

## M. Abdul Kafoor v Irrigation Department

RTIC Appeal (In-person) **646/2018** – Order adopted subsequent to the hearing which took place as part of the formal meeting of the Commission on **11.03.2019**

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).

**Chairman:** Mr. Mahinda Gammampila

**Commission Member:** Justice Rohini Walgama

**Commission Member:** Mr. S. G. Punchchihewa

**Director-General:** D G M V Hapuarachchi

**Appellant:** M. Abdul Kafoor

**Notice issued to:** Designated Officer, Irrigation Department

### Appearance / Representation:

**Appellant:** M. Abdul Kafoor

**PA:** P. Thayananthan ( Director)

S. D. S Shanthi (Admin Officer- Acting)

<b>RTI Request filed on</b>	24.09.2017
<b>IO responded on</b>	No response
<b>First Appeal to DO filed on</b>	02.08.2018
<b>DO responded on</b>	No response
<b>Appeal to RTI filed on</b>	23.08.2018

### Brief Factual Background:

The Appellant made the above dated information request as below;

*“What is the response to the petition that I submitted through registered post regarding adjustment inquiry and violation of the fundamental rights?”*

As the Information Officer failed to respond within the time period stipulated in the Act, the Appellant appealed to the Designated Officer on 02.08.2018. As the Designated Officer too failed to respond within the time period stipulated in the Act, the Appellant preferred an appeal to the Commission on 23.08.2018.

### Matters Arising at the Hearing:

Responding to the notices issued by the Commission, the Public Authority by writing dated 07.03.2019, copied to the Appellant, stated that, according to the report from the Office of the Director of Irrigation – Ampara dated 2017.08.01-

- The Appellant was recruited as a temporary employee to Ampara Divisional Irrigation Engineer's Office in 1979
- In 1994, he was appointed as permanent employee
- In, 1999 he had been considered as left the job and he was not working in 2001. Another person with same name was the person who was transferred to Akkaraipattu Irrigation Engineer's Office and the Appellant was frequently not reporting to work without informing the Office.
- The Appellant said to the Inquiry Committee that he had a terrorist accident and had to go to abroad two times and this was the reason for not reporting to work. But, according to the documents submitted by him, his reasons were not justified.

Further to above mentioned details, the Public Authority has informed the Commission that, it will provide further explanations and information regarding to this on 11.03.2019 as per the request by the Commission's notice to be present on that day for an In-person hearing.

On this date of hearing both the Appellant and Public Authority are present. Director and the Acting Administrative Officer have represented the PA.

According to the statement of the Public Authority, they agreed to send the information to the Appellant by a letter.

**Order:**

On consideration of the facts arising in this appeal, it is evident that the PA has failed to adhere to the mandatory timelines laid down for responses of the PA in relation to information requests as contained in Sections 25(1), 31 (1) and 31 (3) of the Right to Information Act No. 12 of 2016 hereinafter at times referred to as the RTI Act). Attention of the PA is thus drawn to the aforementioned sections which are reproduced below;

**Section 25 (1):**

*An information officer shall, as expeditiously as possible and in any case within fourteen working days of the receipt of a request under section 24, make a decision either to provide the information requested for on the payment of a fee determined in accordance with the fee schedule referred to in section 14(e) or to reject the request on any one or more of the grounds referred to in section 5 of this Act, and shall forthwith communicate such decision to the citizen who made the request.*

**Section 31(3) states that:**

*The decision on any appeal preferred under subsection (1), shall be made by the designated officer within three weeks of the receipt of the appeal and shall include the reasons for the said decision including specific grounds for the same.*

However, the Public Authority is agreed to release the information to the Appellant. Accordingly, the Public Authority is directed to release the requested information within two weeks from the receipt of this order and send a copy of the same to the Commission.

***The Appeal is concluded.***

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).

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Mahinda Gammampila – Chairman

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S.G. Punchihewa – Commission Member

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Justice Rohini Walgama– Commission Member