

Bahirathy Rasanen v. Zonal Education Office Valikamam Zone

RTIC Appeal (In-Person Hearing)/[941/2019]- Record of Proceedings under Rule 28 of the Right to Information Rules of 2017 (Fees and Appeal Procedure) and Order adopted as part of the formal meeting of the Commission on 30/04/2019.

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: Bahirathy Rasanen

Notice issued to: Designated Officer, Zonal Education Office, Valikamam Zone

Appearance/ Represented by:

Appellant: Dr. B.J.Rasanen, Senior Lecturer Gr. I, University of Jaffna
PA: Absent

RTI Request filed on	28/07/2018
IO responded on	10/08/2018, 05/09/2018
First Appeal to DO filed on	29/08/2018
DO responded on	No response
Appeal to RTIC filed on	15/10/2018

Brief Factual Background:

The Appellant by information request dated 28/07/2018 requested the following information.

1. Copies of the certificates of Ordinary and Advanced Level of all government approved teachers of Jaffna College active 28/07/2018 in any capacity and status

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2. A copy of Sri Lanka Teachers' Service Minute and Sri Lanka Principals' Service Minute with all amendments if they are valid for teachers and principals of an unaided government approved school like Jaffna College.
3. Copies of any regulation valid 28/07/2018 for teachers and principals of Jaffna College, if minutes for government school teachers and principals are not available.
4. Copies of degree and diploma certificates of all government approved teachers of Jaffna College active 28/07/2018 in any capacity and status. This is in reference to universities, teachers' colleges, college of education and all other institutions of education.
5. A list of all government approved teachers and principals of Jaffna College active 28/07/2018 in any capacity and status
6. Copies of appointment and approval letters of all government approved teachers and principals of Jaffna College active 28/07/2018 in any capacity and status.
7. A copy of the agreement or similar written contract Jaffna College has with the Department of Examinations
8. A copy of government regulation from 1951 applicable to Jaffna College
9. A copy of the appointment letter of the Manager of the Jaffna College and any regulation that established and regulates the post of manager in an unaided government approved private school like Jaffna College valid 28/07/2018.
10. Copies of annual income and expense reports that Jaffna College has sent to Zonal Education Office since 2007.
11. Copies of the annual timetables of the teachers of Jaffna College since 2007 until 28/07/2018
12. Copies of any school inspection or other reports that Zonal Education Office has for Jaffna College since 2007
13. Particulars of Jaffna College registered under any written law for instance school registration number(s), school examination number, school census number, tax payer identification number
14. List of all information that Jaffna College is supposed to send to Zonal Education Office annually valid 24/07/2018
15. A copy of 1920 Ordinance for schools

The IO on 10/08/2018 responded, transferring Information Requests Nos. 1, 2, 3, 4, 5, 6, 11 and 13 to Jaffna College. Regarding Information Request No. 7, the Appellant was directed to the Department of Examinations. Regarding Information Request Nos. 8 and 15, the Appellant was directed to inquire from the Ministry of Education (Private Schools Branch). Furthermore the PA stated that Information Requests Nos. 9 and 10 were not within its purview. Regarding question 12 the PA responded saying that officers privately supervise and provide relevant opinions regarding the subject matter to the relevant teachers. Concerning Information Requests No. 14, PA stated that the respective school was not included in its cadre reports.

On 05/09/2018 the PA further responded stating that Jaffna College Vaddukoddai was an unaided private school since its founding days. The teacher recruitment to Jaffna College was not within the purview of the Provincial Ministry of Education, and the Zonal Education Office Valikamam has only engaged with facilitating the provision of certain items to student including free books, uniforms, mid-day meals, insurance etc. The PA further stated that the queries raised are answerable by the Ministry of Education Isurupaya. The PA also submitted that the Service minutes of SLPS and SLTS can be downloaded from the Ministry of Education website.

Dissatisfied with the response of the IO the Appellant lodged an appeal with the DO on 29/08/2018. As the DO failed to respond within the time period stipulated under the Act the Appellant preferred an appeal to the Commission on 17/12/2018.

Written submissions were sent by the Appellant on 22/04/2019.

Matters Arising During the Course of the Hearing:

The Public Authority was absent.

Order:

The Commission held that information pertaining to Information Request Nos. 2-10 and 12-15 were within the “possession, custody and control” of the PA and that whether Information Request Nos. 1 and 11 were within the ambit of the PA would be ascertained after the response of the PA.

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The Public Authority is directed to provide the information requested in Questions Nos. 2-10 and 12-15.

As per Section 39(c) of the RTI Act, every person who fails or refuses to appear before the Commission when requested to do so commits an offence under the Act. The PA is directed to respond to the information request prior to the next date of hearing and directs its Designated Officer or his/her authorized representative to be present at the next date of hearing.

The Appeal is adjourned.

Next date of hearing: 13/08/2019

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- 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: Bahirathy Rasanen

Notice issued to: Designated Officer, Zonal Education Office, Valikamam Zone

Appearance/ Represented by:

Appellant: Dr. B.J.Rasanen, Senior Lecturer Gr. I, University of Jaffna

PA: Absent

Matters Arising During the Course of the Hearing:

The Public Authority was absent. Notices re-issued on the PA to appear on the next date.

The Appeal adjourned for 10/12/2019

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Chairperson: Mr. Mahinda Gammampila

Commission Member: Mr. S.G. Punchihewa

Commission Member: Justice Rohini Walgama

Director General: D.G.M.V. Hapuarachchi

Appellant: Bahirathy Rasanen

Notice issued to: Designated Officer, Zonal Education Office, Valikamam Zone

Appearance/ Represented by:

Appellant: Dr. B.J.Rasanen, Senior Lecturer Gr. I, University of Jaffna

PA: Absent

Matters Arising During the Course of the Hearing:

The Public Authority was absent.

Order:

The PA's attention is drawn to Sections 38 of the RTI Act, which provides as follows: -

(1) Where—

(a) any information officer willfully

(i) refuses to receive an application for information from any citizen;

(ii) refuses a request made for information, without giving reasons for such refusal;

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(iv) otherwise fails to process a request in accordance with the provisions of this Act; or

(b) any designated officer willfully –

(i) under section 31 refuses an appeal, made on any ground other than a ground specified in section 5 of this Act;

(ii) failed without any reasonable cause to make a decision on an appeal, within the time specified under section 31(3) for making such decision,

the Commission shall, bring the matter to the notice of the appropriate disciplinary authority.

The PA's attention is also drawn to Section 39 (1) (a) of the RTI Act, which states that,

39. (1) Every person who–

(a) deliberately obstructs the provision of information or intentionally provides incorrect, incomplete or inaccurate information; commits an offence under this Act and shall on conviction after summary trial by a Magistrate be liable to a fine not exceeding fifty thousand rupees or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

The Appeal is adjourned.

Next date of hearing:28/04/2020

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).
