

At the Right to Information Commission of Sri Lanka
M.I.N.M. SAFRAZ .VS. CHIEF SECRETARIE'S OFFICE NORTH WESTERN
PROVINCE

RTIC Appeal (in person) 325/2018 (order adopted as part of a formal 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 20.08.2018.

Chairperson: Mr. Mahinda Gammampila

Commission Members: Mr. S.G.Punchihewa

Dr. Selvy Thruchandran'

Justice P.R.Walgama

Present: Director - General Mr. Piyatissa Ranasinghe

Appellant: M.I.N.M. Safraz

Notice issued to: Chief Secretary - Chief Minister Office- North Western
Province.

Appearance / Represented by:

Appellant: absent

Public Authority: present- W.M.Dushani M. Weerawansa ,Assistant Chief Secretar

Shortly stated facts in appeal:

The appellat by his request in terms of RTI Act to the IO had sought the following information:

(it is salient to note the Appellant has requested information in a form of a query and not in the manner which prescribed in the RTI Act.)

Thus he had posed the following issues:

1. Whether the IO is aware of the fact that the Acting Director has obtained the details under the RTI Act in regard to his recommendation to the Governor in relation to the travel overseas vis a vis to USA (invitation was by a private company) by present Acting Director of Environment Authority of the North Western Province?
2. Did the PA hold an inquiry in respect of the foreign trip(“official) of the above Acting Director, on the invitation extended by the private company which has no connection to the Provincial Council of North Western Province or to the Provincial Environment Authority.
3. Is it not improper /illegal for the failure to submit a report to you or to an authorised officer as to the official tour.
4. Is there any disciplinary inquiry which is not concluded against the said officer.
5. What is the present situation of the above said inquiry.
6. Can any officer facing such inquiry be made permanent in the post without concluding the inquiry.
7. Can the said officer be made permanent in the above post when the election has been declared.
8. What is the salary and other benefits the said officer is receiving and what will be his salary and other benefits he will gain if his appointment is made permanent.

Pursuant to the above request the response of the IO has been that the said questioners are totally refers to the personal details regarding his career and the PA is debarred form releasing the same. In addition it said that the said request is falling within Section 5(1) RTI Act.

Being dissatisfied with the response of the IO the appellant by his appeal dated 26.02.2018 appealed to the DO and the DO has replied the appellant by his letter dated 09.03.2018 and has asserted the same reply given by the IO.

Aggrieved by the impugned decisions of the by IO and DO the appellant appealed to the commission by his appeal dated 19.03.2018 and has urged for the said information.

The Public Authority by the letter dated 07.08.2018 had informed the commission that the first request of the application is not an information that the PA could release as the same is only a question. Therefore the PA is not bound to answer such question as such PA has refused to answer the same.

As a comprehensive response to the other issues raised by the Appellant the PA had stated the following:

That the Acting Director of the Environment Authority of the North Western Province has travelled without any contribution form the said Authority, with the permission of the Chief Minister of the North Western Province between the period of 25.07.2018 to 06.08.2018 has participated in the said tour. It is further stated that the other information is in respect of an officer's personal details and hence same cannot be released as the same is protected in terms of Section 5(1) (2) of the RTI Act.

Appeal was fixed for the hearing on 20.08.2018.

When this matter was taken for hearing on 20.08.2018 the Appellant was absent and unrepresented, chief secretary was represented by an officer of the of Chief Ministry- North Western Province. It is noted that the PA has sent their response to

the Commission with a copy to the Appellant. Nevertheless PA undertook to answer to the above issues and send a reply to the Appellant with a copy to the Commission.

The Commission granted further time till 15.10.2018 to comply with the above undertaking, and to report to the Commission on the said date.

For the reasons stated above the Commission adjourned the hearing of the appeal for 15.10.2018.
