

**Dr. B.J. Rasanen v. Ministry of Education**

RTIC Appeal(In-Person)/64/2017 - *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 03.04.2018

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

**Present:** Director-General Mr. Piyathissa Ranasinghe

**Appellant:** Dr. Mrs. B.J. Rasanen

**Notice Issued to:** Mr. Sunil Hettiarachchi, Secretary/ Designated Officer, Ministry of Education

**Appearance/ Represented by:**

Appellant - Ms. A. Swasthika, Attorney-at-Law  
Mr. M. Thiruvarangan, Lecturer, University of Peradeniya  
Ms. K. Niyanthini, Visiting Lecturer, Open University of Sri Lanka  
Public Authority - Mr. Prasad Weerasiri, Director- NOR, Ministry of Education  
Ms. S.D. Wickremathilake (*sic*) – ADE, Ministry of Education

<b>RTI Request filed on</b>	08.05.2017
<b>IO responded on</b>	No response.
<b>First Appeal to DO filed on</b>	01.06.2017
<b>DO responded on</b>	No response.
<b>Appeal to RTIC filed on</b>	04.07.2017

**Brief Factual Background**

The Appellant filed an information request with the Public Authority (PA) on 08.05.2017 requesting the following information:

‘The Private School Branch of the Ministry of Education has approved Jaffna College with school ID 1011032, census number 99068 and exam number 11104. The school was established in 1823 in Vaddukoddai of Northern Province.

- A) All the teachers approved by the Private School Branch with their name, date of appointment by the school, date of approval by the Branch and educational qualification. This list should be valid for the date 08/05/2017.

- B) All the approved extensions of service valid on 08/05/2017 of the approved teachers starting from 01/01/2013 with their name, date of extension by the school, date of approval by the Branch and their educational qualification.
- C) All the approved retirements of the approved teachers since 01/01/2013 until 08/05/2017 with their name, date of approved retirement by the school, date of approval by the Branch and their educational qualification.
- D) All the approved appointments of vice principals, deputy principal (s) and the principal since 01/01/2013 until 08/05/2017 with their name, date of appointment by the school, date of approval by the Branch and their educational qualification.
- E) What are the legal and other minimum educational and other requirements used by the Branch to approve teachers, vice principals, deputy principals and the principal of a private school and especially Jaffna College? What are these minimum requirements based on legally?
- F) The names of the Directors of the Board of Jaffna College valid on 08/05/2017.
- G) Copies of the minutes of all meetings of the Board of Directors of Jaffna College from 01/01/2007 to 08/05/2017.
- H) Copies of by- laws and any other governing documents of Jaffna College valid on 08/05/2017.
- I) A list or lists of all the written documents requested by the Private School Branch from a private school like Jaffna College annually since 01/01/2007 and valid 08/05/2017.
- J) A copy of any policy and other regulation that the Private School Branch follows in order to supervise a private school like Jaffna College valid on 08/05/2017.

The PA had not sent her a response. Thereafter the Appellant had appealed to the Designated Officer (DO) on 01.06.2017 to which as well she did not receive a response. The Appellant then preferred an appeal to the RTI Commission on 04.07.2017.

### **Matters Arising During the Hearing**

This appeal was first heard on 30.01.2018 where the Appellant had been present but the PA was absent. For the purposes of a fair hearing into the matter, the Jaffna College had been notified of the instant appeal hearing to which it responded by letter dated 23.01.2018 stating that it was not a Public Authority.

The Appellant was requested at the hearing to file written submissions including on whether Jaffna College was a public authority according to the definition of a Public Authority in Section 43 of the RTI Act, No. 12 of 2016.

Consequently the Appellant, in her written submissions dated 24.03.2018, submitted that the Board of Directors of Jaffna College and their successors had been incorporated by Ordinance number 7 of 1894 by the Governor and Legislative Council of Ceylon on 03/12/1894 copy of which was attached. Further she submitted that according to the Constitution of the Board of Directors of Jaffna College dated 10/10/2014 the institution shall be known as Jaffna College. The Constitution stated that “The Board of Directors of Jaffna College is an incorporated body by an ordinance enacted by the Governor of Ceylon with the

advice and consent of the Legislative Council.” She further added that even if Jaffna College was not a Public Authority the Ministry of Education to whom she had submitted her information request would be able to provide her with all the relevant information except the minutes of the Board of Directors which she submitted the PA could call for from Jaffna College. She submitted that the minutes were needed to assess whether the teachers appointed were in possession of the required qualifications.

