

C.B.Ravindraraj v. Ministry of Transport and Civil Aviation

RTIC Appeal (In-Person)/1371/2019 - *Minute 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 08.10.2019

Chairman : Mr. Mahinda Gammampila
Commission Members: Ms. Kishali- Pinto Jayawardena
Dr. Selvy Thiruchandran
Director General: Mr.D.G.M.V.Hapuarachchi
Appellant: C.B.Ravindraraj
Notice Issued to: Designated Officer, Ministry of Transport and Civil Aviation

RTI Request filed on	12.08.2018
IO responded on	13.09.2018 and 12.11.2018
First Appeal to DO filed on	11.10.2018
DO responded on	No response
Appeal to RTIC filed on	15.03.2019

Brief Factual Background:

The Appellant by request dated 12.08.2019 requested the following information from the Ministry of Transport and Civil Aviation:

A copy of the appeal sent by him which included a list of 71 appeals

According to the Appellant, the Additional Secretary of the Ministry of Public Administration has sent a letter No. ADS/PA/152/Decisions/Transport/24(Vol-III) dated 27.06.2017, with a copy to the Secretary to the Prime Minister as well as the Appellant, that 71 appeals including that of the Appellant, were sent to the Secretary of the Ministry of Transport and Civil Aviation on 07.10.2015. It is in this regard that the Appellant is seeking a copy of the appeal lodged by him.

The Information officer (IO) responded on 13.09.2018 stating that as per Section 25(1) of the Right to Information Act No.12 of 2016 (hereinafter the Act), it was decided to provide a copy of the appeal which is included in the list of 71 appeals. Subsequently, the Appellant received a letter sent by the Appellant to the Prime Minister's Office instead of his appeal. Thereafter, the IO by way of letter dated 07.01.2019 under the heading 'Request Information under the Right to Information Act No.12 of 2016' asked the Appellant if he has participated in any political revenge committees held by the Ministry of Public Administration and Management. Thereafter, the Appellant lodged an appeal with the Designated Officer (DO) on 11.10.2018. Meanwhile, the IO replied to the Appellant on 12.11.2018 stating that when perusing the relevant files, it was found that the requested covering letter of the list of 71 is not with the said list. The IO has also sent a letter on 18.03.2019 that the requested information is not available in the files of the Ministry of Transport and Civil Aviation and the request should be referred to the Ministry of

Public Administration as the relevant letter was issued by that institution. The Appellant did not receive a response from the DO. Thereafter, the Appellant lodged an appeal with the Right to Information Commission on 15.03.2019.

Consequent to the Appellant's appeal to the RTI Commission, the DO informed the Commission on 16.05.2019 that the said appeal could not be traced within the Ministry of Transport and Civil Aviation or the Ministry of Public Administration.

Matters Arising During the Course of the Hearing:

The Appellant by letter dated 18.09.2019 stated that he is overseas for medical treatment and is unable to be present on the date of the hearing. However, the Appellant submitted written submissions elaborating his position.

In his written submission dated 18.09.2019, the Appellant submitted that he was an employee of the Sri Lanka Transport Board and was politically victimized by the government prior to 2015. According to Public Administration Circular No.09/2015, the Appellant submitted an appeal for relief to the Additional Secretary of the Ministry of Public Administration attaching all connected documents. The Appellant thereafter in his written submissions elaborated on the political victimization that he faced and subsequent legal action that was taken in this regard.

The Appellant went on to state that even though he sent several appeals as per Public Administration Circular No.09/2015, he did not receive a response from the Ministry of Transport and Civil Aviation, which compelled him to appeal to the Prime Minister's Office. The Prime Minister's Office wrote to the Ministry of Transport and Civil Aviation on 7 different occasions, for which the Appellant only received responses to 3 of the said letters.

The Appellant further submitted that Mr. B.D.L.Dharmapriya, Additional Secretary informed him by letter dated 02.02.2018 that the Committee will not be considering appeals other than those received from Sirikotha. In another reply dated 10.01.2018, Mr. B.D.L.Dharmapriya, Additional Secretary, informed the Appellant that at a progress review meeting held on 28.04.2017, that it was decided not to accept new requests. The Appellant indicated that his appeal was sent within the prescribed time and was accepted by the Additional Secretary of the Ministry of Public Administration. The Appellant reiterated that the Additional Secretary of the Ministry of Public Administration handed over 71 appeals including the Appellant's appeal to the same Additional Secretary, Mr. B.D.L. Dharmapriya on 07.10.2015.

The Appellant together with his written submission attached a copy of the letter dated 06.05.2019 (ADS/PA/152/Decisions/Transport/24 (Vol. IV) by the Secretary of the Ministry of Public Administration informing the Secretary of the Ministry of Transport and Civil Aviation, that a copy of the Appellant's appeal belonging to a list of 71 appeals was handed over to Mr. B.D.L.Dharmapriya, Additional Secretary at a meeting held on 07.10.2015. The aforesaid letter indicates that a document is attached which demonstrates that Mr. B.D.L.Dharmapriya has accepted the appeal. The Ministry of Public Administration confirmed that it does not have copies of the appeals and the originals were handed over to the Mr. B.D.L.Dharmapriya.

It is the position of the Appellant that an inquiry should have been conducted against the officer who misplaced/lost/destroyed the copy of his appeal.

At the Commission hearing on 08.10.2019, the PA produced an extract from a record of the committee to provide relief to those who faced political victimization which indicates that 71 appeals were signed and accepted by the Additional Secretary of the Ministry of Transport and Civil Aviation during a meeting held on 07.10.2015.

The Commission queried from the PA whether a list of the 71 appeals was maintained at the Ministry. The PA responded that there is no list of the names of those who have appealed and it cannot be affirmatively stated if the Appellant's appeal belongs to the list of 71 appeals that were accepted by the Ministry of Transport and Civil Aviation on 07.10.2015. The PA reiterated that it had made several attempts to trace the Appellant's appeal but was unsuccessful. As stated above, the PA submitted that it has written to the Ministry Public Administration in this regard and received a response on 06.05.2019 that the appeals were handed over to Mr. B.D.L.Dharmapriya.

The PA affirmed that Mr. B.D.L.Dharmapriya has retired and it has not consulted him regarding the appeal in question.

Order:

In view of evidence before the Commission that the said appeal was sent from the Ministry of Public Administration and was accepted by Mr. B.D.L.Dharmapriya, the former Additional Secretary of the Ministry of Transport and Civil Aviation, there is reasonable proof to indicate that the appeal in question should be within the possession, custody or control of the PA.

In order to ascertain the status of the appeal in question, the PA is directed to obtain an explanation from Mr. B.D.L.Dharmapriya who has been identified as the officer who has taken custody of the appeal and accordingly inform the Commission in writing.

The PA is further directed to inquire whether Mr. B.D.L.Dharmapriya at the point of retirement has handed over the documents in his custody to another responsible officer at the Ministry of Transport and Civil Aviation. Any documentation of proof of handing over documents should be produced before the Commission.

The Appeal is adjourned.
Next date-14.01.2020

Order is hereby 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).
