

D.N. Liyanage v Wayamba University of Sri Lanka

RTIC Appeal (In – person)/86/2017 (*Order adopted as part of a formal meeting of the Commission on 31.07.2018*)

Order under Section 32 (1) of the Right to Information Act, No 12 of 2016 and Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure)

Chairperson: Mahinda Gammampila

Commission Members: Kishali Pinto-Jayawardena

S.G. Punchihewa

Dr. Selvy Thiruchandran

Justice Rohini Walgama

Present: Director-General Piyathissa Ranasinghe

Appellant: Mr. D. N. Liyanage

Notice issued to: Designated Officer (DO), Wayamaba University of Sri Lanka

Appearance/ Represented by:

Appellant - Mr. D.N. Liyanage

PA - L.M.C. Siriwardhana, Senior Assistant Registrar of Academic Establishments,
Wayamba University of Sri Lanka

RTI Request filed on:	04.07.2017
IO responded on:	No response
First Appeal to DO filed on:	24.07.2017
DO responded on:	No response
Appeal to RTIC filed on:	19.08.2017

Brief Factual Background:

The Appellant had by request dated 04.07.2017 requested the following information pertaining to the Dr. S.Y. Namaratne Scholarship of the Department of Food Science and Technology of Wayamba University of Sri Lanka,

1. Does the Department of Food Science and Technology provide a scholarship for its specialization students under Dr. S.Y. Namaratne Scholarship?

2. What is the Bank Account Number and Branch for which the donors donate to the scholarship?
3. Is this account ever audited by the Wayamba University financial authorities?
4. (i) Was a sum of Rs. 250,000.00 withdrawn from this account in the year 2008?
(ii) Who withdrew the above money?
(iii) For what the above money was withdrawn for?
(iv) Documentary evidences for the utilization of withdrawn money
5. The yearly donations and withdrawals of the account since the start of the scholarship.

As the IO failed to respond, the Appellant lodged an appeal with the DO on 24.07.2017. As the DO too failed to respond within the time frame stipulated under the Act, the Appellant preferred an appeal to the Commission on 19.08.2017.

Mr. L.M.C. Siriwardhana, Senior Assistant Registrar of Academic Establishments, Wayamba University of Sri Lanka by letter dated 17.07.2017 informed the Appellant that the Wayamba University of Sri Lanka (PA) has sought legal direction and it intends to take action once the Legal Division responds.

Matters Arising During the Hearing

At the time of the hearing, the Appellant produced a letter dated 05.02.2018 by the PA and confirmed the receipt of information corresponding to item no. 01.

Of the remaining items the PA was queried as to what information was within its possession, custody or control. The PA responded stating as follows,

1. The PA agreed to provide the information requested by item no.02, namely the Bank Account Number and the Branch,
2. With regard to items no.03, the PA responded stating that the relevant account is subject to an audit by the financial authorities of the Wayamba University of Sri Lanka,
3. The PA agreed to provide the information requested by item no. 4(i). The PA further agreed to ascertain and provide the information requested by items no. 4(ii), 4(iii) and 4(iv).
4. With regard to item 05, namely, the yearly donations and withdrawals of the account for last 10 years, the PA agreed to provide the same.

Order

It is noted that, if the Public Authority (PA) wishes to refuse information it must done under and in terms of the Act which is by citing an exemption provided under the RTI Act.

It is also noted that, the right of the citizen to acquire information from a PA arises when the PA concerned is in the possession, custody or control of the information requested.

Section 3(1) of the Right to Information Act, No.12 of 2016 states as follows:

(1) Subject to the provisions of section 5 of this Act, every citizen shall have a right of access to information which is in the possession, custody or control of a public authority

Of consent the PA agreed to provide the information requested in items no. 02, 4(i), (ii), (iii), (iv) and 05 to the Appellant within two weeks of the receipt of the Order with a covering letter to the Commission listing the information provided.

Order is directed to be conveyed to both parties in terms of Rule 27 (3) of the Commission's Rules on Fees and Appeal Procedures (Gazette No. 2004/66, 03.02.2017).

The Appeal is concluded.

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Mahinda Gammampila – Chairman

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Kishali Pinto – Jayawardena – Commissioner

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S.G. Punchihewa – Commissioner

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Dr. Selvy Thiruchandran – Commissioner

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Justice R. Walgama - Commissioner