

J.I. AnuraKumara vs. Pradeshiya Sabha Mirigama

RTICAppeal(in person) 415/2018 -*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 29.10.2018

Chairperson: Mr.MahindaGammampila

Commission Members: Dr. SelvyThiruchandran
Justice Rohini Walgama

Director-General Mr. Piyathissa Ranasinghe

Appellant: J.I. AnuraKumara

Notice Issued to: Secretary, Pradeshiya Sabha Mirigama

Appearance/Represented by:

Appellant J.I. AnuraKumara

PA K.A. Kumarasinghe Management Assitant
K.A.S.A. Samarathunga Management Assistant

RTI Request filed on	26.03.2018
IO responded on	04.04.2018
First Appeal to DO filed on	12.04.2018
DO responded on	03.05.2018
Appeal to RTIC filed on	07.06.2018

Brief Factual Background:

The Appellant by his letter dated 26.03.2018 requested the following information and raised the queries stated below.

1. Has the Public Authority worked in compliance to the Survey Plan No PPA 4747 in the acquisition of the central Expressway and building No 06 GramaSewa Division, National Housing Scheme?
2. Is there another Housing scheme registered under the housing scheme prepared by the survey plan no PPA 4747, which has been signed by the Commissioner General on 1962/04/13.
3. Has it been confirmed that the houses in the 7th and 9th sectors of the Housing scheme are unauthorized constructions.
4. Is the Survey plan No 3325 dated 1979.12.01 a subdivision of the 7th and 9th sectors of plan PPA 4747?
5. On what basis has the Public Authority acted in granting compensation for the owner of the House no 2 of the Gam Sabha.
6. Has the legitimate right been established for the deeds which were issued for the 11 houses out of 16 houses that were illegally constructed?
7. On what basis the compensation was granted for the 4 houses which were acquired for the expressway.
8. Since the residents in these houses reside on a lease basis on what reasons has the compensation been granted?
9. Has the Pradeshiya Sabha of Mirigama obtained the ownership of the land on which the 7th and 9th sectors of the plan PPA 4747, houses of the Gam Sabha is established?
10. If the Pradeshiya Sabha of Mirigama has obtained the ownership of the said land, all documents in relation to that.

The Information Officer on 04.04.2018 responded stating that the officer in charge of the Public Authority failed to locate the docket which carries the relevant information requested by the Appellant. Dissatisfied with the response of the Information Officer the Appellant lodged an appeal with the Designated Officer on 12.04.2018. The Designated Officer responded on 03.05.2018 stating that the relevant Public Authority has not maintained a docket with the

information requested. Dissatisfied with the response of the Designated Officer the Appellant preferred an appeal to the Commission on 07.06.2018.

Matters Arising During the Hearing:

The Public Authority submitted the answers for the queries raised by the appellant. Answering the 1st question the Public Authority submitted that, the national housing scheme in the No 06 GramaSeva Division is based on Plan no 3325 prepared by the K.A.G Amarasinghe Licensed surveyor. Answering the second query of the Appellant the Public authority submitted that the Authority does not possess any such survey plan. Answering the 3rd query the Public Authority submitted that the 7th and 9th sectors of the Housing scheme have been lawfully handed over by way of an outright transfer on 10.10.1979. Answering the 4th question the public Authority stated that there is no record with regard to the plan no 3325 made by K. A.G Amarasinghe Licensed surveyor dated 16.11.1976.

It was also submitted by the Public Authority answering the 5th query that the deed has been provided for the No 2 houses and land. The relevant owner has taken steps to acquire compensation from the Divisional Secretariat. Hence after such directions the Divisional Secretariat has no right over the same. With regard to the 6th request the Public Authority has provided legitimate deeds. Answering the 7th query, the Public Authority stated that they have not granted deeds for 5 houses hence the allocation of the compensation is decided by the Divisional Secretary; by the letter dated 04.06.2018 the Public Authority has taken steps to inform the Divisional Secretary in writing. Providing the answer to the 8th question it was submitted that constructions were done during the time of Udugaha, Gam Sabhawa and the people resided in the houses. Therefore, the Compensation based on rights and possession shall be declared by the Divisional Secretary. The plan cannot be located in the file with regard to the 9th and 10th question.

However, it transpired at the commission hearing that the appellant has requested further clarifications on these queries. The appellant requested to know whether the Survey Plan no 3325 has been prepared in compliance with Plan PPA 4747 and the initial plan PPA 1995. Secondly the Appellant has requested to know whether on what basis the houses of Gam Sabha established where the public facilities are situated. Thirdly on what basis these Gam Sabha houses were given to the residents? Fourthly the appellant sought to know on which basis the

house No 2 was granted by deed of gift No 2529? As his Fifth request the appellant has requested a copy of such deed which carries the registered numbers 170/167 which was presented by the Administrative officer of the Gam Sabha. The appellant makes his final request to know whether there is any way of access to the private land of D.T. Thennakon.

Therefore, the commission observed that the Public Authority should give the relevant responses to the queries raised and further clarify the requested information of the Appellant.

Nevertheless, the commission observed that the Appellant has failed to clearly stipulate information requested.

Order:

The Commission observed that the answers provided by the Public Authority for the initial information requests made by the appellant on 26.03.2018 are insufficient. It was observed that the letter sent to the Designated Officer carries different information. Therefore, the Commission orders the Public Authority to provide relevant answers for the latest information request which comprises of additional six queries made by the appellant. The commission further orders that the Public Authority to send the information within two weeks to the appellant and send the covering letter to the commission.

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.
