office on 28.04.2017, of his appeal to the DO. However, he had failed to attach his original information request to his appeal to the DO which was made in the form of an RTI10 application. The PA agreed to trace the postal receipt numbers provided by the Appellant at the hearing.

Order

In the instant matter, since the appeal had reached the Commission and since both parties were present before the Commission, the PA is hereby directed to consider the original information request of the Appellant dated 23.03.2017, a copy of which was provided to the PA at the hearing, in addition to the copy that had been sent by the Commission when issuing notice on 17.11.2017.

The PA is directed as required by Section 25 of the RTI Act, to take a decision, regarding the information request dated 23.03.2017, except for Part C (5) which was provided to the Appellant at the hearing, either to provide the information requested or to reject the request on any one or more of the grounds referred to

At the Right to Information Commission of Sri Lanka

in Section 5 of the RTI Act, and to forthwith communicate such decision to the Appellant. Furthermore, noting the fact that the Appellant is in need of the requested information by 16.12.2017 as an internal inquiry conducted by the PA against the Appellant is scheduled to take place, the PA is directed to release the information, which it decides to provide, prior to 16.12.2017.

In the event any one or more of the items of information contained in request dated 23.03.2017 are refused by the PA, invoking the specified exception in Section 5(1) of the RTI Act, such matter will be taken up at the next hearing on 30.01.2018.

The Appeal is hereby adjourned.

.....