

H A P N Jayathilake v. Department of Agrarian Development

RTIC Appeal(In-Person) /138/2018 - 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 20.04.2018

Chairperson: Mr Mahinda Gammampila
Commission Members: Ms Kishali Pinto-Jayawardena
Mr S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr Piyathissa Ranasinghe

Appellant: Ms H A P N Jayathilake
Notice Issued to: Commissioner General/Designated Officer, Department of Agrarian Development

Appearance/ Represented by:

Appellant - A H O D Jayaweera
C J Jayaweera
Public Authority - Mr L P R C Jayasinghe, Legal Officer, Department of Agrarian Development

RTI Request filed on	27.09.2017 – 3 information requests
IO responded on	28.09.2017 (acknowledgement)
First Appeal to DO filed on	20.10.2017
DO responded on	No response
Appeal to RTIC filed on	18.12.2017

Brief Background Facts

The Appellant had requested the following items of information, by three information requests dated 27.09.2017

1. Certified copies of the letter No. 7/7/75/HAM/11/ 6ඒ VI of the Commissioner of the Department of the Agrarian Development and the letter dated 12.10.2011 sent to Commissioner of Hambantota stating that the tenant cultivators have been informed by registered post about the rent to be deposited.
2. Certified Copies of the last paragraph of the letter(N0.7/7/6/HM/2-2) of the Commissioner of the Department of the Agrarian Development (Services) and the letter dated 17.12.2017 sent to Commissioner of Hmabantota in which the Assistant Commissioner, Hambantota answers for matters asked by the Commissioner of the Department of the Agrarian Development (Services)

The following particulars of the letter attached and dated 2012.12.17 are been requested,

- I. Whether two sales have been effected in relation to this land
 - II. Whether the above mentioned sales were accepted by the owners of the Paddy fields.
 - III. The observation of the officer of the Agrarian Development Department, Lunama in relation to the aforesaid sale.
3. An order has been issued in relation to Kurulumulla Paddy Feild by a letter (No. 42/භ/විවිධ/ලුණම) dated 08.06.2010 including that the three tenant cultivators has to deposit the rent in respect of the above mentioned paddy land.
Requested the following particulars in respect of three tenant cultivators regarding the Yala season,
- I. Name of the Tenant cultivator
 - II. Extent of the land cultivated
 - III. Arreas of the rent deposited in each and every month

The Appellant received a letter of acknowledgement and no response from the IO. Thereafter, the Appellant lodged an appeal with the DO on 20.10.2017, to which the DO too failed to respond. Citing the DO's failure to respond, the Appellant preferred an appeal to the Commission on 18.12.2017.

Matters Arising During the Hearing:

The PA had provided the information to the Appellant on 18.04.2018 (two days prior to the hearing). It was submitted on behalf of the Appellant that the information will be examined and the Commission will be informed whether the information provided is to the satisfaction of the Appellant.

Order:

The Appellant is directed to examine the information and inform the Commission if a satisfactory response was received. If the Appellant is satisfied with the response from the PA

as aforesaid, the parties are not required to be present for the next hearing and the Appeal will be concluded.

The Appeal is adjourned subject to the above condition.

Next date of hearing: 05.06.2018

RTIC Appeal(In-Person) /138/2018 - *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 05.06.2018

Chairperson: Mr Mahinda Gammampila
Commission Members: Ms Kishali Pinto-Jayawardena
Mr S.G. Punchihewa
Dr Selvy Thiruchandran
Justice Rohini Walgama
Present: Director-General Mr Piyathissa Ranasinghe

Appearance/ Represented by:

Appellant - Ms C Jayaweera
Mr A H O D Jayaweera
Public Authority - Mr Eranga Atapattu, Assistant Commissioner- Legal, Department of Agrarian Development

Matters Arising During the Hearing:

The party representing the Appellant was queried as to whether she was satisfied with the information provided by the PA, to which she responded, that although the information with regard to item 1 had been provided and the PA had failed to provide the information corresponding to items 2 and 3.

The Commission questioned the PA as to its failure to provide the information relating to items 2 and 3. The PA submitted that this information is held with the Zonal Office of the PA in Hambantota and accordingly the Assistant Commissioner of the Zonal Office had been directed to submit the information. However, the Zonal Office had failed to submit the requested information to date. The Commission noted that the internal administrative procedures and the workings of the PA are irrelevant in this instance. The PA agreed to provide the information if it is in the possession, custody or control of the PA, failing which a formal report to the effect that the information is not in the PA's possession, custody or control will be submitted.

Order:

It is to be noted that delays caused due to the internal procedures and workings of the PA are invalid reasons for the failure to honour information requests and does not justify the failure to provide information requested under the RTI Act. The PA is directed to present the information to the Commission on or before 28.06.2018 provided the information is in the possession, custody or control of the PA. If the information is not in the possession, custody or control of the PA the PA is to submit that for the record before the Commission.

The PA is further directed to ensure the presence of the PA's IO and the Assistant Commissioner of the Hambantota Zonal Office at the next hearing.

The Appeal is hereby adjourned.

Next date of hearing: 28.06.2018
