

**M. A. M. Z. Aboobucker v Divisional Secretariat, Kalmunai**

RTIC Appeal (In – Person Hearing)/ 2179/2020 - **Minute** adopted as part of the formal meeting of the Commission on 03.11.2020

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

**Appellant:** M. A. M. Z. Aboobucker

**Notice issued to:** Designated Officer, Divisional Secretariat, Kalmunai

<b>RTI Request filed on</b>	30.09.2019
<b>IO responded on</b>	25.10.2019; 25.11.2019
<b>Appeal to DO filed on</b>	22.10.2019
<b>DO responded on</b>	No Response
<b>Appeal to RTIC filed on</b>	08.02.2020

**Brief Factual Background:**

The Appellant filed above dated information request, as below,

- a) *“Information as to how Naviyan Kulam become a state land (Whether that land was acquired in accordance with the provisions of the Land Acquisition Act or that land became state property by virtue of operation of any other written law)*
- b) *Details of the State Lands situated within Neelawanai Agrarian Service Centre area of the Kalmunai Divisional Secretary’s Division in the Amparai District transferred, released or provided to Department of Agrarian Development for its purposes (including Minor Irrigation Works) by the Land Commissioner Generals Department; and the copy of certificate of release of such lands.*
- c) *Details of the Lands acquired by the Department of Agrarian Development and situated with the Neelawanai Agrarian Service Centre area if Kalmunai Divisional Secretary’s Division*

- d) *Legal instruments (such as Laws, regulations) etc. that governs or regulates the administration, management, control, utilization, alienation and disposal of lands in the possession or under control or held by the Department of Agrarian Development.*
- e) *Information as to whether the Commissioner General of Agrarian Development has been vested in or imposed or conferred on or assigned or delegated to him any power or authority-*
  - (i) *To acquire lands for the purposes of the Department of Agrarian Development, except in accordance with the provisions of the Land Acquisition Act.*
  - (ii) *to transfer alienate or dispose any land in the possession, under the control of or held by, the Department of Agrarian Development to any person or organization (whether private or state) except in accordance with Article 33(d) and the Appendix I to the Ninth Schedule of the Constitution and other Land Laws such as Land Development Ordinance, State Lands Ordinance, State Lands (Recovery and Possession) Act, Land Grants (Special Provisions) Act etc*

*If yes, a copy of the written laws that confers such powers and authorities on the Commissioner General of Agrarian Development.*

- f) *Information as to whether, if the land alienated by the Commissioner General of Agrarian Development under the authority of the above letter is not a state land or if the Commissioner General of Agrarian Development does not have any authority or power to alienate, transfer or dispose any land in the possession or control of, or held by the Department of Agrarian Development, the alienation or transfer of a land by the aforesaid letter can be considered as Corruption as defined by Section 70 of the Bribery Act as amended by Bribery (Amendment) Act No 20 of 1994.”*

The Information Officer responded after the Appellant filed an appeal to the Designated Officer, requesting for extended time to respond to the information request due to translation issues. The Appellant in response, wrote on 15.11.2019 that he can receive the information in the language that it presently exists. As the Designated Officer failed to respond within the time period stipulated within the Act, the Appellant preferred an appeal to the Commission on 08.02.2020.

### **Matters Arising During the Course of the Hearing:**

In view of the prevailing situation in the Western Province from October 27<sup>th</sup> – November 23<sup>rd</sup> 2020 with curfew imposed in certain areas due to the threat posed by COVID 19, and as such in order to minimize interaction between persons, the appeals scheduled for in-person hearings in terms of Rule 20 of the Commission's Rules on Fees and Appeal Procedures of the RTI Commission's Appeal (Gazette No. 2004/66, 03.02.2017) were postponed during the aforementioned period.

**Order:**

Accordingly, this Appeal will be taken up for an In – Person hearing on 23.02.2021 in regard to which formal notices of the RTI Commission will be sent to both parties in due course.

Order is 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).

*The Appeal is adjourned.*

**Next date of hearing: - 23.02.2021**