

T Sureshkumar v Judicial Service Commission

RTICAppeal(In-Person)/224/2017 - 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 17.07.2018

Chairperson: Mr. Mahinda Gammampila
Commission Members: Ms. Kishali Pinto-Jayawardena
Mr. S. G. PUNCHIHEWA
Dr. Selvy Thiruchandran
Justice Rohini Walgama

Director-General: Mr. Piyathissa Ranasinghe

Appellant: T Sureshkumar
Notice Issued to: H Sanjeeva Somaratne, Deputy Secretary/ Designated Officer, Judicial Service Commission

Appearance/ Represented by:
Appellant - Mr. T Sureshkumar

Public Authority - D. M. D. C. Bandara SAS, Judicial Services Commission
W. M. Nilanthi Shamani Court Registrar (Information Officer)

Brief Factual Background:

The Appellant had by request dated 16.05.2017 (the whole of which was not annexed to the Appeal to the Commission) had requested the following information;

*A copy of the final judgment of case No B 1022/-4/-5 Magistrate's Court 06, New case No 3663/4,
High Court No 02 Appeal No HCRA 85/06 (28.04.2006)
High Court No 02 Case NO HCMCA 20/2009*

The IO had acknowledged the information request on 26.05.2017 based on which it appears that the Appellant had in fact requested the following information;

The present situation of the Appellant's case (No HCMCA 20/2009 of Colombo HC)

- 1. Whether the case is over or not*
- 2. Whether the case record is available or not*
- 3. Whether an inquiry has been held by the inquiry officer with regard to the loss of the said file*

On 05.06.2017 the Information Officer had rejected the information request on the basis that the information was not in the custody of the PA. Dissatisfied with the response the Appellant lodged two appeals with the DO dated 13.06.2017 and 25.07.2017. The DO rejected the appeal

on 12.09.2017 on the basis it did not conform to the time frame specified in the Act. Dissatisfied with this response the Appellant preferred an appeal to the Commission on 09.10.2017

Matters Arising During the Course of the Hearing:

The PA submitted that it was conducting a domestic inquiry into the matter as the case record containing the documents in relation to the information request appears to have been misplaced. It was submitted on behalf of the Judicial Service Commission (JSC) that the information was not within its custody but in the custody of the relevant High Court. The PA submitted that it had called for a formal report with respect to the misplacement and that an investigation into the matter was ongoing.

The Appellant submitted that he has been requesting these documents since 2009 and that there has been an inordinate delay on the part of the PA in responding to his grievance. He further submitted that this case has resulted in his vehicle having been in custody for years and he has as result been unable to sell or otherwise utilize his vehicle.

The PA submitted that as such it would take further time for the ascertainment of the status of the case record due to the pending investigation. It was further submitted that in order to respond to the information request the inquiry must be concluded. Accordingly the PA requested a reasonably long adjournment.

The matter was fixed for further hearing on 30.10.2018 on the request of the PA to aim to bring the inquiry on the misplaced case record to an end and to provide the Appellant with a response.

Next date of Hearing: 30.10.2018
