

S. M. Manoj Prasanna v Mahaweli Authority of Sri Lanka (MASL)

RTIC Appeal/ 108/2017 (Order adopted as part of a formal meeting of the Commission on 19.12.2017 subsequent to the proceedings of the Commission meeting held on 08.11.2017)

Chairperson: Mr. Mahinda Gammampila

Commission Members: Ms. Kishali Pinto-Jayawardena

Mr. S.G. Punchihewa

Dr. Selvy Thiruchandran

Present: Director-General Mr. Piyathissa Ranasinghe

Appellant: Mr. S. M. Manoj Prasanna

Notice issued to: K G Perera, Deputy Director General (Technical Services), MASL / Designated Officer (DO)

Present: S. M. Manoj Prasanna

K. G. Perera, Deputy Director General (Technical Services), MASL/ Designated Officer (DO)

P. Ailapperuma, A. D. (Legal) MASL

D. K. V. Wijeyaweera, MASL

The Appellant was present. Mr. K. G. Perera the Designated Officer (DO) represented the Public Authority (PA). Ms. P. Ailapperuma, A. D. (Legal) MASL and D. K. V. Wijeyaweera, MASL were also present on behalf of the PA.

The PA stated that it wished to place on record the fact that it had not received this particular information request by the Appellant dated 24.04.2017 and that the Ministry of Mahaweli Development and Environment had forwarded the request to them in or around August. The Appellant however submitted that he lodged the information request with the PA. The Commission decided to consider the appeal, to which the PA consented as long as it was placed on record that it had not received the information request in the first instance. The information request contained 25 items of information relating to the Maduru Oya Reservoir.

At the time of the hearing items one to four, 11, 21 and 22 had been provided to the Appellant. With respect to item five whereby the Appellant had requested copies of all the contracts entered into for the purposes of constructing the Maduru Oya reservoir to date, the PA stated that the Appellant may visit its offices for an inspection and obtain copies of all contracts available. With respect to item six which was a request for the amount of water expended on each project carried out by the PA, the PA responded stating that the amount of water is not calculated for each project individually. Items seven and eight concerned the amount of water released in to the Wakaneriya tank from the Maduru Oya reservoir and the date and number of days on which such release occurs.

The PA responded stating that it depended on the situation, such as the water level and rainfall and that there was no fixed date for the release of water. By items 9 and 10 the present water level of the N D K reservoir and the amount of water that can be released from the N D K reservoir were requested. The PA stated that the question was not specific enough and that the response to the question changes depending on various factors such as time of year, rainfall, needs etc. A similar request was made by items 12, 13 and 14 with respect to the Pimburaththawa tank, item 12 requesting the present water level, which the PA stated was not specific enough for it to answer and item 13 which requested the amount of water that can be released for the purposes of paddy cultivation during a particular season, which the PA had not decided on. By item 14 request was made asking for the extent of land cultivated (paddy) using the Pimburaththawa tank and other projects conducted and the amount of water utilized. The PA stated that this too was not a specific enough question. By items 16 and 17 the water level, the extent of land cultivated (paddy) using the Pimburaththawa tank and other projects conducted in relation to the Aralaganwila tank, were requested. Again the PA stated that it was not sufficiently specific enough for them to respond as these measurements change depending on various factors and is different at different times of the year. The PA also submitted that most of the information was of a technical nature (for example the water level at specific points in time) and it can only provide the information if records were maintained and subsequent to it being checked by the technical personnel within the PA.

By item 18 the Appellant requested the water management process under which the Madatugma in the Mahaweli H Zone was conducted. The PA submitted that it did not have the information at the time of the hearing. Item 19 related to the decision of the Water Committee of the Mahaweli B Zone. The PA stated that such a meeting had not been held.

Items 23 and 24 were general knowledge questions such as the number of hectares is one million cubic meters and how many cubics is one million cubic meters respectively (23. සන මීටර් මිලියන් 01 අක්කර අඩි කීයද? 24. සන මීටර් මිලියන් 01 කිවුබික් කීයද?).

The Appellant stated that he had requested this information in order to write an article at the point in time the request was made and the measurements at the date of the information request. The Appellant stated that this is reflected in item 25 of the information request which reads ‘information for each item is required (within 48 hours)’. The PA submitted and the Commission accepted that it was not feasible to provide the requested information within such a short period of time especially due to the technical nature of the information requested.

The Appellant submitted that since time had lapsed since the initial request was made the data as at the date of the initial request will be of no relevance to an article written subsequently/ after the hearing. Therefore the Appellant requested that information to coincide with the dates on which the meetings of the Water Committee (Jala kamituwa) are held and that data in relation to the current time period be released. The PA was amenable to this and stated that it will provide the data to coincide with the date/s on which meetings of said Committee (about which the Appellant also requests information) are held which is expected to be between the 15th and 20th of November 2017. The Appellant was amenable to this.

Order

The Appellant is directed to inspect the PAs records in relation to item five and to obtain the necessary information. The PA is directed to provide all data possible pertaining to the other items of the information request for the time period corresponding to the November dates on which the meetings of the Water Committee are to be held.

The Appeal is hereby concluded.