The PA in its written submissions dated 28.03.2018 stated that the regulations issued from time to time under the Education Ordinance, 1939 applied to private schools when appropriate including:

1. The Education Regulations, 1951
2. Code of Regulations for assisted English Schools
3. Code of Regulations for assisted Vernacular and Bilingual Schools
4. 1983.12.09 Gazette Regulation

The PA marking appearance at the instant hearing confirmed approval of Jaffna College as a Private School but stated that the census number cited by the Appellant was incorrect and provided the correct census number (99084). It also confirmed that the School was a private school unaided by Government but that the Ministry had circulars which relate to government approved private schools. The PA submitted that at this instant hearing it was providing all information under its purview and that the remaining information lies with Jaffna College.

With regard to item A, the PA stated that the Private Schools Branch was established in the early 2000s and that it did not have a complete list of all approved teachers but could provide the current list of staff which was a document in its possession. With regard to item B, the PA stated that at present there was no extensions being provided and that teachers could stay on until the age of 60. This was not through extensions but by using private funds. Those who had been approved can continue serving and be paid by private funds. This was stated in a 2014 circular. The PA stated that it had found eight names of teachers in this respect for the years 2012 to 2014 upto the date of the circular. The list of names was provided to the Appellant.

With regard to item C, the PA stated that it had a list of 8 names and provided the said list to the Appellant. With regard to item D, the PA stated that in regard to appointments of Principals, Vice- Principals, and Deputy Principals, the Ministry only approved Special Grade Holders, and no such approval was made with regard to Jaffna College. It was the school which had decided on these appointments. The PA also submitted that prior to 2012, there had been two Special Post Holders at the school who had been approved by the Ministry.

With regard to item D, the PA submitted that there was a Regulation from 1983 (attached to written submissions) which had details about approval being granted for the posts of Principal, Vice – Principal, and Deputy – Principal. Since the private school service was at present considered parallel to the Government school service, the Ministry referred to the Government teacher service minutes when making the approvals.

With regard to items F, G, and H, the PA submitted that the information was not in its possession, custody, or control. With regard to item I, the PA submitted that it calls for the approved teacher cadre in accordance with a 1997 circular, the student capacity, and the expenditure table. It further submitted that the time table needs to be sent for annual approval to the Zonal Department and that the monitoring and supervision is also conducted by the Zonal Department. With regard to item J, the PA submitted that there was a Circular 2005/31 which states that a Private School should facilitate engagement with Government Authorities. The PA submitted that normally requests for expenditure accounts are made, but that Jaffna College had not sent such information and that the Ministry could not compel the school as it does not provide any funds to the school.

When the PA was queried as to whether it could provide all documents, policy regulations and circulars, regarding Private Schools, it submitted that it would be impossible to filter through all the records and find the information. It submitted that all circulars were available online and could be accessed at the Ministry website [moe.gov.lk](http://moe.gov.lk)

### **Order**

The PA is directed to hand over copies of all the documents brought to this instant hearing to the Appellant's representatives who record their satisfaction with the material provided. The Commission notes that the PA has affirmed that Jaffna College has to date failed to send its income and expenditure details to the Ministry of Education.

In the circumstances, it is determined that this appeal cannot be continued to be heard against Jaffna College since the Appellant has not lodged an information request or preferred an appeal against the said College to this Commission.

The Appellant is advised to file a fresh information request concerning the remaining portions of the information which had not been handed over to her to Jaffna College if she so wishes and the question as to the applicability of the RTI Act to Jaffna College shall be considered by this Commission if an appeal is lodged in regard to the same under and in terms of Section 32 (1) of the Act.

This Order is directed to be 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) and also to Jaffna College for purposes of the record.

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