

K Parthiban v. Divisional Secretariat - Vavuniya

RTIC Appeal(In-Person) /286/2018 - 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 24.07.2018

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

Present: Director-General Piyathissa Ranasinghe

Appellant: Mr. K Parthiban

Notice Issued to: Designated Officer (DO), Divisional Secretariat - Vavuniya

Appearance/ Represented by:

Appellant - Mr K Parthiban

Public Authority - K Udayaraj – Divisional Secretary, Vavuniya

RTI Request filed on	16.01.2018
IO responded on	25.01.2018
First Appeal to DO filed on	08.02.2018
DO responded on	18.02.2018
Appeal to RTIC filed on	26.02.2018

Brief Background Facts

The Appellant had requested the following items of information, by information request dated 16.01.2018

1. Names of all Land Development Ordinance(LDO) Permits that are yet to be issued in the Vellankulam Grama Niladhari Division for the period 2010 – 2017
2. The respective LDO permit extent and permit numbers separated as paddy lands and highlands

The Information Officer (IO) responded by letter dated 25.01.2018 denying the information citing Section 5(1)(a) of the Act. Dissatisfied with the response, the Appellant appealed to the DO on 08.02.2018. The DO also denied the request by letter dated 18.02.2018 citing the same ground as the IO. Dissatisfied with the response of the DO, the Appellant preferred an appeal to the Commission on 26.02.2018

Matters Arising During the Hearing

The Appellant submitted that the Divisional Secretary had previously provided him with information in relation to the LDO permits that have been issued and this request is with regard to the LDO permits which are yet to be issued. By his written submission dated 24.07.2018, the Appellant alleged that the reason for non-issuance of part of the information is due to *“illegal dealings by the Grama Niladhari and Divisional Secretary”*

The Appellant further submitted that there is a compulsory procedure that is to be followed with regard to alienating lands and record procedure. In the written submission the Appellant had further stated that;

“

1. *In accordance with the Land Development Ordinance Land Kachcheri is a must to select the allottees*
2. *After the Land Kachcheri is held a schedule of the selected allottees shall be prepared and the schedule shall be noticed for publicity in conspicuous places such as the office of the Grama Niladhari and other suitable places where public gather usually*
3. *Thereafter if any objection is raised, that has to be rectified by an inquiry by an competent officer*
4. *On completion of the above said procedures an Alienation Register (AR) shall be prepared. And which shall be in the custody of the relevant Land Department*
5. *On the basis of Alienation Register, binding copies of permits and the Land Register is prepared*
6. *i. A copy of every permit issued is kept in the Binding of Permits
ii. Name, Address etcetera of the allottee; extent of the land; any history of future occurrences and references are recorded time to time in the land register”*

The Appellant alleged that there is no notice kept for the perusal of the public with regard to this procedure although the LDO permit and schedule of selectees (allottees) should be made available to the public.

In response, the PA submitted that the documents the Appellant previously alleged to have obtained from the PA were in fact obtained from the Provincial Land Commissioner’s Department and not the PA. In addition, the PA directed the Commission’s attention to the PA’s written submission dated 10.07.2018 in which the PA submitted that the requested information was denied on the ground that the requested information consists of the permit holders’ name, the permit numbers and the extent and as such concerned private information.

The written submission further stated that;

“Most of the permit holders in Velankulam GN Division are Sri Lankans of Indian Origin. We have got a letter from K Parthiban which discriminate the land rights of those people. Recently people have protested against K Parthiban for sending petitions discrimination them based on their origin. In the clash, K Parthiban took refuge in the Divisional Secretariat and police officials involved to solve the issues. Rural Development Societies of Velankulam, Mahilankulam and Pandrikeithakulam have complained that K Parthiban has gone into the houses of the villagers and inquired about their lands. People have feared with his attempts to collect private

information. In this context, it is evident that K Parthiban has no public interest in the details he requested through the appeal numbered DS/V/RTI/APPEAL/004.”

The Commission questioned the PA as to the number of lands for which permits are yet to be issued. The PA submitted that approximately 84 permits are yet to be issued and that the Appellant had not requested merely the permit number and the name of the permit holder but other information as well.

In the course of the hearing, the Appellant agreed to confine the requested information to include the name of allottees and extent of land for each LDO permit which is yet to be issued.

Order

It is noted that while the Commission is aware of the practical problems faced by the PA, the 84 plots of land in relation to which permits are to be issued concern a vast extent of government property for which the PA is accountable and which concerns third party rights, including those of different communities with the potential of causing friction and social tension in the area.

As the Appellant has agreed to confine the information requested to include the name of allottees and extent of land in relation to which permits are yet to be issued, the PA is directed to make submissions with regard to the provision of information of the amended information request on or before 11.09.2018.

The Appeal is adjourned.

Next date of hearing: 11.09.2018

RTIC Appeal(In-Person) /286/2018 - *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 09.11.2018

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

Present: Director-General Piyathissa Ranasinghe

Appellant: Mr. K Parthiban
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Public Authority - K Udayaraj – Divisional Secretary, Vavuniya

The PA raised concerns regarding the manner in which the Appellant had publicized the information released as he claimed that it would bring disrepute to the Divisional Secretariat and causes disruption between communities.

While the Commission observed that it cannot prohibit the dissemination of such information, it noted as a matter of caution on how the released information is to be used on social and other media. It cautioned the Appellant to use the provided information factually and not in a malicious manner as claimed by the Designated Officer.

The Public Authority handed over to the Commission the information requested by the Appellant. The Commission agreed to peruse the documents and release it to the Appellant as it deems fit at the next hearing.

Order to be delivered on: 13.11.2018
