

**Zacky Ismail v. Wakf Board of Sri Lanka**

RTIC Appeal(In-Person) /89/2018 - 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) – heard as part of a formal meeting of the Commission on 31.07.2018

**Chairperson:** Mahinda Gammampila  
**Commission Members:** Kishali Pinto-Jayawardena  
S.G. Punchihewa  
Dr Selvy Thiruchandran  
Justice Rohini Walgama

**Present:** Director-General Piyathissa Ranasinghe

**Appellant:** Mr. Zacky Ismail  
**Notice Issued to:** Designated Officer, Wakf Board of Sri Lanka

**Appearance/ Represented by:**

Appellant - Absent  
Public Authority - H R M Malik, Director/ MRCA, Wakf Board of Sri Lanka  
K R Mohammed, Secretary, Wakf Board of Sri Lanka  
H M M S Herath, CMA

<b>RTI Request filed on</b>	25.09.2017
<b>IO responded on</b>	No response
<b>First Appeal to DO filed on</b>	16.10.2017
<b>DO responded on</b>	25.10.2017
<b>Appeal to RTIC filed on</b>	26.11.2017

**Brief Background Facts**

The Appellant had requested the following items of information, by an information request dated 25.09.2017

1. Where was the decision taken to appoint Interim Body as Special Trustees to the Grand Jummah Mosque of Nintavur?
2. Where was it decided to appoint 21 members to the Interim Body as Special Trustees?
3. Who decided to appoint 21 members for this Interim body as Special Trustees?
4. Under which criteria were these 21 members chosen to be appointed as Interim Body?
5. The sources from which you obtained these 21 members?
6. How many names did the PA originally receive in order to select these 21 members?
7. Provide a copy of all the name lists the PA received in order to select these 21 members.
8. In which manner did the PA select and finalize these 21 members as Special Trustees?
9. When did the Chairman or the PA finalize these 21 members to be appointed as Special trustees?
10. Under which provision of the Wakf Act were these 21 members appointed?
11. Did the Chairman or the PA Board members ever meet these 21 members before their appointment to the Interim Body?
12. What is the practice the PA has been following in the appointment of Special Trustees in general?

The Appellant received no response from the IO and appealed to the DO on 16.10.2017. In his response, the DO, (Mr. K.S. Senadheera, Additional Secretary) had informed the Appellant that his information request has been forwarded to the Director of the Department of Muslim Religious and Cultural Affairs. Dissatisfied with the response, the Appellant preferred an appeal to the Commission on 26.11.2017

### **Matters Arising During the Hearing**

The Appellant had informed the Commission of his inability to attend the Hearing.

The PA submitted that some of the requested information could not be provided as the information is the subject matter of an ongoing legal proceeding. The Commission stated that this position of the PA had not been reflected in its Statement of Objections dated 26.07.2018.

### **Order**

The PA is directed to ascertain and notify the Commission with regard to its position with respect to the provision of information, and the nature of the legal proceedings pending before court and its nexus to denial of the information requested. Attention of the PA is drawn to the fact that the mere pendency of a court case/ legal proceedings is not a ground of refusal under and in terms of the Act. If the PA is to refuse the information the PA is directed to do so

under and in terms of the Right to Information Act No. 12 of 2016 by invoking a specific exemption therein.

The Appeal is adjourned.

Next date: 11.09.2018 (to ascertain the status of the matter)

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