

K. Prasanna Kumar V. Mahaweli Authority of Sri Lanka

RTIC Appeal Documentary)/ [1935]/[2020]- Order adopted as part of the formal meeting of the Commission on [07/07/2020]

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: Mr. S. G. Punchchihewa
Commission Member: Dr. Selvy Thiruchandran
Commission Member: Ms.Kishali Pinto-Jayawardena

Appellant: K.Prasanna Kumar
Notice issued to: Designated Officer, Mahaweli Authority

RTI Request filed on	23/05/2019
IO responded on	27/07/2019 (Response after the appeal was filed to the DO) (Time Extension)
First Appeal to DO filed on	26/06/2019
DO responded on	04/07/2019 (Acknowledgement)
Appeal to RTI filed on	20/09/2019

Brief Factual Background:

The following information was requested by the Appellant on 23/05/2019 from Mahaweli Authority

- 01. The number of Tamil families evacuated during the Lower Kotmale Mini Hydropower Project in 1987, the alternative lands given to those Tamil families, the details of reparations provided to them and their current residential places*
- 02. The number of Tamil families evacuated during the Lower Kotmale Mini Hydropower Project in 1987 from Harangala estate (461, 461A), Mochchikkottai estate and Akkaraimalai estate, the alternative lands given to those Tamil families, the details of reparations provided to them and their current residential places*
- 03. The reasons for not providing alternative lands to 37 Tamil families of Kotmale Kodamadiththa Grama Niladhari division (462B) who are affected during the Lower Kotmale Mini Hydropower Project?*
- 04. The details of certification letters issued by Mahaweli Authority during 2011 and 2012 and their copies*
- 05. The copy of the letter signed by Government Entrepreneurship Minister Lakshman Kiriella to approve the distribution of lands in Kolappaththanai estate (460B) which is administered by Janavasama company.*
- 06. The details with regard to the permission given by the Kotmale Divisional Secretary in 2017 to provide lands to 37 Tamil families of Kotmale Kodamadiththa Grama Niladhari division (462B) from the lands of Janavasama Company.*

The I/O requested for a time extension on 27/07/2019 subsequent to the Appellants appeal with the DO on 26/06/2019. The D/O on 04/07/2019 acknowledged the appeal. The DO by the letter dated 12/07/2019 directed the IO to provide the information requested by the Appellant and to provide reasons, if any information out of them cannot be furnished in accordance with the Act,

within one week time limit. The D/O by the letter dated 20/08/2019 which was copied to the Appellant informed the Director General of Mahaweli Authority that according to the observation made by them it was revealed that they are not in possession of the requested information and information request has been forwarded to the Resident Project Manager (Victoria)'s office since information requested might be with the said office. The Appellant was dissatisfied with the response provided and preferred an appeal with the Commission on 20/09/2019.

Matters Arising During the Course of the Hearing:

In view of the prevailing situation in the country due to the threat posed by COVID 19, and as such in order to minimise 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) will be considered as documentary proceedings under Rule 19 in the first instance. **As such this appeal is considered by the Commission based on the documents present on file to date and the parties are notified of the directions below. This is subject to change at a later point.**

On consideration of the facts arising in this appeal, DO by the letter dated 20/08/2019 informed the Director General of Mahawalai Authority that the I/O by the letters dated 07.06,2019 and 17.07.2019 requested the information requested by the Appellant from the land Section and land use Planning section. The land use planner and the land officer participated in the consideration of the Appeal revealed that the information requested are not within the possession of their divisions. However they mentioned that the information requested might be with the Resident Project Manager (Victoria)'s office (hereinafter at times referred to as the RPM office).It was revealed that three letters were sent to RPM office calling them to provide information and there was no response up until 20/08/2019.

It was revealed in the hearing that the Public Authority by the letter dated 27.06.2020 informed the Commission that IO has provided the information available with them to the Appellant by the letter No.MASL /D/HRD/RTI-03 dated 08/01/2020.

Item No 01

In order to rehabilitate the people evacuated due to the construction of Lower Kotmale Mini Hydropower Project the Tea estate which was under the control of Janatha Estate Development Board were acquired by the Mahawali Development Authority after paying a compensation and no land belongs to Tamil plantation workers were acquired by the PA. Hence no reparation was paid in this regard. These estates were acquired around 1980/82, since more than three decades has passed PA is not in a position to locate the records on the families evacuated and rehabilitated due to the construction.

Item No 02

These estates were acquired around 1980/82, since more than three decades has passed PA is not in a position to locate the records.

Item No 03

The necessary arrangements were made by the land Katcheri in 2011 to provide alternative lands for the 28 families of plantation workers. They initially refused to evacuate and currently living in Kotmale Kodamadiththa Grama Niladhari division but they have refused to accept this lands requesting lands nearby their current residence. Due to unavailability of such lands PA is unable to provide alternative lands as requested by the plantation workers.

Item No 04

The letter dated 26.12.2011 from the Director of the Land division has been attached.

Item No 05

Information requested is not within the possession, custody and control of the PA.

Item No 06

Information requested is not within the possession, custody and control of the PA.

Order:

The Commission observes that the PA has responded to the information requested by the Appellant. The Appellant is directed to revert on his satisfaction, with the information provided, within one month of the receipt of the order.

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).

The Appeal is concluded.
